



# **Code of Practice on Absence Management**

**26th January 2021**

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### **1.1. Aim**

This Code aims to improve employee attendance at work. The Code sets out the process for managing short and long-term absences in a fair and consistent way across the Authority. The purpose of the Code is to promote the health and wellbeing of all employees and to provide a framework to ensure that staff with health related issues receive appropriate support, whilst achieving acceptable levels of attendance.

### **1.2. Scope**

This code applies to all employees of the Authority.

### **1.3. Disability**

Where an employee's sickness absence is related to a disability, the absence will be managed with due regard to and in accordance with the Disability Discrimination legislation and related Codes of Practice.

The standard by which a disabled employee's attendance is measured must take account of their disability and shall be recorded separately to other sickness absence.

If an employee is or becomes disabled under the definitions of the Equality Act 2010 the manager will discuss with the employee any reasonable adjustments to support them in their work. Human Resources and other appropriate specialist advice should be sought.

### **1.4. Senior Management**

The Clerk shall decide on hearing arrangements for various stages under this Code relating to the General Manager.

### **1.5. General Principles/ Policy Statement**

The Authority supports health and wellbeing for its staff and expects a high level of attendance from all its employees and requires all employees to make every effort to attend work. This Code provides a framework to support employees to maximise their attendance at work.

## 1.6. Confidentiality

Any person involved with this or any other Authority people management process is expected to maintain confidentiality at all stages, except as required or permitted by the Code. If an employee breaches confidentiality, they may be subject to disciplinary action.

## 1.7. Roles and Responsibilities

**Employees** are responsible for:

- attending work when fit to do so;
- understanding the Code and what the Authority expects from them in terms of their attendance at work;
- complying with the Authority's sickness absence reporting procedures for reporting sickness absence when they are unfit to attend or remain at work and providing medical certificates when necessary;
- attending return to work meetings, occupational health appointments, sickness reviews and any other meetings called in accordance with this Code;
- taking responsibility for their attendance at work by taking reasonable steps to maintain good health and seeking prompt medical help and/or management support for any health problems that may affect their ability to attend work.

**Line Managers** are responsible for ensuring that:

- they attend relevant training on the Code;
- their employees are familiar with the Code and that they understand the procedure for reporting sickness absence;
- any actions under the Code are dealt with in a timely, fair, confidential and consistent manner;
- employees are supported and treated sensitively, objectively and fairly;
- they monitor and maintain accurate sickness absence records for their staff;
- referrals are made to Occupational Health at the appropriate stages as outlined in the Code;
- seek appropriate advice and guidance from the Authority's Human Resources Advisor ("**HRA**")<sup>1</sup> in applying the Code;

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<sup>1</sup> Note: As of January 2021 the Authority's HRA is the Human Resources department at Wandsworth Council.

- they make use of the flexible working arrangements and work adjustments including phased returns to help to minimise absence or facilitate return to work including undertaking alternative duties if available;
- they maintain contact with employees during periods of sickness absence;
- they provide reports as required under the Code.

**The Executive Officer** (with guidance from the Authority's HRA) is responsible for:

- ensuring that managers have the knowledge and information they need in order to apply the Code, by providing training, information, advice and ad-hoc support;
- providing managerial support and guidance when requested, to progress cases in accordance with the Code;
- ensuring the Code and supporting materials are kept up to date and reflective of best practice, including a review of the Code with Staff Side on an annual basis;
- monitoring the use of the Code and outcomes on a corporate and department basis;
- offering advice on the impact of illness/condition on an employee's ability to carry out the duties of their post;
- chasing up reports from Occupational Health and providing timely information;
- maximising overall awareness of the Code, and of associated well-being initiatives, through the provision of clear, accessible and high quality information.

## **2. Short Term Absence**

### **2.1. Return to Work Meetings**

When an employee returns to work following a period of sickness absence, there should be a discussion between the Line Manager and employee as part of everyday supervisory responsibility. This should take place as soon as reasonably practicable on each occasion and the 'Return to Work' form should be completed at the same time.

The purpose of this meeting and completion of the form ensures that employees receive appropriate support for any health issues, should that be necessary, and for there to be an agreed record of days of absences and reason for absence.

Where the Line Manager is aware that an employee is nearing the stage where formal action may be invoked under the Code of Practice on Absence Management, this should be brought to the employee's attention.

