

BRECKLAND COUNCIL

SICKNESS ABSENCE MANAGEMENT & ILL HEALTH PROCEDURE

Please use this procedure in conjunction with the Sickness Absence Management Policy. This procedure applies to all employees of Breckland Council.

ABSENCE REPORTING ARRANGEMENTS

1 Notifying Absence

For service delivery to be maintained, it is essential for line managers to know when an employee is unable to attend work due to illness. Failure to inform the line manager is unauthorised absence and will be treated as such.

- 1.1 The employee must telephone their line manager as soon as is reasonably practicable when they are off work because of illness, or injury. The employee should seek to notify their line manager by their normal starting time and in any case by 9.45am. In the line managers absence the employee should notify another team member.
- 1.2 The employee should inform their manager of the
 - nature of the illness or the injury,
 - the anticipated length of absence and any work commitments that may need rearranging.
 - when it started (even if these include rest days, weekend's, public holidays, etc.);

On the 4th working day of a continued absence the employee must again make contact with their line manager. The employee must provide an update on the expected length of absence and where this is unknown should maintain daily contact.

- 1.3 If the employee believes that their absence may have been caused by something that happened at work i.e. accident or disease, they should inform the line manager of this and the line manager must arrange for the appropriate Health & Safety forms to be completed via Environmental Health.
- 1.4 If, in exceptional circumstances, for example where the employee is hospitalised and the employee is unable to telephone in person, they must arrange for someone else to telephone on their behalf where possible, in accordance with 1.1 and 1.2 above. The employee must make direct contact with the line manager as soon as possible thereafter.
- 1.5 The line manager will enter the Sickness absence details onto HR.net.
- 1.6 Whilst off sick employees should not undertake or engage in any activity which is incompatible with the illness or may delay recovery. Disciplinary action may be invoked if an employee is found to be doing so.

2 Certification

Every absence has to be certified to ensure prompt and correct payment of contractual and statutory sick pay and to ensure that accurate records are maintained. Failure to comply with the certification procedures may result in loss of sick pay. Misleading or false statements may be dealt with under Breckland Council's disciplinary procedure.

- 2.1 In order to report accurately on our sickness absence Best Value Performance Indicator all sickness absences must be recorded on **HR.net**.

It is the Manager's responsibility to log employee sickness absence on HR.net as soon as they are notified. When the employee returns to work they will certify on HR.net that they are fit for work and the system will automatically calculate the length of sickness absence.

- 2.2 If the employee continues to be absent for 8 calendar days or more they must consult a doctor and obtain a medical certificate, which must be forwarded immediately to their line manager. If the certificate is sent through the post the envelope must be addressed 'private – doctor's certificate' to ensure confidentiality.
- 2.3 Where there is continuing sickness absence the employee must submit to the manager concurrent medical certificates to cover the whole period of absence.
- 2.4 The line manager must ensure that appropriate and timely certificates are received from the employee.
- 2.5 The line manager must ensure that certificates are sent to Human Resources to monitor absence in accordance with statutory sick pay.
- 2.6 As a result of 6.1 below a manager may require the employee to submit doctor's medical certificates, rather than self-certificates, from their first day of absence. In such cases Breckland Council will meet the full cost of any fee charged. The employee will be notified of this requirement in writing.
- 2.7 If an employee is sick during a period of annual leave the employee will receive a credit of this leave if the employee contacts their manager on the first day of sickness. There may be circumstances where an employee may be unable to do so; in this instance the matter should be referred to the Service Manager for a decision to enable a fair and consistent approach. On return from sickness the employee must complete the record on HR.net.

3 **Maintaining Contact**

When an employee is absent from work due to sickness it is important that contact is maintained with the manager. The manager needs to ensure that work is reallocated and service delivery is maintained. The employee needs to ensure that they do not feel isolated, vulnerable or out of touch.

- 3.1 The employee and line manager should maintain regular, but not intrusive telephone contact during the early stages of sickness absence. The frequency of this can be determined by the line manager but should be reasonable, and taking into account the type of illness and likely duration.
- 3.2 If an employee is absent from work for more than **one calendar month** this is considered long term absence. The Occupational Health Centre may arrange a visit to the employee in consultation with the Manager and HR.
- 3.3 If absences become long term, regular contact between the employee and the line manager must be maintained. The type of contact made will be dependant upon and proportionate to the individual circumstances.

