

## Introduction

Newport City Council is committed to providing a high quality range of services to all users, through a healthy, motivated and committed workforce.

The Council has recognised the management of attendance as one of the key actions to support its objective of improved performance. Absence statistical data will be used as a key performance indicator and will be monitored and reviewed.

## Aims of the Policy

The Authority aims to encourage all its employees to maximise their attendance at work. It is recognised, that a certain level of sickness absence is inevitable and to offer the appropriate support to employees. The policy outlines procedures to follow

## Scope

This policy applies to all employees with the exception of those employees working in maintained schools under the direct control of a School Governing Body.

### School Based Employees:

Newport City Council commend this policy to individual Governing Bodies for adoption. If adopted by a Governing Body, the policy will apply to all employees under the direct control of that Governing Body.

### To be read in conjunction with:

- Guidance: Management of Attendance
- Disciplinary Policy
- Equal Opportunities Policy
- Stress Management Policy
- Alcohol, Drug and substance misuse policy
- Health and Safety Policy

## Principles

The overall purpose and intention of the Management of Attendance Policy is to provide a positive and structured approach to the management of sickness absence within the Council/School.

Employees are required to attend all Management of Attendance / Inability Hearings that take place in accordance with the Management of Attendance Policy. If the employee is unable to attend a Hearing due to unforeseen circumstances or due to their ill health they must advise their manager of this as soon as possible. A decision may be made to rearrange the meeting; alternatively the employee may be given the opportunity of making written representations to the meeting or sending a trade union representative or work colleague on their behalf.

If the employee fails to attend a Hearing without prior notification and / or a reasonable explanation, the hearing will proceed in their absence and a decision will be made based on all the information available at the time of the Hearing.

At all Hearings or contact visits the employee should be advised that they have the right to be represented by a Trade Union representative or a work colleague. Where an employee's representative is unavailable to attend a hearing, one alternative date within seven calendar days of the original date should be arranged. Should the employee or their representative be unable to attend the re-arranged date, the Hearing will be held in their absence or written representations will be accepted.

The Management of Attendance is the responsibility of both the Manager and the Employee. It is a mandatory part of a manager's role to manage and try to reduce sickness absence levels in their area. Any manager failing to do this without acceptable reasons may be subject to action either under the Council's/School's Disciplinary Policy or Capability Policy.

## Management Responsibilities

When dealing with attendance issues managers should be particularly mindful of the Equality Act 2010 and should take Human Resources advice where appropriate.

It is expected that managers will deal with attendance issues in a fair and consistent manner and follow procedures set out in this policy.

It is the responsibility of the manager to ensure that employees are aware of their responsibilities under Management of Attendance and of their [Sickness Absence Reporting Procedure](#).

### Employee Responsibilities

Employees have responsibility to ensure their attendance is at an acceptable level. Regular and punctual attendance is an implied term of every employee's contract of employment. Where an employee is off work due to sickness absence they must follow the agreed procedures. Failure to follow these agreed procedures may result in action under the Council's/School's Disciplinary Policy. The agreed procedures are:

- (a) reporting any non-attendance in line with agreed [Sickness Absence Reporting Procedure](#) indicating whether the absence is as a result of an accident at work. \* It is not permitted to notify absence by sending an email or a text message.
- (b) provide a Statement of Fitness for Work (Fit Note) not later than the eighth calendar day of absence. Any absence, after the 7<sup>th</sup> day, not covered by a Fit Note will be viewed as unauthorised and may be dealt with under the Disciplinary Policy. Employees are expected to provide Fit Notes throughout the entire period of absence. Retrospective Fit Notes are unacceptable. Failure to provide a Fit Note within 3 calendar days of the date due will result in suspension of occupational sick pay. Where this occurs occupational sick pay will only be reinstated from the date the Fit Note is received. \*
- (c) attend appointments made with the Occupational Health Advisor as requested. Where an employee fails to attend without providing 48 hours' notice, or a reasonable explanation, occupational sick pay will be suspended until attendance at a rescheduled occupational health appointment and the cost of the missed occupational health appointment will be charged to the employee. \*
- (d) maintain regular contact with their manager
- (e) inform their manager where their absence from work is related to participation in professional sport or injury while working in the employees own time on his/her own account for private gain or for another employer;\*\*
- (f) inform their manager if the absence is due to an accident involving a third party and whether damages may be receivable in these circumstances. See note in Management of Attendance Guidance.
- (g) not engage in any activity which may be prejudicial to their recovery and fitness to attend work \*
- (h) not go on holiday during a period of long term sickness absence without first seeking authorisation from their manager. Before authorisation is provided the manager may require confirmation from the employee's GP or occupational health that the holiday will not prejudice their recovery. Where authorisation is provided the period will be considered as annual leave and will be deducted from the employee's annual leave entitlement and paid in accordance \*