## **2.2. First Stage Absence Review (Short Term)**

Where an employee has had a total of either:

- 10 full-time equivalent days or more short-term sickness absence on 3 or more occasions within any period of 12 months or;
- 5 occasions of any length within any period of 12 months

the attendance record should be reviewed as soon as possible by the Line Manager.

Exceptionally, where formal action is not proposed, the reason for this should be recorded on the personal file. If this is the case, informal discussion should take place between the Line Manager and the employee, to review the position and check that appropriate support and assistance is being provided. Where a meeting is not held, the reasons should be discussed with the Executive Officer or Deputy General Manager as appropriate.

The formal review shall be conducted by the Line Manager who shall arrange a meeting with the employee to review their absence level. This shall normally take place as soon as possible after the episode of sickness absence which triggered formal action. The employee shall be given 3 working days' notice, informing them of the purpose of the meeting and affording the employee the opportunity to be accompanied by a Staff Side or other representative.

At this meeting the Line Manager shall discuss with the employee the circumstances of the absences, any support, assistance or work adjustments which may be of help and the effect of the absence on the employee's duties.

If the employee is aggrieved regarding the reasonableness of the action that has been taken, the matter should be referred to the Deputy General Manager or General Manager as appropriate.

If the employee suggests that an underlying medical condition or disability is, or may be a contributory factor to their level of sickness absence, he/she should be referred to Occupational Health.

Once a report has been received from Occupational Health, the Line Manager will arrange to meet with the employee again to review the up-to-date medical information. At this stage, the Line Manager may wish to consult with the HRA about further action under the Code.

During this meeting, the employee shall be informed that a satisfactory improvement is required, i.e. that the employee's level of sickness absence will no longer trigger the Code, and that further monitoring will take place. The employee shall also be informed that failure to achieve this level of sickness absence will result in referral to a more senior officer. A review period of 6 months is normally appropriate unless there are exceptional circumstances.

At the end of the review period, if satisfactory improvement has been made but the employee's level of sickness absence is still triggering the Code, the Line Manager will meet again with the employee and another review period will be set.

At the end of the review period, if satisfactory improvement has been made, and the employee is no longer triggering the Code, the Line Manager should meet with the employee and inform them that this improvement must be sustained for a period of eighteen months from the date when the employee is no longer triggering the Code (the warning period) and warn them that if the improvement is not maintained, then their case may be considered under the next stage of the Code. The Line Manager will confirm the outcome of this meeting in writing to the employee.

### **2.3. Second Stage Absence Review (Short Term)**

Where satisfactory improvement in the level of short-term absence has not been achieved by the end of the review period, or if there is significant deterioration before that date, or where there has been

deterioration during the warning period, the employee's attendance record shall be reported to an Appropriate Manager (i.e. more senior than the line manager involved).

Prior to arranging a Second Stage Absence Review, the Line Manager must refer the employee to Occupational Health and obtain an up-to-date medical report.

The Appropriate Manager will then meet with the employee and consider the attendance record together with the report from Occupational Health, the Line Manager's comments and the outcome of any previous reviews which may have been conducted, provided that the reviews remain on the employee's record.

The attendance record will also be reported for review to an Appropriate Manager, in any case where an employee has had 2 or more episodes of short-term absence totalling 20 full-time equivalent days or more in any period of 12 months.

At the review meeting, the Appropriate Manager shall discuss the circumstances of the absences, any assistance or work adjustments which may be of help and the effect on the employee's duties.

As the level of sickness absence is unsatisfactory, the employee shall be informed that a significant improvement is required, that monitoring will continue and that should there be no satisfactory improvement in the level of sickness absence over the review period, a further meeting will take place between the employee and the Appropriate Manager.

If the employee has previously been advised of the need for improvement, the employee shall be reminded and further warned at the meeting that should there be no satisfactory improvement in the level of sickness absence over the review period, their case will be referred to a Chief Officer for consideration and that this could lead to dismissal from the Authority's service. A review period, normally of six months will be set.

The outcome of the meeting and warning as to future attendance will be confirmed in writing to the employee. Where at the end of the review period an improvement from the original level of absence has resulted, but the absence is still above the trigger level for formal action under the Code of Practice on Absence Management, a further review shall be arranged as appropriate and the employee informed accordingly.

