

Management Circular No F8

Managing Attendance Policy

Teacher

Author	<i>Employee Relations</i>	Contact	<i>EmployeeRelationsTeam@northlan.gov.uk</i>
Owner	<i>Fiona Whittaker</i>	details	<i>Insert email address</i>

Date	<i>March 2011</i>	Version number		Document status	<i>Insert status (e.g. draft, final version)</i>
-------------	-------------------	-----------------------	--	------------------------	--

Governance Committee	<i>Insert name of committee</i>	Date approved	<i>insert date</i>
Review date	<i>Insert date</i>		

Strategic Alignment

*Use the council business plan to identify the priorities, outcomes and/or actions the strategy, policy or plan supports. For example: Outcome: Improve economic opportunities and outcomes
Action: Pursue new opportunities to ensure North Lanarkshire is an attractive place for business,*

Consultation process	<i>Insert presentations made, surveys carried out etc</i>	
Stakeholders	Contacts identified for each service	
	<i>Insert name</i>	<i>Insert service, organisation</i>
Distribution	<i>Insert details</i>	

Change record

Date	<i>insert date</i>	Author	<i>insert contact details</i>
Change made	<i>insert details of changes made</i>		

Contents Page

1	Introduction	4
2	Scope	4
3	Principles	4
4	Categories of absence	4
5	Responsibilities	5
	(5.1) Employee responsibility	
	(5.2) Head of Establishment/Senior Officer responsibility	
	(5.3) Headquarters Senior Management responsibility	
6	Notification and Certification Procedures	7
7	Sickness Allowances	7
8	Maintaining contact, monitoring and review	8
	8.1 Contact with employee	
	8.2 Acknowledgement of return to work	
	8.3 Return to work interview	
	8.4 Absence triggers for review meeting	
	8.5 Alternative options	
	i) Phased return	

	ii) Self referral to Staff Welfare Officer	
	iii) Referral to Employee Assistance Programmes	
9	Occupational Health Service and referral procedure	10
10	Process for dealing with managing attendance	10
	(i) Underlying medical condition	
	(ii) Absence attributable to stress	
	(iii) Capability	
	(iv) Termination on the grounds of capability	
	(v) Ill health	
11	Disability Discrimination	14
12	Accrual of annual leave entitlement	14
13	Review of the policy	14

1 Introduction

The council values the contribution made by all of its employees and recognises that high levels of attendance at work by employees is a vital factor in the efficient operation of its services. High levels of attendance at work make a valuable contribution, and provide positive assistance in the planning and provision of quality services and the achievement of high morale among employees.

2 Scope

This policy applies to all teachers and employees on teaching conditions as contained in the Scottish Negotiating Committee for Teachers handbook for teaching staff.

3 Principles

This policy is founded on the following principles:

- (i) Improving and maximising attendance will have a positive effect on service provision.
- (ii) Whilst teaching staff are entitled to expect fair treatment, the council is equally entitled to take appropriate action in respect of unacceptable levels of sickness absence. Irrespective of the genuineness of the absences(s) there may come a point at which the council has to terminate an employee's contract of employment if the length or frequency of absences becomes unsustainable.
- (iii) Best results will be achieved where management, employees and trade unions are agreed on the need for a framework to deal with improving and maximising attendance.
- (iv) Good management practice is best developed by having clear, equitable and consistent standards and procedures and by recognising that head of establishments and senior officers have to exercise careful consideration and judgement to achieve the correct balance between supporting employees and taking action, including disciplinary action, where appropriate.
- (v) The head of establishment or senior officer's role is critical in managing and improving attendance levels. Managers must ensure employees are made aware of their responsibilities as detailed in paragraph 5.2 of this policy. Managers must address each absence case at the earliest opportunity; ensuring regular contact is maintained and identify and demonstrate appropriate support for employees.

- (vi) Each school/educational establishment must maintain and provide robust accurate management information to assist managers in managing the overall attendance of their staff and also individual employees.

4 Categories of Absence

- (i) For the purpose of this policy, sickness absence falls into two distinct categories:

- Sickness absence which is attributable to an underlying medical condition as opposed to
- Periods of sickness absence which are not attributable to an underlying medical condition

In light of this distinction, there is a different process to manage absences within each category, although it is essential that both the principles and processes applied are fair, consistent and equitable. In terms of managing conduct, managers must refer to the Disciplinary Framework for Teaching Staff.