4 **Monitoring Sickness Absence Levels**

Information is necessary to manage sickness absence effectively and supplies managers with the information they need when reviewing options. The sickness review process can be initiated then the trigger points shown in 6.1 are reached.

Sickness absence monitoring is also a health and safety issue and Human Resources will provide information regarding sickness trends and patterns to Management, LJCC and General Purposes Committee as necessary. This information will not identify individuals and it will not be personalised.

- 4.1 All sickness absences must be recorded on HR.net.
- 4.2 This information enables the Council to monitor the success of the Sickness Absence policy; plan proactive and preventative measures; and, report its Best Value Performance Indicators. Individual cases are not reported.
- 4.3 Each manager has information on sickness on HR.net enabling them to monitor sickness absence levels within their team and take further action as necessary when trigger points are reached.

MANAGING SICKNESS ABSENCE

All managers who have line management responsibility will be required to attend sickness absence management training.

5 **Return to Work Interview**

- 5.1 Upon an employee's return to work from an absence of one day or more they will be required to attend a return to work interview with their line manager. The manager should arrange to meet privately with the employee, as soon as is reasonably practicable and preferably within three days of the return to work.
- 5.2 The purpose of the return to work interview would be to welcome the employee back to work, ensure that there is an accurate record of the absence and appropriate certification and update the employee on work issues. The line manager may also address any workplace issues that may have contributed to the absence, and discuss any necessary temporary reasonable adjustments. The manager should give genuine assurances of their concern for the employee's welfare, balanced with any concerns about service delivery and the impact on other team members. The manager should also provide the employee with information on the availability of support where appropriate or recommend any rehabilitation as recommended by the Occupational Health Centre, if appropriate.
- 5.3 The line manager will need to discuss with the employee how ongoing health problems affect work performance. If necessary, the line manager will encourage the employee to consult his/her doctor and/or refer them for Occupational Health advice.
- 5.4 It may not always be appropriate for line managers to offer advice in situations where there may be personal issues such as financial or domestic problems. If necessary, HR will be able to provide advice on organisations that are able to give various types of support.
- 5.5 A record of the meeting should be made.

- 5.6 Phased return to work is with 50% full pay and 50% sick pay. The Head of HR may approve different arrangements for exceptional circumstances.

6 Resolving Frequent Short-term Absence

- 6.1 Where an individual's absence level meets one of the following **trigger points**, the manager will review the absence levels with the employee.
- Three or more instances of sickness absence in any rolling 3 month period.
 - Any other recurring recognisable patterns, such as frequent absenteeism on a Friday or Monday.
 - All long term absences of one calendar month or more.

6.2 (i) Informal Review Meeting

In the first instance the Manager will meet the employee to discuss the significance of the absence, explore the reasons, identify areas for support, and if necessary review/update the risk assessment.

6.2 (ii) Formal Review Meeting

Where the absence is continuing or significant the Manager may ask you to attend a formal meeting.

The purpose of the meeting is to establish the underlying medical reason for the absence/s and to discuss what support might be offered to enable you to deliver satisfactory performance.

You will be informed in writing of the date, time and place of the meeting. You must take all reasonable steps to attend the meeting. If for any reason the date is not suitable, you should advise Human Resources of an alternative time when you are available. This should be within 10 working days of the original date.

You have the right to be accompanied to the hearing by a colleague or a recognised union representative.

- 6.3 The following outcomes might be agreed:

- The employee may be required to submit a medical certification from their doctor for every instance of absence over an agreed period (see 2.7 above).
- Advice may be sought from the OH Practitioner (see 10 below).
- Other support mechanisms may be identified and implemented.
- Reasonable adjustments such as changes to the workload, work practices or work pattern.
- Redeployment may be identified (subject to OH agreement). If redeployment is agreed there will be no salary protection, the employee will receive the rate of pay applicable to the new post.
- The employee may also be placed on a **Performance Improvement Plan** – see 6.4 below and the Capability Procedure.

The line manager will write to the employee within 10 working days of the meeting, confirming the points discussed and actions agreed. A copy of this letter will be placed on the employees personnel file.