Where satisfactory improvement in the sickness absence record has resulted and the employee is no longer triggering the Code, the employee should be met with and informed accordingly. The employee should be warned that should this improvement not be maintained for the eighteen months specified, they may be referred to the next stage of the Code. The outcome of this interview and warning as to future attendance should be confirmed in writing.

Exceptionally where formal action is not proposed, the reason should be recorded in the personal file and informal discussion should take place between the employee and the Appropriate Manager. Where a meeting is not held, the reasons should be discussed with the HRA and recorded on the personal file.

Where the Appropriate Manager has decided that further action is necessary under this Code, and the employee is aggrieved regarding the reasonableness of the action that has been taken, the matter should be referred to an officer of at least Chief Officer level for review. The Chief Officer's decision on the matter will be final.

#### **2.4. Third Stage - Chief Officer Review**

Where an employee has been seen and warned as to the level of their absence on at least two occasions under the short term absence procedure and satisfactory improvement in the level of their sickness absence has not resulted, the case shall be referred to a Chief Officer for consideration. A representative from the HRA will attend this meeting to advise the Chief Officer.

It is important that an up-to-date report from Occupational Health is obtained prior to the meeting.

The discretion not to proceed to a formal hearing should be jointly decided by the relevant Chief Officer and the representative from the HRA, the reason for this should be recorded on the personal file. Where it is agreed that it is inappropriate to proceed to a formal hearing, an informal discussion should take place to check that appropriate assistance is being obtained.

## **2.5. Preparation for the Hearing**

Where it is agreed that the case will be progressed to a Chief Officer hearing, the employee shall be informed in writing of the date, time and place of hearing, giving at least five clear working days' notice, together with the report by the Appropriate Manager. This will be delivered by hand to the employee or sent by courier if the employee is not at work.

The employee should be advised that, if they wish to submit any documents, statements or other written evidence for consideration by the Chief Officer, then they should do so at least 48 hours before the Hearing.

## **2.6. Conduct of the Hearing**

- The facts of the case shall be reported in writing by the Appropriate Manager and taken as read by the Chief Officer. The Appropriate Manager may present a short oral report highlighting the key facts of the case.
- The employee and any representative shall be given the opportunity to ask questions of the officers concerned.
- The Chief Officer and representative from the HRA shall ask questions to establish the facts of the case.
- The employee and any representative shall then put their case to the Chief Officer to explain the circumstances of their absences and any other relevant information to explain any mitigating circumstances.
- The Appropriate Manager shall be given the opportunity to ask questions of the employee and/or representative.
- The Chief Officer and representative from the HRA shall ask questions as necessary.
- The Chief Officer may adjourn a hearing in order to allow further evidence to be produced or for any other purpose required by the particular circumstances.
- The Appropriate Manager shall sum up followed by the employee or representative.
- The Chief Officer will then adjourn the hearing to consider their decision. The representative from the HRA will be present whilst the Chief Officer deliberates their decision.
- The Chief Officer shall then take such action as is appropriate in the circumstances. See paragraph 2.7 for the possible outcomes.

- The employee and any representative shall then be informed of the decision.

### **2.7. Possible outcomes of Chief Officer Hearing**

- Final warning to the employee that their attendance is unsatisfactory, setting a further period for monitoring. A reasonable expiry period shall also be specified, this must not exceed 3 years.
- Dismissal with notice.

### **2.8. Confirmation of Decision**

The Chief Officer's decision shall be confirmed in writing, within 5 working days of the hearing and be delivered by hand to the employee or sent by courier if the employee did not attend the hearing. The employee shall be informed of their appeal rights and that such appeals must be lodged within ten working days of the date on which the decision was delivered to the employee.

## **3. Long-Term Absence**

Long-term absence is defined by the Authority as absence of 6 working weeks (either continuously or as a total during a 12 month period).

When it becomes clear that there is a long-term absence or there is likely to be a long-term absence, the Line Manager will make a referral to Occupational Health as soon as possible. The Line Manager will also advise the employee that their case has been referred to Occupational Health with the reason for referral, who will advise managers on the present health of the employee and fitness for work as well as any work adjustments which should be considered by the manager.

### **3.1. First Stage – Absence Review (Long Term)**

When the employee returns to work before three months absence in a period of 12 months has elapsed the case shall be referred to an Appropriate Manager for review. The full absence record, reasons given for absence and comments of the Line Manager should be considered. The Appropriate Manager should also have available the medical report and the outcome of any relevant reviews which may have been conducted under this Code. If however a warning as to future attendance has previously been issued within the past 18 months under the

provisions of either long term or short term absence then the case may be referred to a Chief Officer without further review.