- (ii) For the purpose of this absence policy, the definitions of short and long term absences are:

- Short term = short spells of absence, less than 20 days
- Long term = continuous absence of 20 days or more

- (iii) Work related absence injury/illness

The reporting requirements for this category should be recorded as work related to ensure the teacher receives the correct/separate allowance/entitlement (paragraphs 6.20 and 6.21 Teacher's JNCT handbook).

5 Responsibilities

5.1 Employees' Responsibilities

- To look after their general health and wellbeing and seek medical or other support where necessary in order to minimise their sickness absence from work.
- To comply with the council's notification and certification procedures as detailed below.
- To attend any appointment or undergo examination by any medical or specialist practitioner identified by the council in relation to the management of their sickness absence.
- To agree and maintain contact (either face to face or by telephone) with their head of establishment or other designated person.
- To adhere to the established practice of conducting attendance meetings at the employee's place of work or any other suitable council establishment, unless a medical reason is provided to preclude attendance at work venues.
- To promptly make their head of establishment, or other designated person aware if they consider their sickness absence to be connected with their job and to explain their perceptions in relation to this in writing. They should also co-operate with their head of establishment with any future action identified as a result of these discussions.
- To attend return to work interviews and other sickness absence management meetings as detailed below.
- To accept and comply with appropriate medical and other advice and support measures to minimise sickness absence.

As part of the occupational health procedure **the terms of the Access to Medical Reports Act 1988 will apply where employees have a right to access the information provided by the GP.** If the employee is unwilling to sign the medical consent form, they should be advised that they will still be required to attend for a medical examination and a decision will be taken regarding employment based on the information available to the manager.

5.2 Heads of Establishment/Senior Managers' Responsibilities

- To improve and maximise attendance and apply the terms of this policy fairly and consistently, taking account of individual circumstances.
- To maintain and apply appropriate sickness absence monitoring and review systems and procedures.

- To advise employees of the importance of minimising or improving sickness absence and ensure they are aware of their responsibilities.
- To advise employees who they should contact to report a sickness absence and the timescales within which this contact should be made.
- To have an up to date understanding of current employment policies and available support measures with the aim of assisting employees to maximise their attendance at work. Policies can be accessed through LLS Personnel.
- To have an up to date understanding of their responsibilities in terms of considering “reasonable adjustments” where an employee has a disability in line with the Disability Discrimination Act 1995, as amended and the Equality Act 2010.
- To treat information regarding an employee’s health in a sensitive and confidential manner.
- To manage health and safety in the workplace with the aim of minimising sickness absence.
- To participate in training related to managing sickness absence and maximising attendance.
- To request medical and specialist advice where appropriate.
- To agree and maintain regular contact with absent employees.
- To conduct return to work interviews and other sickness absence management meetings.
- To take appropriate action to deal with sickness absence such as phased return, part-time working and alternative duties.
- To advise employees of the potential for termination on the grounds of capability, ill health or conduct if there is no significant improvement in the attendance levels and to deal with these cases in line with the council’s policies, procedures, conditions of service and employment legislation.

5.3 Headquarters Senior Management Responsibility

- To improve and maximise attendance and apply the terms of this policy fairly and consistently.

- To maintain and apply appropriate sickness monitoring and review systems and procedures. On a regular basis, assess the information provided and identify the appropriate management or medical intervention.
- To advise head of establishments and senior managers of the importance of minimising or improving sickness absence and to ensure they are aware of their responsibilities.
- To ensure heads of establishments and senior managers have an up to date understanding of their responsibilities in relation to the Disability Discrimination Act 1995 and the Equality Act 2010.
- To ensure heads of establishments and senior managers participate in training related to managing sickness absence.
- To manage and maintain absence management procedures relating to heads of establishments and senior officers including return to work interviews.
- To take appropriate management action to deal with sickness absence which should include advising heads of establishments and senior officers of the potential for termination on the grounds of capability, ill health or conduct if there is no significant improvement in the attendance levels and to deal with these cases in line with the council's policies, procedures, conditions of service and employment legislation.

6 Notification and Certification Procedures

6.1 In relation to all absences on grounds of illness, the following notification and certification requirements should be followed:

Stage 1 A teacher or an employee on teachers' conditions who is unable to report for work must notify the head of establishment as soon as reasonably practicable. If at all possible, this should include the reason for and the likely duration of the absence. In circumstances where the teacher/employee is unable to make personal contact with the head of establishment, a relative or friend should be asked to make the necessary contact.

Stage 2 Teaching staff who are absent from work for 4 to 7 calendar days must complete a self certification form on return to work. For all other employees a self certification form must be completed for 7 days or less.

