



North

Yorkshire County Council

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## Improving Health and Attendance

# Attendance Management Policy

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### Status of policy:

- Status of Policy: Implemented on 1<sup>st</sup> June 2005
- *To be used in conjunction with **Improving Health and Attendance, Managing Attendance, A Manager's Toolkit, 2005***

**Access:** If you require this information in an alternative format, such as large type, audio cassette or Braille, please contact the Policy and Support Team, Personnel Services on 01609 532817 or [personnelpolicy@northyorks.gov.uk](mailto:personnelpolicy@northyorks.gov.uk)

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## Short and medium term absence Overview

Meeting type	Purpose	Who attends	Options for actions
Attendance Consultation Meeting (ACM)	Exploratory and Supportive	Line manager Employee	<ul style="list-style-type: none"> <li>Take none, situation resolved</li> <li>Set targets and review date in 3 months</li> <li>Begin to monitor</li> </ul>
ACM 3 month Review	Offer support Review progress Decide actions	Line manager Personnel Rep Employee (can be accompanied)	<ul style="list-style-type: none"> <li>Satisfactory progress, end process</li> <li>Insufficient progress set one month review date</li> <li>No progress, issue Formal Notification with one month review</li> </ul>
One month review from ACM 3 month review	Offer support Review progress against targets Decide actions	As above	<ul style="list-style-type: none"> <li>End sufficient progress made</li> <li>No progress or Insufficient progress issue Formal Notification with one month review</li> <li>If on Formal Notification and no progress made issue Final Notification with one month review</li> </ul>
Reviews where Notifications have been issued	Offer support Review progress Decide actions	As above	<ul style="list-style-type: none"> <li>If on Formal Notification and progress made, continue monthly reviews.</li> <li>If on Formal Notification and no progress issue Final Notification with one month review</li> <li>If on Final and progress made continue monthly reviews.</li> <li>If on Final and no progress refer to Attendance Panel</li> </ul>
Appeal against Final Notification	Review decision making process	One senior manager One Personnel Manager Employee Representative	<ul style="list-style-type: none"> <li>Uphold appeal</li> <li>Overturn and recommend other action under the policy</li> <li>End procedure</li> </ul>
Attendance Panel	Consider evidence Hear representation Decide on course of action	Two senior managers Personnel Representative Employee Representative	<ul style="list-style-type: none"> <li>Extend period for improvements and or continue with monthly reviews</li> <li>Terminate employment</li> <li>ASD</li> </ul>
Appeal Panel	As above	One senior manager Member Employee Representative	<ul style="list-style-type: none"> <li>Uphold appeal but apply other sanction</li> <li>Overturn appeal and confirm termination</li> </ul>

Employee contacts manager via  
Absence reporting procedures  
They expect to be absent long-term  
(see Section 9.0)



The manager should arrange a referral of the  
employee to the Council's Occupational Health  
Service. The referral should be made as early as  
possible, depending on the circumstances. The  
manager must advise the employee of actions  
(see section 7.0)



If the Occupational Health Service confirms  
that the reasons for sickness absence are  
due to an underlying medical cause then the  
manager will consult with the employee and  
their representative to advise them of the  
outcome. This will be done through a series  
of meetings



If the recommendation is for  
retirement with benefits or  
termination of employment  
due to ill health, the  
employee will be advised  
and invited to a Hearing,  
(see section 18.0)



If the medical prognosis  
is good and a full  
recovery is likely within a  
given time-scale, the  
manager and personnel  
adviser will need to  
review the options open  
to them and determine  
the appropriate course of  
action.



If the recommendation is for  
redeployment, the  
Occupational Health  
Service will indicate any  
medical restrictions  
applying to the search for  
an alternative job.