**\*occupational sick pay may not be paid when employees do not adhere to this requirement.**

**\*\* occupational sick pay may not be paid in these circumstances.**

### Short Term Absence

Short term relates to any sickness absence of 14 calendar days or less.

### Long Term Absence

Long term relates to any sickness absence of 15 calendar days or more.

### ACTION ON EMPLOYEES RETURN TO WORK

On return to work from ALL sickness absence:

- (a) An employee must ensure the precise reason for the absence is recorded;
- (b) The manager must conduct a return to work discussion within 7 calendar days

## Return to Work Discussion

On a return to work from any sickness absence regardless of length, discussion must take place between the manager and employee using the return to work discussion form within 7 calendar days of the employee's return.

The return to work discussion should be recorded using the relevant screen in iTrent Manager Self Service, Fit Notes should be scanned and attached to the absence record in iTrent, and any other relevant paperwork must be forwarded to the Employment Services Team.

NOTE – Where there is clear evidence that the real reason for the absence has not been given i.e. that the employee has not been genuinely sick, action under the [Disciplinary Policy](#) may be more appropriate.

## LEVELS OF ATTENDANCE

It is the manager's responsibility to ensure that the following procedure is followed where an employee reaches one or more of the sickness absence triggers outlined below or there is concern regarding an employee's level / pattern of attendance:

### Sickness Absence Triggers

A referral to Occupational Health should be considered by the manager following any period of sickness absence. However it is not necessary for a referral to have been made before taking management action.

As outlined above, a return to work interview must be undertaken for EVERY period of sickness absence at which the manager should advise the employee of what action will be taken as a result of their sickness absence.

**Employees sickness absence will be monitored according to days lost and number of occurrences and the Management Action will be based on the higher of the two categories.**

Number of days lost in last 12 rolling months	Number of occurrences in last 12 rolling months	Management Action
1-3 days	1 -2 occurrences	<ul style="list-style-type: none"> <li>• No Further Action</li> </ul>
4- 6 days	3 occurrences	<ul style="list-style-type: none"> <li>• Management Support</li> </ul>
7-9 days	4 occurrences	<ul style="list-style-type: none"> <li>• Management of Attendance Interview</li> </ul>
10 days or more	5 occurrences	<ul style="list-style-type: none"> <li>• Management of Attendance Hearing</li> </ul> <p style="text-align: center;"><b>OR</b></p> <ul style="list-style-type: none"> <li>• Management of Attendance Interview where 10 days or more is linked to 1 occurrence of absence *</li> </ul>
3 further absences or 4 further days absence or more whilst in receipt of a First Written Warning		<ul style="list-style-type: none"> <li>• Management of Attendance Hearing</li> </ul>
3 further absences or 4 further days absence or more whilst in receipt of a Final Written Warning		<ul style="list-style-type: none"> <li>• Management of Attendance Hearing</li> </ul>

In addition to the above triggers, where an employee's sickness absence shows a repetitive pattern, that

may become apparent over more than a 12 month period a Management of Attendance Interview should be held.

Where an employee's absence is related to a condition under the Equality Act 2010 or is a pregnancy related absence, further guidance can be found in the [Management of Attendance Guidance](#) document.

\* Where, having attended a Management of Attendance Interview due to one absence of 10 days or more, an employee has a further 1 period of sickness absence, the manager should progress to a Management of Attendance Hearing.

### **Management of Attendance Interview**

Where a Management of Attendance Interview is to be arranged the employee should be provided with a minimum of 24 hours' notice and should be advised of their right to be accompanied by a trade union representative or work colleague.

A [copy of the letter confirming](#) the interview must be kept on the employee's personal file.