Stage 3 Where an absence continues to a fourth day, the teacher/employee or some other person acting on his or her behalf, should contact the establishment and

indicate whether the period of absence is likely to continue beyond 7 calendar days. Where it is anticipated that the absence will continue beyond the seventh day, a self certification form should be sent to the employee for completion in respect of the first 7 days.

Stage 4 Where the absence extends beyond 7 calendar days, the employee must submit:

(a) A doctor's fit for work note to cover the period after the seventh day, together with a self certification form to cover the first seven days of absence.

(b) The doctor may report that the teacher may be fit for work. If this is reported, the teacher and manager must discuss the possibility of a return to work adaptation.

Stage 5 All further extensions to the same absence must be covered by a doctor's statement. These must be submitted concurrently, as failure to do so will affect sick pay entitlement and may also be deemed as deliberate misconduct.

7 Sickness Allowances

7.1 When absent due to illness, subject to certain conditions, an employee will normally receive a payment, comprising two parts. The first is either statutory sick pay (SSP) from the council or national insurance sickness benefit from the Department of Works and Pension (DWP). The second is sickness allowance from the council. Full details of the sickness allowances scheme are contained in the appropriate conditions of service documentation (SNCT handbook Part 2, Section 6).

7.2 An employee must fulfil all of the notification and certification requirements set out in section 6 above in order to be entitled to sickness allowances. Payment of any sickness allowance may be suspended by the council if there is a good reason to believe that absence from duty has been caused by the direct responsibility of the employee. Payment may also be suspended if an employee acts in such a way as to prejudice his or her recovery or fails to observe the requirements of the sickness allowance scheme.

7.3 Where the head of establishment considers that a suspension of sickness allowance would be justified, he or she should bring the matter to the attention of the executive director/head of resources. Before payment of sickness allowance is suspended, the employee should be advised in writing of this intention and given the opportunity of submitting observations and of appearing or being represented before the appropriate officer of the authority.

7.4 Should the executive director/head of resources. have reason to believe that the employee's absence is due to his/her own misconduct or negligence, deliberate conduct which is prejudicial to recovery, or failure to observe the terms pertaining to the sickness allowance under this scheme, the payment of sickness allowance may be suspended by the council. Failure to observe the terms pertaining to the sickness allowance procedures will be considered in terms of the disciplinary framework as a misconduct which may also include the suspension of payment of allowances.

7.5 It should be noted that under the provisions of the Statutory Sick Pay Act 1994, large employers are no longer entitled to claim reimbursement of 80% of the sums paid out by way of statutory sick pay. Despite a reduction in national insurance contributions this has significant financial implications for the council. Therefore, it is important that the terms of operation of the scheme are closely adhered to.

8 Maintaining Contact, Monitoring and Review

8.1 Contact with employees

An important aspect of this monitoring process will be the maintenance of regular contact on the part of the employee and the head of establishment throughout the period of absence. It is important for managers to keep in touch with employees as early in the absence as possible. Employees should comply with the Council's notification and certification procedures, throughout the period of absence (see Section 6).

8.2 Acknowledgement of return to work

The employee is required to contact the head of establishment or school office on return to work to confirm that return to work has taken place and to finalise any remaining documentation. Confirmation of the employee's return to work is normally all that is required when the head of establishment is satisfied with the reason for absence and that the absence record is not a matter of concern. When the reason for absence is unclear and there is some cause for concern on the part of the employee or the manager a more focussed return to work interview will take place.

8.3 Return to work interview

An interview will take place as quickly as possible following the return of the teacher to work. At this meeting discussions should relate to the current absence; a developing pattern or trend of absence which may trigger a formal review although it must be recognised that there are

circumstances in which such a pattern will be entirely legitimate; update on school activity. Interviews may be conducted by heads of establishment, their deputies or other appropriate nominated senior members of staff. If the employee asks to be accompanied by a supporter or representative, this request should be granted. If the nature of the illness of the employee gives rise to the employee wishing the manager to take the meeting to be of the same gender, this should be arranged.

The interview is essentially a fact finding meeting which should take place in a private setting and be conducted in a sympathetic manner. While interviews will normally be conducted within the establishment, there may be occasions where an employee may choose to discuss the nature of his/her absences with a mutually acceptable person outwith the establishment.

8.4 Absence triggers for review meeting

The head of establishment or senior officer must hold a meeting with the employee when the sickness absence record falls into one of the following categories:

- 3 spells of absence in a rolling 6 month period
- If the teacher's cumulative, short term absence exceeds 4% on a rolling 12 month period.