The employee can Appeal against their ill-health termination to an  
Appeals Panel within 14 days of the date of their termination letter.  
(Refer to the Attendance Management Toolkit)

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## Section One: Introduction and Scope

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- 1.0 North Yorkshire County Council values the contribution of its staff in the delivery and maintenance of quality services to the community. Whilst recognising that employees may be prevented from attending work through ill-health, the Authority has a duty to maintain service delivery and minimise disruption. The Authority is therefore committed to managing attendance and sickness absence and believes that it is the responsibility of the Authority's managers, trade unions and employees to work together to promote the management of sickness absence and ill health. **The attendance management policy applies to all employees of the County Council except those employed under the School Teacher's Pay and Conditions of Service and staff employed under Local Management of Schools where separate policies apply.**

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### Objectives

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- 2.0 Through the application of this policy the County Council aims to:
- Promote employee health and well being in the workplace.
  - Promote good attendance and minimise absence.
  - Ensure effective recording, monitoring and information management to support attendance management.
  - Enable managers to most effectively manage employees to achieve high levels of attendance improvement in service quality through robust and fair absence management actions and procedures.

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### Principles for active management interventions

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- 3.0 In order to achieve the above objectives this policy will promote the following:
- The role of attendance management within performance management, appraisal and recruitment and selection.
  - Minimising risks to health and safety in the workplace.
  - Providing work life balance solutions to absence management.
  - Discussion and dialogue as key factors to resolve absence issues.
  - Managing the period of absence to support both the team and the individual.
  - Clarity of roles and responsibilities in relation to managing attendance
  - Support of disabled employees through the application of disability equality principles.
  - Provide a supported return to work and taking account of rehabilitation needs.
  - Confidentiality, sensitivity and equity.

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### Manager responsibilities

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- 4.0 Attendance management is a key responsibility for all managers and forms part of the appraisal of management competencies. Effective attendance management contributes to better quality services.
- 4.1 All managers must be fully conversant with this policy and their responsibilities under

health and safety legislation. They must also be aware of their Disability Discrimination Act responsibilities.

- 4.2 Managers must accept primary responsibility for the monitoring of sickness within their team/unit and should be aware that the way staff are managed can affect the amount of sickness absence they incur. The Authority will provide regular training on this basis.
- 4.3 In cases where an employee is unable to attend work for ill health reasons the manager must:
- Treat the individual concerned with sympathy and understanding.
  - Treat all matters related to ill health with confidentiality.
  - Encourage attendance by early intervention into attendance issues and by seeking positive solutions.
  - Establish effective communication systems to ensure all employees are aware of reporting procedures and their responsibilities relating to attendance.
  - Conduct return to work updates to clarify reasons for absence and offer support
  - Seek medical advice in appropriate cases.
  - Keep accurate records of absence attributable to illness and where absence is attributable to an accident at work implement the accident at work reporting procedures.
  - Monitor trends, patterns and reasons for absence.
  - Treat as misconduct any abuse of the Attendance Management policy.
  - Include sickness information when assessing performance in appraisals, including probationary and induction monitoring.
  - Report attendance information through team structures up to Management Board to enable strategic management and ownership.

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### **Employee responsibilities**

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- 5.0 The County Council is concerned for the well being of its employees and seeks to protect the health and safety of the workforce by creating a working environment, free from danger. When illness or injuries occur, appropriate paid leave and support is available. In return, the Council expects its employees to make a full commitment to the job for which they are employed and, in accordance with County Council procedures all employees are expected to:
- Care for their health, and seek relevant help and support wherever appropriate to resolve potential problems.
  - Not misuse the sick-pay scheme and use other leave provisions for time off, where appropriate including Work Life Balance provisions.
  - Seek to achieve maximum attendance by utilising support services available to aid recovery and promote continued well being.
  - Notify their line manager if they are unable to attend work by following the reporting procedure set out in this policy.
  - Maintain regular contact with their managers and be contactable throughout the absence period in line with this procedure.
  - Co-operate fully with any request to attend meetings with management and occupational health service appointments and reviews.
  - Comply with GP and occupational health advice.
  - Provide certification documents when necessary, and correctly report accidents at

work to your line managers and ensure the accident at work box is ticked on the self-certification form.