### **Management of Attendance Hearings**

Where a manager has determined to progress to a Management of Attendance Hearing the employee should be notified of the date and arrangements for the Hearing in writing with a minimum of seven calendar days' notice. [All documentation relating to the management case](#) must be forwarded to the employee and the Chair of the Management of Attendance Hearing who will be a Section Head/Head Teacher (or their nominated representative) a minimum of seven calendar days prior to the date of the Hearing by the manager. Should the employee wish to submit any documentation in support of their case, this must be provided to the Chair of the Hearing (with a copy to the manager) no less than 48 hours prior to the date of the Hearing.

The format of the hearing will follow the process outlined in the [Management of Attendance Hearing Document](#), following which the Section Head/Head Teacher (or their nominated representative) will determine the appropriate sanction. Any warning issued as a result of a Management of Attendance Hearing will be valid for 12 months from the date issued.

Where a Management of Attendance Hearing is being held to consider the potential dismissal of an employee the Hearing must be chaired by a Head of Service/Staff Discipline and Dismissal Committee. Where a decision is made to dismiss the employee, this will be on the grounds of health capability and the employee will be notified of their right of appeal. The employee will receive notice in line with their contractual / statutory notice period (up to a maximum of 12 weeks), together with any outstanding holiday pay from the current annual leave year.

### **Appeals against action as a result of a Management of Attendance Hearing**

An employee has the right of appeal against any sanction issued as a result of a Management of Attendance Hearing to the manager immediately senior to the one who has issued the warning, stating their grounds of appeal. If the employee exercises their right of appeal, the Appeal Hearing decision is final and there is no further right of appeal.

Intent to appeal must be notified in writing within seven calendar days of the date of the decision.

An employee who wishes to appeal against dismissal, has the right of appeal to the Members' Appeal Panel. The letter of appeal must be addressed to the Head of People and Transformation and must state the employee's grounds of appeal.

#### **School-based Employees**

*In a school, an employee who wishes to appeal against dismissal, or against a warning issued by the Head Teacher, has the right of appeal to the Governing Body's Staff Discipline and Dismissal Appeal Committee. The letter of appeal must be addressed to the Clerk to the Governing Body, and must state the employee's*

*grounds of appeal.*

## **MANAGEMENT OF ATTENDANCE ANNUAL REVIEW**

On an annual basis, a review of sickness absence across a team will be carried out by the department manager. The outcome of this review will categorise an employee's attendance level into the following categories:

<b>Category</b>	<b>Number of days lost per annum</b>	<b>Number of occurrences per annum</b>
100%	0 days	0 occurrence
Excellent	1 – 3 days	1-2 occurrence
A	4-6 days	3 occurrences
B	7 - 9 days	4 occurrences
C	10 days or more	5 occurrences or more

Further information on management action to be taken in relation to each category can be found in the [Management of Attendance Guidance](#).

## **OCCUPATIONAL HEALTH**

### **Occupational Health Referral**

A referral to occupational health may be made by a manager for the following reasons:

- Short term intermittent absence
- Long term absence (on 15<sup>th</sup> calendar day of absence)
- Employee request
- Management support where the employee has made them aware e.g. stress related cases
- Where an absence is related to stress or a musculoskeletal condition an immediate referral should be made.
- Medical suspension

A referral to Occupational Health does not relieve a manager of their responsibility to manage the employee's absence. Information gained from Occupational Health will be used to manage the attendance of the employee.

All referrals will be assessed (as part of a triage process) by a member of Human Resources to decide whether a referral should be made to our Occupational Health Advisor (for a clinical diagnosis) or to a Wellbeing Advisor within our Health and Safety Team for support on stress related issues or musculo-skeletal disorders which may require risk assessments rather than clinical diagnosis. In some cases, no referral will be made if there is an opportunity for Human Resources to support managers in dealing with their employee's absence.

### **Occupational Health Appointment**

When an employee attends an appointment with the Occupational Health Advisor they will be asked to give their consent for information gained during their appointment to be disclosed to the manager. Should an employee refuse consent for Occupational Health to release the report, the manager will continue to manage the employee's attendance based on the information available to them.

On receipt of a letter detailing an appointment with the Occupational Health Advisor the employee must advise the contact named in the letter if they are unable to attend and provide a reasonable explanation. Where the employee gives notice that they cannot attend for an appointment then another appointment will be made. Unless there are exceptional circumstances, 48 hours' notice of non-attendance will be expected. Failure to do so will result in the cost of the missed occupational health appointment being charged to the employee.