6.4 Performance Improvement Plan

Targets set will take into account the following:

- Council targets (Performance Indicator)
- Trigger for monitoring sickness
- Average sickness across the team / portfolio over the last year
- The employee's attendance over a specified period (this would normally be over the last twelve months)
- Operational demands of the service

At the end of the Performance Improvement Plan (not normally less than 3 Months) actions could include:

- a) Extend the Performance Improvement Plan.
- b) No further action if fully acceptable attendance has been achieved.
- c) Agree to resolve minor residual attendance issues through informal meetings
- d) Seek to resolve the issue through another Procedure where Absence is not considered the underlying reason for under performance
- e) Ask you to attend a Sickness Absence Management Hearing (See Below)

The manager will write to you to confirm the result of the performance improvement plan review. If a Hearing is to take place the letter should contain that a potential outcome of the Hearing is the employee's dismissal on capability grounds or some other substantial reason.

6.5 Sickness Absence Management Hearing

See Model Hearing Procedure (Discipline, Capability and Absence)

Unreasonable behaviour by the Council may result in successful tribunal claims for failure to ensure its duty of care. Employees might not be able to participate in hearings or the process due to their illness.

Where appropriate HR will ensure that there is specific advice from the Occupational Physician where a Sickness Absence Management Hearing is being arranged. If there are underlying medical problems or factors which could be exacerbated by the Hearing process, Breckland Council will modify the process so far as is reasonably practicable.

Hearings do not need to be held on the Council's premises, which may be considered overly threatening, but can be held on "neutral" ground. They could also be conducted by correspondence. They should not be held at the employee's home, except in very exceptional circumstances – such a perceived need would indicate that the individual was significantly disabled.

6.5.1 Procedure

Employees will be informed in writing of the date, time and place of the hearing. Where it is reasonable employees should take steps to attend. Alternatively a union representative or colleague might attend in their absence. If for any reason the date is not suitable, you should advise Human Resources of an alternative time when you are available. This should be within 10 working days of the original date.

Before the hearing you will receive details of the case. You will have adequate time to prepare and an opportunity to present your side during the hearing.

Where you are able to attend in person you have the right to be accompanied to the hearing by a colleague or a recognised union representative. They can give you advice and support and address the hearing but may not answer questions on your behalf.

The manager, Human Resources or the Occupational Health Centre will also be asked to provide information on what actions have been taken. A management representative will also be present and witnesses may be called.

After the Hearing Officer has heard the case, your response and any evidence, they will decide but not limit their actions to;

- Take no further action if they deem acceptable attendance has been achieved
- Recommend further review, coaching, Occupational Health advice
- Consider suitable alternative employment opportunities
- Proceed under a different Procedure e.g. Capability or Disciplinary
- Dismiss for incapability to undertake the job due to ill health.

Whenever possible the Hearing Officer will inform the employee of the decision on the day of the Hearing and will write to the employee within 10 days confirming the outcome.

6.5.2 Dismissal

When reaching a decision about whether or not to terminate employment the Hearing Officer will consider issues such as:

- The need for the work to be undertaken
- The impact of the employee's absence and ill health on other employees and service delivery
- The employee's absence record
- Financial and cost implications
- Representations made by the employee and/or their representative
- What actions have been taken to attempt to enable the employee to continue
- Medical advice received

This list is not exhaustive and the weight attached to each will depend upon the circumstances of the case, whilst balancing the needs of both the employee and of Breckland Council.

6.5.3 Where a dismissal takes place the Last Day of employment will not pre date the expiry of contractual sick pay entitlement.

6.6 Right of Appeal against Dismissal

If you are dismissed you can appeal against the decision. You must appeal in writing to the Human Resources Manager within 10 working days of the decision being communicated to you.

You will be informed in writing of the date, time and place of the appeal hearing. You must take all reasonable steps to attend the hearing. If for any reason the date is not suitable, you should advise Human Resources of an alternative time when you are available. This should be within 10 working days of the original date.

Where possible, the appeal hearing will be heard by a more senior manager (certainly a different manager) who has not been previously directly involved in the case than the manager who heard the original hearing.

You have the same rights to be accompanied at the appeal hearing as the original hearing.

After the appeal meeting you will be informed of the final decision. Should any warning or penalty be withdrawn, reference to action will be removed from your personal file.