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## Personnel Services & Occupational Health Services

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- 6.0 Personnel Services are responsible for providing timely and up-to-date professional advice, guidance and support to managers and employees to effectively manage attendance that will include:
- Assisting with the provision of management information on attendance levels to Directors, Heads of Service and Managers for analysis and action, in accordance with the policy and triggers for action.
  - Supporting managers where appropriate and where the policy is applied.
  - Working closely with Occupational Health staff to effectively resolve attendance issues.
- 6.1 The Occupational Health team will support managers through the provision of timely, detailed reports on employees for whom they receive referrals. The role of OHS includes:
- Assistance in managing attendance
  - Advice on ill health retirement
  - Health promotion
  - Statutory health screening
  - Pre-employment screening
  - Telephone advice

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## Referrals to the Occupational Health Services (OHS) short and long term absences

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- 7.0 An OHS referral can be made at any time dependent upon the particular circumstances and where appropriate. However, a referral at an early stage of the Attendance Management Procedure should be an exception rather than a rule. Please refer to the **Toolkit** for further information.
- 7.1 Where a manager refers an employee they must advise the employee they are going to do this and advise them of the reasons for the referral.
- 7.2 Most commonly, referral should be made where medical information is needed in order to progress the management of a case and where an absence is likely to be long term and in order to consider what interventions might be used and what the timescales for action are likely to be.
- 7.3 Account should be taken of the County Council's Statement of Intent with regard to the employment of disabled persons and employees who become disabled together with the implications of Disability Discrimination Act 1995. Please refer to **Toolkit** for further information.
- 7.4 Arrangements to refer an employee to the OHS can be made directly by managers. However, for additional benefit they are advised to contact their Personnel Adviser to begin a dialogue on case management considerations as well as receive guidance on suitable wording for the referral form.

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## Section Two: Managing Short term absence

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- 8.0 Managing and improving attendance will be a consideration at all times and will be a factor informing decision in the following areas:
- Recruitment, selection and appointment procedures
  - Induction
  - Probation
  - Appraisals and performance management
  - Promotion, supervision, guidance and work planning

**However, this section will concentrate on the process for managing short term absences.**

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### Absence reporting and notification procedures

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- 9.0 Any employee who is unable to work due to illness must notify their line manager at the earliest opportunity and before their start time, where possible, on the **first day of absence** (local arrangements may apply where duty or service opening times determine).
- 9.1 The employee must personally telephone their manager and advise them of the situation and where the absence relates to an accident at work notify the manager of this.
- 9.2 Where they are unable to do this through severe illness or injury they must arrange for a relative/friend to contact the manager on their behalf as soon as possible on the first day of absence.
- 9.3 During the first conversation with their manager employees should specify the nature of illness, the actual date on which the sickness began and when they expect to be fit to return to work where this is predictable. The manager will keep a note of this discussion.
- 9.4 **Where absence continues** the employee must keep in touch with their manager to give details of the expected date of return. Where the expected date of return arrives and the employee is not well enough to return they must telephone their manager to let them know at the earliest opportunity and before their start time where possible.
- 9.5 **Where absence continues for more than seven days:** on the eighth consecutive day of sickness absence (including Saturday and Sundays) whether or not this is a working day, a doctor's certificate must be obtained and forwarded immediately to the manager. The employee should also contact their manager by telephone to let them know of the certified period of absence in order for the manager to plan cover arrangements.
- 9.6 Absence due to sickness that has lasted for more than seven consecutive days and is not supported by a Doctor's Medical Certificate will be regarded as unauthorised and therefore unpaid. In these circumstances the manager must contact their Personnel Adviser to consider the most appropriate action. In most cases the employee will receive written notification of their obligation to provide a medical certificate within five days; otherwise their sick pay will be stopped. In some cases this will also be regarded



as a conduct issue. See **Toolkit** for further information.

- 9.7 Continuous absence must be supported by Doctor's Medical Certificates or Hospital Certificates where the employee is hospitalised. The whole period must be supported by medical notes and employees must ensure that their absence is covered. Where absence is not covered and there is no reasonable explanation the absence will be regarded as unauthorised and will be subject to the same procedure at 9.6.
- 9.8 **Returning to work:** when an employee is fit to return to work and has submitted certificates for a period of 14 days or more, a signing off note must also be obtained to show that they are fit for work. In addition, on the first day of their return to work, they must be asked to sign a copy of the County Council's self-certification form for any period of absence which has not been covered by a doctor's certificate.