When an employee fails to attend an appointment with the Occupational Health Advisor without prior notification then there may also be an immediate suspension of occupational sick pay where no reasonable explanation is provided. Reinstatement will be dependent on attending another appointment and will be effective from the date of the appointment. Failure to attend a second appointment may also result in action under the [Disciplinary Policy](#).

Where, due to the nature of an employee's illness, attendance is not possible, the employee should inform their manager, and a home visit will be arranged dependent on advice gained from occupational health and the employee's GP.

### Action following occupational health appointment

Once an employee has attended an occupational health appointment, the manager will receive a report from the Occupational Health Advisor. The Occupational Health Advisor cannot make decisions on behalf of the Council/School, however the information they provide will help inform any employment decision made.

The information obtained from the report should be used by the manager to identify:

- (a) the likely duration of the sickness absence. This will enable the manager to organise cover for the employee and to establish possible additional costs arising from such cover;
- (b) whether the absent employee requires or will benefit from the provision of specific support;
- (c) whether additional appointments with the Occupational Health Advisor will be needed;

The Occupational Health Advisor may also recommend one of the following:

- (a) The employee is fit to return to work.
- (b) The employee is fit to return to work including a recommendation for a period of rehabilitation which may include a limited reduction in hours or duties for a short-term period to assist the employee in returning to normal working. This phased return to work should in most circumstances be for no longer than a two working week period and should commence on no less than 50% of the employees contracted hours.
- (c) The employee's health condition will require some changes to their duties or work environment before a return to work is possible. If employee has a condition covered by the Equality Act 2010, the Occupational Health Advisor may suggest specific adjustments to enable them to undertake the duties of their substantive post.
- (d) The employee's health condition will make a return to work to undertake their present job unrealistic. If this is the case alternative employment will need to be considered as per the Occupational Health Advisors recommendation. In these circumstances the employee will be asked to complete an [employee profile form](#), and their details will be added to the redeployment list. The standard timescale for a search for alternative employment will be for 4 weeks. In exceptional circumstances the standard timescale may be amended. Any offer of alternative employment will be subject to confirmation from the Occupational Health Advisor on the employee's fitness to undertake the duties of the post. There is no payment of detriment where the employee accepts a lower graded post.
- (e) The employee is fit to return to work in the future but the Occupational Health Advisor is unable to give a definitive timescale and recommends a review Occupational Health appointment. Where this recommendation is provided the service area will need to determine whether they are able to continue to sustain the employee's absence.

If the manager has determined that the service area is no longer able to sustain the period of absence the employee should be referred to an Independent Medical Adviser for them to certify whether they recommend the employee is a candidate for ill health retirement.

Where it is determined that the employee is not a candidate for ill health retirement the manager will need to discuss with the employee about the possibility of dismissal either via a termination by mutual consent or via a formal inability hearing chaired by a Head of Service/Staff Discipline and Dismissal Committee of the Governing Body.

- (c) The employee is not a candidate for ill health retirement but is unable to return to work in the foreseeable future and no suitable redeployment is available. The employee should still be referred to an Independent Medical Adviser for them to certify whether they would recommend ill health retirement.

Where it is determined that the employee is not a candidate for ill health retirement the manager will need to discuss with the employee about the possibility of dismissal either via a termination by mutual consent or via a formal inability hearing chaired by a Head of Service/Staff Discipline and Dismissal Committee of the Governing Body. Any decision on this matter should take account the length of absence and the up to date prognosis.

- (f) The employee's health condition will make a return to work impossible, and ill health retirement is appropriate. The employee will be referred to the Independent Medical Advisor for them to certify whether they recommend ill health retirement.

Once the Independent Medical Adviser has informed the Council that the employee is medically unfit to return to work and is a candidate for ill health retirement the manager should refer to the 'Ill Health Retirement' section of this document.

### TERMINATION OF EMPLOYMENT

Should an employee's absence become unsustainable by the service area, the manager will have to determine whether or not they can continue to sustain the absence. This action is not to question the genuine nature of the illness, it is as a result of the impact on the service area and therefore the manager will have to consider the following options.