7 Managing Long-Term Absence

7.1 Continuous absences of one calendar month or more are considered long term.

7.2 The manager should contact the employee on a regular basis, at their home if appropriate, in order to keep up to date with progress, identify areas for support and determine whether any other actions should be taken. A trade union representative or work colleague may accompany the employee. The employee may refuse home visits if they so wish.

7.3 As a guide if it's evident that an absence is likely to continue for more than two months professional medical opinion should be sought from the OH Practitioner to establish the underlying medical condition, an indication of the likely duration of the employee's absence and whether steps can be taken to enable the employee to return to work.

7.4 Depending upon the advice received from OH, HR will review and advise on one or more of the following actions:

- Review date may be set with further advice to be obtained from OH.
- Reasonable adjustments such as changes to the workload, work practices or work pattern may be implemented, either as part of phasing the employee back to work or on a more permanent basis.
- Other support mechanisms may be identified and implemented.
- OH may advise that redeployment may be pursued on medical grounds.
- Investigations may take place into whether the employee may be eligible for ill health retirement pension benefits.
- If the case is not considered to be a permanent ill-health situation, the case will be referred to a Sickness Absence Management Hearing – see Section 6.5 above.

7.5 In exceptional cases, such as terminal illness, where life expectancy is anticipated to be less than one year, it may be decided to take no further action. An extension of sick pay on an indefinite basis may be considered in these circumstances.

7.6 If an employee is on long-term absence due to illness they will be notified by payroll when the period of full pay and half pay will cease to be paid.

7.7 When pay is exhausted the employee is entitled to outstanding holiday pay at the full pay rate. If the employee has a lease car, it may be necessary to reclaim the car if monthly payments are not received. Payroll will notify the employee before any change to the employees pay.

8 Work-related ill health or injury

8.1 If an employee or manager believes that ill health or injury has been caused by work, the employee or manager must complete Breckland Council's Accident Report form from Environmental Health as soon as possible.

8.2 If an employee has not completed an Accident Report Form and subsequently believes that their ill health or injury is caused by work, they should report this in writing to their manager, setting out the reasons why they believe that work has contributed or caused their ill health or injury.

8.3 Early advice should also be sought from the Council's Occupational Health service if appropriate. The OH Physician may also suggest that specialist advice may be helpful. In such cases the Council will pay any resulting fees.

8.4 Where an Accident Report Form has been completed, or where an employee subsequently claims that their ill health or injury is caused by work, the situation should be thoroughly investigated. The manager should inform the Chief Executive Officer and discuss the situation with the Health and Safety Manager in order to determine who should undertake the investigation.

8.5 The investigation should be undertaken by two people and should be completed as quickly as possible, with HR Services and a relevant Manager, and the Chief Executive Officer should be kept fully informed of progress.

8.6 The investigation should consider relevant background information such as:

- The job description
- The previous sickness record
- Previous OH recommendations/advice
- Previous grievances or complaints
- Details that have emerged in return to work interviews following previous absences or during the normal management process
- Management actions and any adjustments made as a result
- Time sheets, work logs, rotas, annual leave and flexi time records
- Training and development records
- Appropriate witness statements
- External factors (for example, if an employee who is alleging that they are suffering from repetitive strain injury is also a self-employed typist)
- Risk assessments
- Safe systems at work
- Personal protective equipment where relevant
- Any other information pertinent to the situation

8.7 Upon completion of the accident investigation, a report should be sent to the Chief Executive Officer or relevant manager, with a copy to the employee, UNISON Branch Health and Safety Officer, Health & Safety and HR Services.

- 8.8 The relevant manager will determine, based on the facts available and following consultation with HR, whether or not the employee has sustained an injury or illness as a result of what they were required to do at work, or the treatment they received at work. The Chief Executive Officer will determine whether the root cause of the employee's ill health is due to the competent performance of the employee's duties and responsibilities.
- 8.9 Written confirmation of the decision will be sent to the employee within 10 working days of the decision. In the event of a decision that ill health or injury is attributed to work, Breckland Council does not accept liability.
- 8.10 The line manager must ensure that Payroll is informed of the decision, where it will affect payment of sick pay.
- 8.11 The employee will have the right to seek a review of the decision through Breckland Council's Grievance procedure.
- 8.12 Any personal injury claims received for damages against Breckland Council should be forwarded directly to the Chief Executive Officer. Breckland Council's insurers deal with such claims.
- 8.13 Any person who meets the conditions for an injury allowance under the Local Government (Discretionary Payments) Regulations 1996 [S/1996/1680] or for a payment under the assault provisions of the National Conditions of Service should be issued with a claim form.