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### **Return to work updates for short term absences**

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- 10.0 Every incident of sickness absence must be followed by a return to work update between the line manager or designated person and the employee. In most instances return to work updates will be a short, informal discussion that is beneficial for both parties. In conducting return to work updates managers must be aware of their obligations under the Disability Discrimination Act, see **Toolkit** for further information.
- 10.1 The return to work updates is essential in helping to establish:
- The reasons for absence
  - Where patterns occur and require further action or investigation
  - The need to make medical referrals to establish if there is an underlying cause for the absence
  - Work related issues
  - The need for specific support or workplace adjustments
  - Where consideration of work life balance solutions are needed to resolve attendance issues \*
  - Keeping in touch with employee welfare

\* Please refer to the **Toolkit** for further information.

- 10.2 Where personal circumstances are identified as the cause of absence the employee and manager should discuss the use of Work Life Balance policies to alleviate this. In these circumstances managers may seek support from their Personnel Advisers.
- 10.3 Return to work updates need not necessarily take place on the first day of return but this is the preferred option. The Authority has a duty of care to employees and should be appraised of reasons for sickness absence in case they are work-related.
- 10.4 Line managers should keep brief notes of meetings.

Guidance on Return to work updates is contained within the **Toolkit**.

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## **Managing short term absence: triggers for action**

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11.0 Sickness triggers are used as a prompt for managing attendance. When a pattern of recurring short-term sickness absence or an unacceptable level of sickness absence is identified by reference to the triggers, the manager will arrange an Attendance Consultation meeting with the employee concerned.

The triggers are as follows:

- 3 or more occasions\* in any rolling 6 month period.
- 4 or more occasions in any rolling 12 month period.

\*An occasion is defined as a period of absence that may be consecutive days, single days or half days.

11.1 Caution must be exercised when considering sickness absence in relation to Disability Discrimination responsibilities and where a manager is unsure they should seek the advice of their Personnel Adviser. Reasonable adjustments are required by law to accommodate disabled people by helping them overcome the practical effects of the disability. A reasonable adjustment could be accepting that a disabled employee will need some level of absence from work and to take this into account when reviewing disability related sickness absence against the triggers. Other reasonable adjustments include:

- Adaptations to equipment
- Modification of the work environment
- Redeployment
- Discounting disability related absence

11.2 Managers will have discretion not to arrange a consultation meeting in some instances. For example, where an employee has reached the triggers but it has become apparent through the return to work update that the situation has been resolved, or may shortly be resolved. Where this occurs it is advisable to keep a brief note of the decision.

11.3 When managing short term absences, which include both short consecutive periods and odd days, it will be important to establish if there is an underlying medical cause for the absence. This may relate to a disability and advice should be sought from the Personnel Adviser. The need to establish if there is an underlying cause for frequent absences will result in a referral to the Occupational Health Service, particularly where further action is being contemplated.

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## **Attendance consultation meeting for short term absences**

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12.0 Where an employee's attendance level has activated the triggers or there is a cause for concern regarding their health or attendance, an Attendance Consultation meeting will be arranged by the line manager.

12.1 The employee will be given 7 working days notice of the meeting and the reason the meeting has been called. The employee should be advised that the meeting is being held under the Attendance Management policy. Model letters are provided in the

**Toolkit.** At this stage there is no formal right of representation for the employee.

## 12.2 **The purpose of the Attendance Consultation meeting is:**

- To encourage open discussion between the manager and employee on the reasons for recent absences which have become a cause for concern
- To enquire if the reasons for absence are personal rather than health related and if so, to consider appropriate actions
- To enquire into the health and well being of the employee and to offer support where appropriate including advice on how to obtain counselling, further training or workplace adjustments
- To enquire if there are work related factors causing the absences and if so to take action on these including risk assessments
- To offer advice, guidance and support in order to reduce the absence level of the employee

### **Key areas the discussions must cover:**

- Reaffirm the standards of attendance expected and to be achieved
- The manager will need to clarify that an improvement in attendance is being sought from the employee

### **Potential outcomes of the meeting:**

- To decide if further action is needed such as setting targets and a monitoring period of no less than 3 months.
- If further action is required, to set an action plan to achieve the improvement in attendance levels and set the review date

### **The action plan will be to:**

- Set a timescale within which the required improvements are to be made
- Identify the targets to be reached
- Identify necessary and reasonable methods of support, development, workplace adjustments to assist in improving attendance
- Plan the periodic review process to take place (i.e. weekly, two weekly or monthly over the three month period)
- Agree review and monitoring methods for this period (who, how, what)
- A pro-forma for all attendance management meetings is provided in the **Toolkit** as **Appendix A**.