The Appropriate Manager shall arrange a meeting with the employee to review the absence level. This shall take place as soon as possible after a report has been received from Occupational Health. The employee shall be given 3 working days' notice, informing them of the purpose of the meeting and affording the opportunity to be accompanied by a Staff Side or other representative.

At the review meeting, the Appropriate Manager shall discuss with the employee the circumstances of the absence, any assistance or work adjustments which could be of help and the effect of the absence on the employee's work.

Unless it is clearly inappropriate in light of the medical condition and prognosis, e.g. if the employee is suffering from a life-threatening illness/condition, the employee shall be warned that a significant improvement is required and that monitoring will continue to take place. Reviews shall be undertaken at intervals not exceeding six months and the employee should also be warned that should there be no satisfactory improvement in the level of sickness absence over the review period, their case will be referred to a Chief Officer for consideration and this could lead to their dismissal from the Authority's service. The outcome of this interview and warning as to future attendance should be confirmed in writing.

Exceptionally the Appropriate Manager may consider formal action to be inappropriate in the circumstances and informal discussion should take place between the Line Manager and the employee to review the position and check that appropriate assistance is being provided. Where a formal review is not held, the reasons should be discussed with a representative from the HRA and recorded on the personal file.

Where, at the end of the review period, satisfactory improvement has resulted, the Appropriate Manager shall meet with the employee and inform them accordingly. The employee shall be warned that should this improvement not be maintained for the eighteen month period specified, the matter may be referred to the next stage of the Code. The outcome of this interview and warning as to future attendance shall be confirmed in writing.

Where the Appropriate Manager has decided that further action is necessary under this Code, and the employee is aggrieved regarding the reasonableness of the action that has been taken, the matter should be referred to the General Manager for review. The reviewing officer's decision on the matter will be final.

### **3.2. Chief Officer Review**

Where satisfactory improvement in the level of sickness absence has not been achieved by the end of the review period, or if there is significant deterioration before that date, the employee's attendance record shall be reported to a Chief Officer who shall consider the sickness absence record together with the Appropriate Manager's comments and the outcome of any previous relevant review(s) which may have been conducted. The process to be followed is at paragraph 2.5.

The discretion not to proceed to a formal hearing should be decided by the relevant Chief Officer in consultation with a representative from the HRA, the reason for this should be recorded on the personal file. Where it is agreed that it is inappropriate to proceed to a formal hearing an informal discussion should take place to check that appropriate assistance is being obtained.

## **4. Future Employment Capability**

In the majority of cases, the employee is able to return to work before an absence of three months has elapsed in a twelve month period and before the length and circumstances of the absence call into question future employment capability. In some circumstances, return to work may be facilitated by allowing the employee to return initially on a phased return. Any such proposed arrangements should be discussed with Occupational Health and pay arrangements should not be less than the employee's occupational sick pay entitlement at the time.

If a period of three months sickness absence or more has elapsed (either continuously or as a total during a twelve months period) an assessment shall be undertaken by Occupational Health. If the employee is found to be not permanently unfit, they shall then be referred to the Chief Officer for review. At this stage, redeployment options may also be considered by the General Manager in discussion with the HRA.

For a Chief Officer Review to go ahead, the Authority must, as far as possible, be in possession of the full medical position to make an informed judgement about future health at that stage.

If there is a need for more medical advice or information, including the results of tests or treatment or the outcome of a phased return, any hearing should not be arranged until the Authority has this information to make an informed judgement, within a reasonable time period and based on the facts of the case.

## **5. Termination of employment on medical grounds**

In some cases, following assessment by Occupational Health, it becomes clear that an employee may be permanently unable to undertake their normal duties on medical grounds. If this is the case, the General Manager, advised by a representative from the HRA, may request Occupational Health to refer the employee's details to an independent Occupational Health Physician for assessment on their future working capabilities in relation to their pension. If the employee is certified permanently unfit for their normal duties, or any other work at the present time, the General Manager in consultation with the Clerk and Treasurer is authorised to initiate the procedure for termination of employment on the grounds of ill-health.

### **5.1. Expiry Periods**

Expiry period of 18 months to 3 years from end of satisfactory review.