9 Ill Health which does not lead to absence from work

There may be occasions where an employee is suffering from ill health, but this does not lead to the employee being absent from work. If the employee believes that their ill health is having an impact on their ability to undertake their job, or could affect the safety of others, they should raise this with their line manager as soon as possible. The line manager should discuss the matter confidentially with the employee, review the workplace risk assessment and discuss whether any additional support can be provided to the employee to support them at work, or relevant controls be put in place. Depending on the circumstances, it may be helpful to seek advice and guidance from Breckland Council's Occupational Health Centre.

10 Occupational Health Referral

The role of the Occupational Health Practitioner is to provide advice and guidance to Breckland Council and its employees on the impact of an employee's ill health on their ability to undertake their duties and what measures can be put in place to support the employee, where appropriate. They can also advise on how work activities may affect an individual's health and wellbeing. The following points should be noted:

- 10.1 Human resources will complete the Application for Referral Form. A consent form will be sent to the employee to sign and return to enable a doctor's report to be obtained from their GP.
- 10.2 The employee must be made aware of their rights under the Access to Medical Reports Act 1988. In relation to Breckland Council's request for OH to seek a report from the employee's GP.
- 10.3 The manager and employee must ensure that as much relevant information as possible is provided to the OH practitioner. A copy of the letter will be provided to the employee.
- 10.4 The manager and employee must be clear about the points on which they seek advice.

- 10.5 Where the employee does not give their consent to the OH practitioner seeking a report from their GP and/or the employee refuses to meet with the OH practitioner, the implications of this should be discussed with the employee and confirmed in writing. Breckland Council will make decisions based on the available facts and evidence of the case at the time.
- 10.6 Breckland Council has an Occupational Health Adviser who will be able to provide a confidential advisory service for employees. There is the opportunity for employees to discuss any concerns they have over their health. If an employee wishes to see the occupational health adviser please speak to the Human Resources Team for an appointment which will be treated in confidence.

11 Sick Pay

Sick pay entitlement will be in accordance with the National Agreement on Pay and Conditions, commonly known as the Green Book.

12 Breach of Sickness Procedure

Failure to comply with this procedure can result in the employee losing both their statutory sick pay and sickness allowance under Breckland Council's scheme, and may result in disciplinary action in the following situations:

- Deliberate falsification of self-certification form or doctors statement
- Failure to follow notification rules without good reason (see note below)
- Failure to supply doctors statements
- Unsatisfactory reasons for being absent from work
- Undertaking paid or unpaid employment elsewhere whilst sick

Non-certified absences of more than 7 days will automatically result in the employee's salary being stopped. This is considered to be a breach of contract.

13 Surveillance

Breckland Council may consider undertaking surveillance or it may notify the Inland Revenue where there is cause for reasonable suspicion that an employee is in breach of the sickness absence policy/procedure; a suspicion of Gross misconduct or fraud.

Legal advice will always be sought before undertaking any covert surveillance to establish whether or not this is a legitimate action. Where surveillance is undertaken it will take into account an employees human rights and will be proportionate and key to any investigation which we are bound to carry out.

14 Sickness on Maternity Leave

If a pregnant employee is absent from work with a pregnancy related illness during the last 4 weeks of her pregnancy, her maternity leave will start automatically, details can be found in the Maternity and Paternity Leave guidance.

The following will not be counted in monitoring sickness absence data.

- Pregnancy related illness
- Dental and G.P. appointments

15 DDA – Sickness

The Disability Discrimination Act (2005) extends the scope of the Disability Discrimination Act 1995 imposes a duty on an employer to make reasonable adjustments to a job and/or workplace where performance is affected by a disability. Further help and advice can be obtained from the OH service.

16 Extraordinary Circumstances

In the event of a widespread epidemic or events affecting sickness levels Management and UNISON may agree an interim procedure.

17 Review

This procedure will be reviewed periodically to ensure its continuing relevance and effectiveness in light of experience, good employment relations' practice and developments in employment law.