12.3 At the Attendance Management meeting the manager will make sure that recent sickness absence information is available to share with the employee. Please refer to the **Toolkit** for guidance on where disability related absence may be regarded as a

reasonable workplace adjustment.

- 12.4 It may be that the employee's absences are not related to ill health but other factors that are domestic or personal. In these circumstances the use of other leave provisions, including work-life balance should be considered. Please refer to the **Toolkit**. The authority is supportive of employees other commitments and provides a flexi-time scheme, flexible working arrangements that can be temporary or permanent dependent upon the circumstances and a variety of other leave that can be used, where approval is given, to balance work and home commitments.
- 12.5 Where stress appears to be the cause of absence the manager should make both an Occupational Health Referral and advise the employee to contact the Staff Care Network. The manager should also consider any actions they can take to reduce this and should refer to the Managing Stress and Well being Policy.
- 12.6 At the Attendance Consultation meeting the discussion should consider any contribution the employee's work environment may be making to the pattern of ill health. Where this appears to be the case the manager should identify actions and support that will be put in place to alleviate this. The manager should also use this opportunity to review the need for, or effectiveness of, reasonable adjustments as required under the Disability Discrimination Act, and to undertake a risk assessment.
- 12.7 It must be emphasised to the employee that the meeting is to enquire of their well being and to consider support needs. However, where targets and a review date are set at this meeting, the employee will need to be advised that failure to meet the targets may result in further action taken under the Attendance Management Policy.
- 12.8 The key contents and outcomes of the Attendance Consultation meeting will be confirmed in writing to the employee within 7 working days of the meeting. A model letter is provided and a record of the meeting form, Appendix A **Toolkit**

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### **Attendance consultation review meetings for short term absences**

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- 13.0 Where an Attendance Consultation meeting results in the need for a monitoring period then a review meeting will take place three months from the date of the attendance consultation meeting.
- 13.1 The employee will be notified in writing at least 7 working days prior to the meeting. And a Model letter is provided in the **Toolkit**. They will receive summary information gathered during the review period that will be discussed at the review. The purpose of the review meeting is:
- To review progress made against the targets set at the attendance consultation meeting
  - To offer support and advice on this process
  - To discuss the employee's health and well being
  - To check previously agreed support actions have been provided
  - To decide on further actions where needed which may be actions under this

There are three possible outcomes for the 3 month review meeting:

- Satisfactory progress has been made and the process ends
- Insufficient progress has been made and a one month review date is set
- No progress has been made and a Formal Notification is issued as part of the meeting

- 13.2 Where the sickness absence has been sufficiently reduced this will be acknowledged and the procedure will cease.
- 13.3 Where insufficient progress has been made and the absence level is still too high the manager may set a further review for a **month's time**. A plan of action is needed where this occurs together with the standards of attendance expected to be reached during this particular monitoring period.

Where insufficient progress is made and comes to light at a review meeting the manager should consider issuing a Formal Notification or, a Final Notification if a Formal Notification has already been issued. The expiry of the previous notification does not have to be reached before the procedure can be stepped up.

- 13.4 Where at the previous Attendance Consultation meeting an OHS referral was made the manager must ensure that the medical report is available to be discussed at the review meeting.
- 13.5 Where at the three month review there has been no progress and there is no reasonable explanation for this, the employee will be advised that the required standards have not been met and they will receive Formal Notification of this. The formal notification will be put in writing and will state that the failure to meet the required standard within the timescale may lead to a Final Notification that could eventually result in termination. A review date of a **month** will be set at which progress towards the targets will again be reviewed together with any other information. Model letters for this are provided in the **Toolkit**.
- 13.6 A **formal notification** will last for a period of **6 months** during which time monthly reviews will take place. If, at any of the monthly review meetings there is evidence of insufficient progress or serious deterioration of the attendance level, the manager may issue a final notification. Monthly reviews will continue then with the potential to step up the procedure where necessary.
- 13.7 A **final notification** will not be issued where a formal notification has not been issued first. The **final notification** will last for a period of **12 months** and during this period monthly reviews towards the targets will take place. If, at any of the monthly review meeting there is evidence of insufficient progress or further deterioration of the attendance level then the manager will invite the employee to an Attendance Panel Hearing. Model letters are provided in the **Toolkit**.
- 13.8 After 6 months and where sufficient progress has been made and evidenced at the monthly reviews a formal notification will expire.