#### Mutual Termination

Where the employee's health condition will make a return to work unrealistic within the foreseeable future, which cannot be sustained by the Service Area/School a mutual termination will be discussed with the employee and they should be advised of their right to be accompanied at the meeting by a trade union representative or work colleague.

If the employee agrees to a mutual termination of employment they would receive pay in lieu of notice in line with their contractual / statutory notice period, together with any outstanding holiday pay from the current annual leave year.

#### Inability Hearing

If the employee doesn't agree to a mutual termination the manager [will arrange a formal inability hearing](#) in order to consider whether the Service Area/School can continue to sustain the employee's absence. The employee must be given seven calendar days' notice of the date of the inability hearing also advising of their right to be accompanied by a trade union representative or work colleague.

An inability hearing will be chaired by a Head of Service / Staff Discipline or Dismissal Committee of the Governing Body.

Where a decision is taken to dismiss the employee this will be on the grounds of health capability. The employee will be notified of the decision in writing and of their right of appeal within 7 calendar days of the date of the decision.

### Ill health Retirement

Once the Independent Medical Advisor (IMA) has informed the Council/School that the employee is a candidate for ill health retirement, the manager should arrange to meet the employee and advise them of their right to be accompanied by a trade union representative or work colleague.

The employee must receive written confirmation that they are retiring from work on the grounds of permanent ill health with immediate effect and the Tier Level and of their right to appeal against the termination of employment and the Tier Level of Ill Health Retirement. The date of the ill health retirement will be the date that confirmation is provided to the employee of the decision.

### Appeals

Employees who are advised that their employment is to be terminated following an Inability Hearing or on the grounds of ill health retirement have two rights of appeal:

- 1) Employees have the right to appeal against the decision of the IMA. This right of appeal will either be against the Tier level that they have been ill health retired under or on the basis that they feel they should have been ill health retired i.e. they are questioning the medical opinion of the IMA. The employee has 6 months to exercise this right. Where an employee wishes to exercise this right of appeal this should be done in writing to the Head of People and Transformation. This applies to both Council and School employees.
- 2) Employees have the right to appeal against the decision of the Council to terminate their employment to the Members Appeal Panel. Where an employee wishes to exercise this right of appeal this should be done in writing within 7 calendar days of the date of termination. The letter of appeal must be addressed to the Head of People and Transformation and must state the employee's grounds of appeal.

#### School-based Employees

*In a school, an employee who wishes to appeal against the decision of the School to terminate their employment has the right of appeal to the Governing Body's Staff Discipline and Dismissal Appeal Committee. The letter of appeal must be addressed to the Clerk to the Governing Body, and must state the employee's grounds of appeal.*

#### Industrial Injury

Occupational sick pay is payable during absences from work through normal sickness absence and also sickness arising out of and in the course of their employment but not when an absence is due to the employee's own misconduct (referred to as an industrial disease or accident).

This absence is entirely separate from absence in respect of normal sickness and the one shall not be offset against the other for the purposes of calculating entitlements under the scheme.

Where an employee is absent from work as a result of an industrial disease or accident/ injury at work the employee shall be entitled to the provisions of the sickness pay scheme relating to industrial injury, provided they have complied with the following conditions:

1. Any accident arising out of and in the course of employment with the Council/School must be reported and recorded in accordance with the procedures laid down by the Council/School.
2. Where an employee seeks medical advice about an illness, which is suspected or alleged to result from the nature of their employment, the employee must report this to the Council/School at the first opportunity.



3. Certification of absence due to industrial disease or accident is followed in accordance with the usual requirements for certification of normal sickness.
4. In the case of the first and any subsequent absence due to industrial disease or accident an employee will be required to attend an appointment with the Occupational Health Advisor. If the Occupational Health Advisor is not satisfied that the absence is due to an industrial disease or accident the employee shall have the right of appeal to an independent medical advisor.

Failure to meet these conditions may result in the employee not being entitled to Occupational sick pay. The employee's right of appeal would remain.