## **6. Appeal stage**

### **6.1. General Principles**

Employees should put their appeal in writing to the Executive Officer within 10 working days of receiving letter of confirmation.

Appeals will be arranged as soon as possible.

The appeal should be dealt with impartially and wherever possible with a more senior manager who has not previously been involved in the case.

### **6.2. Responsibilities**

**Employees** are responsible for:

- submitting their appeal clearly stating the grounds of their appeal.

**Managers** are responsible for:

- ensuring that all appeals are heard without unreasonable delay.

**The HRA** is responsible for:

- providing advice and guidance to the panel of the appeal hearing.

### **6.3. Preparation for the Appeal**

On receipt of an appeal template, clearly stating the grounds of their appeal, the employee shall be notified in writing of the date, time and place of hearing and shall be given at least five working days' notice.

The appeal shall be heard by a Chief Officer (the Appeal Officer) with a representative of the HRA.

### **6.4. Conduct of the Appeal**

- The facts of the case shall be reported in writing by the Appropriate Manager and taken as read by the Chief Officer. The manager may present a short oral report highlighting the key facts of the case.
- The employee and any representative shall be given the opportunity to ask questions of the officers concerned.
- The Chief Officer and HRA Representative shall ask such further questions as are necessary to establish the facts of the case.
- The employee and any representative shall then put their case in writing and taken as read by the Chief Officer to explain the circumstances of the absences and any other relevant information. The employee may present a short oral report highlighting the key facts of the case.
- The Appropriate Manager shall be given the opportunity to question the employee.
- The Chief Officer and HRA Representative shall then have the opportunity to question the employee and any witnesses.
- The Appropriate Manager and employee shall then both sum up.
- The Chief Officer and HRA Representative shall then consider the case in private. If it is necessary to recall any party to answer any questions, all the parties shall be recalled. The Chief Officer shall decide on the outcome of the appeal in all respects on behalf of the Authority as employer.

- All parties shall then be recalled and informed of the decision. The appeal decision shall be confirmed in writing by letter, sent by recorded delivery or by hand to the residence or workplace of the employee. The letter shall confirm the decision and that the decision is final.

## **6.5. Adjournments**

The Appeal Officer may adjourn a hearing in order to allow further evidence to be produced, or for any other purpose required by the particular circumstances. An employee who is seeking an adjournment of the hearing must specify the reason for this. The Appeal Officer will consider the request, taking advice from the HRA Representative as necessary.

## **7. Standards**

### **7.1. Representation**

Employees are entitled to representation at the formal stages of the Code by a work colleague or other representative although requests for any other representation are at the discretion of the Chief Officer in consultation with the HRA representative.

### **7.2. Reasonable Adjustments**

The Authority is committed to the employment of people with disabilities and will not tolerate any unjustifiable less favourable treatment of a person on the grounds of their disability.

The Authority will carefully consider, and make, any reasonable adjustments which are necessary to address any disadvantage which the employee may be experiencing because of their disability to enable them to carry out their core duties. This may include time off for disability related hospital appointments.

### **7.3. Requests for Postponement**

Agreement to requests for postponing meetings at any stage of the process will be at the discretion of the relevant Line Manager or other Appropriate Manager involved in the process. If any requests for postponements are not agreed, the hearing is likely to proceed either with or without the employee being in attendance.

#### **7.4. Absence**

If the employee is absent due to sickness during any formal stage of this process, they may be referred to Occupational Health for an opinion about their fitness to take part in a hearing. There is no distinction between self-certified or medically certified periods of sickness or absence due to industrial injury - the genuineness of sickness absence and decisions made by medical practitioners are not at issue under the monitoring procedures of this Code.

#### **7.5. Timescales**

The Authority is committed to completing all people management processes within a reasonable timescale and not subjecting the employee to any undue delay. The Line Manager, and Appropriate Manager or Chief Officer, will keep the employee informed of their estimated timescales and inform them of any subsequent delays or major changes to them.

### **8. Disputes Resolution Procedure**

Nothing in this Code shall affect the right of a member of the Local Government Pension Scheme (LGPS) or representative of a member to lodge a complaint concerning a decision taken under the LGPS Regulations in relation to the employee's pension benefits. Any such complaint should be lodged within 6 months of any relevant notification of a decision and will be considered in the first instance under the Authority's Independent Disputes Resolution Procedure by the person appointed by the Authority for this purpose.