- 13.9 After 12 months and where sufficient progress has been made and evidenced at the monthly review meetings a final notification will expire.
- 13.10 Where during the course of this procedure it appears that there is abuse of the procedure this will result in the disciplinary procedure being introduced.
- 13.11 Where a final notification has been issued the employee has a right of Appeal against it. They must submit their appeal within 7 working days of the notification and the hearing must be arranged as quickly as possible. An Attendance Panel will not take place until the outcome of the Appeal; see **Toolkit** for Appeal procedure details.

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### **Attendance Panel for short term absences**

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- 14.0 The Attendance Panel should comprise no less than two officers of an appropriate seniority, who must have not been party to any previous actions under the procedure with the particular employee.
- 14.1 A minimum of 7 working days notice should be given to the employee informing them in writing of the date, time and venue of the Attendance Panel meeting. They must also be advised of their right to be accompanied by a trade union official or colleague, and to call witnesses and or produce relevant information. Please refer to the **Toolkit** for procedural advice. Model letters are also provided in the **Toolkit**.
- 14.2 If, as an outcome of the Attendance hearing, the Panel decide that the employee's level of absence is unacceptably high despite all the measures taken to facilitate improvements in this then it should consider the following:
- Extending the period for improvements or continuing with the monthly review, and/or modifying the targets set, together with a revised action plan and monitoring programme, or
  - Termination on the grounds of attendance (capability) with appropriate contractual or statutory notice under this procedure or,
  - Action short of termination.

Refer to the **Toolkit**, for notice period entitlements.

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### **Right of Appeal against employment termination**

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- 15.0 An employee has a right of Appeal against the decision of the Attendance Panel to terminate their employment. This must be submitted within 14 working days of the date of the letter detailing the decision. The Appeal should be heard as soon as possible and where possible before the termination takes effect. It is recommended that where termination is a possible outcome an appeal panel is organised at the same time as the Attendance Panel meeting for three weeks after this.
- 15.1 Appeals against termination will be heard by an appropriate panel of at least one senior officer and one **Member** who have not been previously involved in considering the matter. The Appeals procedure is detailed in the **Toolkit**.

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## Section Three: Managing Long term absences

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**“The best way to handle long-term absence issues is to maintain effective communication between you and your employee” ACAS**

- 16.0 This policy promotes the benefit and value to the employer, employee and the service of good communication and suggests contact with employees must be maintained throughout the whole period of long term sickness absence and from the start. Please refer to the **Toolkit**.
- 16.1 Where an employee remains on sick leave for more than 20 days they must continue to maintain contact with their manager. It will be necessary for them to meet with their manager to discuss and assess the situation and to consider cover plans for the absence as well as discussing an absence management action plan. The manager will however, initiate this action as soon as the details of the absence are known.
- 16.2 The employee can agree to meet the manager at a venue of their choice where they are well enough or, in their home if they prefer. Managers must always be accompanied during home visits. Any visit or meeting should not take place without the employee being given at least 5 working days notice unless the employee wishes to agree an earlier date.
- 16.3 The need to maintain contact during short, medium and long-term absence is vital and home visits or contact meetings should be arranged throughout the period of absence. The purpose of a home visit or contact meeting is to manage the absence and:
- Enquire as to the employee's health and whether any assistance is required from the County Council.
  - Ascertain the nature of the illness and any progress made in treatment.
  - Advise whether or not a referral to the Occupational Health team will be made. Or where this has already been done to consider if further medical information is needed to progress case management.
  - Outline any major developments in the workplace to keep the employee informed.
  - Discuss phased return to work where appropriate
- 16.4 Where an employee is seriously ill or hospitalised it is not appropriate to try to arrange visits during this period, unless the employee has requested a meeting take place.
- 16.5 During a home visit or contact meeting an occupational health referral should be discussed and arranged if this has not already been done. The purpose of medical advice is to assist the process of absence management.
- 16.6 Where medical advice has been sought and results in a recommendation for medical redeployment the Occupational Health Service will indicate any medical restrictions applying to the search for an alternative job. Disability Discrimination issues must also be considered, please refer to the **Toolkit** for advice. The Redeployment Policy and Procedure will then be used in conjunction with this policy and where appropriate in relation to the Disability Discrimination Act.