## Medical Suspension

There may be occasions when a manager considers that an employee is medically unfit to carry out their work. In such circumstances, if the employee fails to recognise this, the manager, in consultation with the Head of Service, can require the employee to refrain from work, on normal pay, pending a recommendation from Occupational Health. Managers should seek advice from Human Resources before taking this course of action. [Once agreed, the manager should write to the employee to confirm this arrangement.](#)

### School-based Employees

*In a school, medical suspension would be determined by the Head Teacher, in consultation with the Chair of Governors.*

## Occupational Sick Pay

During 1st year of service	1 month full pay (and after completing 4 months service a further 2 months half pay)
During 2nd year of service	2 months full pay and 2 months half pay
During 3 <sup>rd</sup> year of service	4 months full pay and 4 months half pay
During 4 <sup>th</sup> and 5 <sup>th</sup> year of service	5 months full pay and 5 months half pay
After 5 years' service	6 months full pay and 6 months half pay

**Please note: Occupational Sick Pay for teachers is paid in line with the Conditions of Service for School Teachers in England and Wales**

## Additional Hours

Occupational Sick Pay benefits are calculated on the basis of contractual hours only. Should a part time employee be asked to work additional hours on an informal and ad hoc basis and subsequently not work those hours, or fail to achieve the contracted hours, because of sickness, the additional hours do not attract payment.

***It is only when there is a formal variation, in writing, to the employment contract, that an increase in the benefit will apply.***

## Bank Holiday Absence

Employees who do not report for work on a Bank Holiday because of sickness, will not attract enhanced payments or attract time off in lieu. Furthermore, no substitute public or extra statutory holiday will be given.

## ANNUAL LEAVE

### **Sickness during a period of annual leave**

Where an employee is sick during a period of annual leave they must contact their manager by telephone, on the first day of any sickness during a holiday to inform them of their sickness period. The employee must also provide a Fit Note when they return to work if the absence is to be recorded as sickness rather than annual leave.

Where an employee fulfils the above conditions, the manager will grant the employee the same number of days' replacement annual leave in the current leave year as the number of annual leave days lost due to sickness or injury. The replacement leave must be taken in the employee's current annual leave year wherever practicable. Where carry over of leave is necessary due to the granting of replacement holiday leave, only the statutory element of any untaken leave may be carried over (with statutory annual leave being assumed to have been taken first in any leave year).

### **Requesting annual leave during long term sickness absence**

Should an employee wish to use some of their annual leave entitlement during a period of long term sickness absence they must first obtain authorisation from their manager in line with the requirements for requesting annual leave under the [Leave of Absence Policy](#).

In cases where annual leave is being requested in order to take a holiday, before authorisation is provided, the manager may require confirmation from the employee's GP or Occupational Health that the holiday will not prejudice their recovery.

Where authorisation is provided the period will be considered as annual leave and will be deducted from the employee's annual leave entitlement and paid in accordance.

### **Annual leave during long term sickness absence**

An employee who is absent on sick leave will continue to accrue their full contractual annual leave entitlement. However, contractual annual leave entitlement over and above the minimum statutory holiday entitlement provided for by the Working Time Regulations 1998 cannot be carried forward from one leave year into the next.

Where an employee returns to work following a long term sickness absence, any annual leave entitlement accrued should be taken in the same annual leave year where practicable. The manager may require an employee to take all or part of his/her accrued holiday on particular days.

Where an employee is absent for the whole annual leave year or there is insufficient time for accrued leave to be taken in the same year, the employee will (providing a formal written request has been submitted to their manager), be permitted to carry forward the statutory element of any accrued leave in to the next leave year. This only applies to annual leave that would have been accrued during the period of sickness absence. Any leave carried over must be taken in the following year and the manager may require an employee to take all or part of their accrued holiday on particular days.

Created By: **Human Resources**  
Date Created: **16 December 2011**  
Reviewed By:  
Date Reviewed:  
Current Version: **v1.5**

## Document Control

<b>Version</b>	<b>Date</b>	<b>Author</b>	<b>Notes/Changes</b>
V1	16 December 2011	Human Resources	Fundamental Policy Rewrite and New Template
V1.1	26 January 2012	Human Resources	Spelling / Grammatical changes
V1.2	23 January 2013	Human Resources	Service Area to People & Transformation, Senior Mgt Titles and Template change
V1.3	01 March 2013	Human Resources	Re-establishment of links
V1.4	22 September 2017	Human Resources	Version Control Added
V1.5	11 April 2019	Human Resources	Removal of reference to old Self-Certification & RTW form