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## Phased return to work from long term absence

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- 17.0 Where employees are returning to work after a serious illness or injury it may be appropriate to consider a return on a phased basis to allow for a period of adjustment. Where this is likely the expectation is that prior to the return and as part of the maintaining contact process a referral to occupational health must be made. Occupational Health will advise on what duties and hours would be most appropriate under a phased return arrangement.
- 17.1 Where a phased return is agreed the employee should not receive less pay than if they remained on sick leave. In cases where payment for hours actually worked is in excess of the sickness pay then the payment for the hours actually worked will be made.
- 17.2 Before the return to work takes place the employee and manager must meet, and taking into account the occupational health advice, agree a return to work plan with timescales, duties and review mechanism. Please refer to the **Toolkit** section 9 for advice on timescales and procedural issues, including medical advice.

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## Termination of employment due to ill health in long term absence

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- 18.0 The following applies where the Occupational Health Service has confirmed that the reason for the sickness absence is due to an underlying medical cause, and the condition is unlikely to improve in the foreseeable future and all redeployment and reasonable adjustments in relation to DDA have been fully explored without success. Therefore, the long-term absence will have been managed from its start and dialogue, meetings and a paper trail will be part of that process. Please refer to the **Toolkit** for further advice.

The effect of the Employments Rights Act 1996 is to require an employer to fully consider all reasonable alternatives before coming to a decision about whether or not to dismiss an employee on incapability grounds. In addition, for disabled employees the Disability Discrimination Act 1995, places a duty on employers to consider reasonable adjustments, and redeployment is considered under the Act as such an adjustment. These options must be fully explored before any decisions to terminate employment on ground of health are considered. Please refer to the **Toolkit** for guidance.

- 18.1 Where an employee has been on long-term absence and the conditions in 18.0 and 18.3 have been met then the manager is should consider whether or not the employee should have their employment terminated on grounds of ill-health. Having reached this stage and prior to an invitation to a meeting to consider this an occupational health report should be requested and the advice of Personnel must be sought.
- 18.2 The Courts and Tribunals have recognised that poor attendance by an employee may become a problem for employers. When the absences become damaging to service levels it may be necessary and reasonable to dismiss the employee concerned provided that the correct procedures are followed, the dismissal is likely to be fair.
- 18.3 When considering termination on ground of ill health employers need to take into account



the following when balancing their needs and the employees:

- The nature of the illness;
- The likelihood of it recurring or of some other illness arising;
- The length of the various absences and the periods between them;
- The need for the employer to have the work done;
- The impact of the absences on other employees;
- The importance of a personal assessment of the situation;
- The importance of consultation with the employee; and
- The importance of appropriate warnings of dismissal if there is no improvement.

18.4 On receipt of the Occupational Health report the manager will contact their Personnel Adviser to discuss the case and make arrangements for a hearing. Managers must not pursue consideration of either re-deployment or employment termination if they are still awaiting specialist medical advice following a previous meeting with the employee where arrangements to seek further advice were made.

18.5 Only where redeployment has been fully considered as an option and there are no reasonable adjustments that could be made to the work or work place should the following steps be taken:

1. The employee will be written to, advised of the OHS report and the manager's intentions and invited to a panel meeting to discuss the matter. The meeting will take place 7 working days after written notification to the employee where possible. A model letter is provided in the **Toolkit**.
2. A Panel will comprise two managers of appropriate seniority (to terminate employment) and a Personnel Adviser to the Panel. The employee has a right to be accompanied at this meeting. At the conclusion of the meeting the employee will be notified of the decision verbally. This will be confirmed in writing setting out their Appeal rights where a decision to terminate employment has been reached. An Appeal must be lodged within 14 working days of the date of the letter. Model letters are provided in the **Toolkit**.
3. If the employee wishes to appeal the decision to terminate employment, an appeal meeting will take place at which the employee has a right to be accompanied. The employee will be notified of the final decision at the Appeal meeting verbally and this will be confirmed in writing. The Appeal panel will consist of one senior manager not previously involved, a Councillor and a personnel advisor to them if they wish. Please refer to the **Toolkit** for guidance. Model letters are provided in the **Toolkit**.

### **Ill-health retirements**

18.6 Where the County Council's Occupational Health Physician recommends

retirement on grounds of permanent ill health and the employee is a member of the LGPS and fulfils the criteria to access the pension scheme the procedure at 18.5 will be followed as this will be regarded as a termination and the employee has a statutory right in law for this procedure to take place. Where the employee wishes to waive this they are required to put this in writing.

### III health terminations

- 18.7 An employee who is a member of the LGPS can have their employment terminated due to ill-health but be unable to access their pension where the Medical Adviser does not regard their condition as permanent. Regulation 97 of the Local Government Scheme (as amended) requires specific criteria to be met where employees are to be considered for retirement on the grounds of permanent incapacity. The Regulations state that **‘the employee must be permanently incapable of discharging their duties of that employment or any other comparable employment with their employing authority because of ill-health or infirmity of mind or body’**.
- 18.8 Employees whose employment has been terminated due to ill health and are members of the LGPS and have not been granted retirement on the grounds of ill health, have a right to appeal to the Pensions Scheme after they have been dismissed, please refer to the **Toolkit** for guidance. The process for this is laid out in North Yorkshire Pension Fund Internal Disputes Resolution Procedure, Employee’s Guide. Contact the Pensions Section at County Hall for information.
- 18.9 Where an employee acquires a physical or mental impairment which has a substantial, long-term (one year or more) adverse effect on their ability to carry out normal day to day activities they may have rights under the Disability Discrimination Act. In this circumstance a manager must consider the need for reasonable adjustments and should seek appropriate specialist advice before any action is considered or taken in relation to termination. Please refer to the **Toolkit** section 5 for advice.

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### Section Four: Attendance management during recruitment, selection and promotion

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- 19.0 Attendance information may be discussed with external and internal candidates at interview as part of the Recruitment and Selection Procedure. References obtained during the Recruitment process should be used to confirm attendance levels of prospective candidates for a post.
- 19.1 Individual employee’s sickness absence records can limit both employment and promotion opportunities subject to Disability Discrimination where disability related sickness will be discounted.
- 19.2 Pre-employment medicals for external candidates who have been offered appointments will be undertaken.
- 19.3 Managers must not, in any way, discriminate against disabled applicants. Disability does not, in itself, indicate ill health, or that the individual will have sickness absence problems, if employed. The Occupational Health Service can provide advice on reasonable adjustments for disabled employees.

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## **Attendance management during induction**

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- 20.0 New employees require clear objectives and information about their new position in order to perform the job to the best of their ability. Managers must ensure timely communication on objectives and standards of performance through the induction process thus ensuring that employees can establish a positive attendance record from the outset.
- 20.1 Line managers should, as part of the induction process, explain to new employees:
- The Attendance Management Policy and its implications.
  - The triggers for action and that they will be included in the process whereby if their absence hit the triggers they will be invited to an Attendance Consultation Meeting and may have targets set to improve their attendance.
  - The absence reporting procedures and the officer/s they must contact in these circumstances.
- 20.2 Ensuring that employees are aware of the standards of performance, attendance and behaviour required of them should be reinforced throughout the probationary and supervisory periods. New employees should also be made aware of other leave provisions such as that are set out in the handbook:
- Annual leave
  - Flexi time leave
  - Work life balance and special leave provisions
  - Safety policies.

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## **Other North Yorkshire County Council Policy and Procedure documents to be used in support of the attendance management**

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**[Managing Stress and Wellbeing: A Toolkit for Managers and Employees](#)**  
**[Redeployment Policy and Procedure](#)**  
**[Manager's Overview to the Redeployment Policy and Procedure](#)**  
**[Guidance on Changing to Flexible Working and Flexible Working Request Procedure](#)**  
**[Guidance for Home Workers and Off-Site Workers](#)**  
**[Working Compressed Hours Guidance](#)**  
**[Employment of People with Disabilities: Notes of Guidance](#)**  
**[Capability Policy and Procedure](#)**  
**[Disciplinary Policy and Procedure](#)**

The above documents and related information and leaflets may be accessed from the People Matters Website through the NYCC Intranet Home Page Link.