The Head of Establishment/Senior Officer should prepare for the interview by reviewing the employee's absence record, identifying areas of concern and preparing questions to be put during the interview. Areas for discussion should include:

- Current absence
- Fitness for work
- Pattern of previous periods of absence

Although these absence review meetings are not disciplinary in their nature, it has been agreed with trade unions that an employee can be accompanied by his/her trade union representative. An outcome of this meeting may be an agreement to refer to occupational health.

The purpose of the meeting is to maintain a positive line of communication to discuss responsibility for improving and maximising attendance; reasons for absence and agree solutions and support.

8.5 Alternative Options

(i) Phased Return

A phased return to work may not always be necessary for employees who have been absent from work. Each case will be considered on its own merits and where appropriate, will be subject to advice from the occupational health physician/adviser. The length of the phased return to work will be determined by the individual circumstances of each case, discussed with the line manager in conjunction with the advice from occupational health, if appropriate. The period of the phased return to work must not normally exceed four weeks, but may be for less time. A teacher must offset any accrued annual leave entitlement when planning the phased return. The manager should discuss the proposed pattern with the employee before he/she returns to work. The manager must confirm this agreement in writing, a copy of which should be retained by the employee and a copy placed in their personal file.

(ii) The head of establishment/senior officer may suggest that the employee may wish to self refer to the welfare officer for guidance, support and counselling.

(iii) To advise on other employee assistance programmes as available at the time of absence such Employee Counselling Service, Occupational Health Service/Case Conferences.

9 Occupational health service and referral procedure

9.1 Recognising the importance of obtaining up to date professional medical information and advice, the council appointed an independent occupational health provider. The council's occupational health provider does not manage absence for the council. They provide a medical advisory service which provides managers with information (including any support for employees), to allow them to make informed decisions based on policy and in light of any medical advice received, including medical health reports. This includes a physiotherapy service which is available for all council employees whether present or absent from work. This is just one aspect of the council's proactive approach to managing attendance.

9.2 Referral to occupational health

The point at which an employee is referred for examination will depend upon the particular circumstances of the case. Each case will depend on its own facts and careful consideration

and judgement will have to be exercised by the head of establishment/senior officer before determining which option to pursue.

However an employee will be referred in the following circumstances:

- Where an absence is attributable to work related stress, irrespective of the duration or likely duration of the absence, or
- After 20 days' continuous absence

9.3 Procedure for medical examinations

Employees will be required to attend any appointment or undergo examination by any medical or specialist practitioner deemed appropriate by the council for the purpose of managing absence.

Prior to any such referral, the employee will be advised by their head of establishment/senior officer:

- that he or she is required to attend an appointment with the occupational health physician/adviser;
- of the reason for the referral;
- of the information that will be sent to the occupational health physician/adviser;
- of the nature of the information that the occupational health physician/adviser will be asked to provide;
- of their rights in line with the terms of the access to Medical Reports Act 1988 and the General Medical Council guidance; and
- of appropriate support and advice that is available such as trade unions and employee counselling

10 Process for dealing with managing attendance

10.1 Underlying medical condition

10.1.1 Cases in this category involve long term or substantial intermittent absences which, on the basis of medical certification or information, are the result of an underlying medical condition.

In these cases, heads of establishment/senior officers must obtain full and up to date medical advice and arrange regular meetings with the employee in the course of an absence, or over the period during which absences recur.

Meetings should be arranged at appropriate intervals to reflect the particular circumstances of the case. However, as a guide these should be convened:

- every four weeks during protracted periods of absence; or
- in accordance with the review periods outlined at 8.4; and
- in any event after each medical appointment.

Discussions at these meetings will include:

- the head of establishment/senior officer's position in light of the medical information available;
- the employee's opinion as to his or her medical condition in light of the medical information available;
- the arrangements in place to ensure the work is carried out during the absence;
- any operational issues arising during the absence;
- the required timescales for return to work, or in cases of recurring absence, the required standard of attendance;
- the medical advice regarding the work the employee will be capable of performing on return to work or in the longer term;
- any support measures or reasonable adjustments that might assist the employee return to, or remain at work;

- the need for, or benefit of further medical advice; and
- when appropriate; the ultimate outcome if the absence or level of absence becomes untenable.

Written confirmation of the points outlined at such meetings must be sent to the employee.

In general, the occupational health physician/adviser will recommend reviews at appropriate intervals in the course of an absence or over the period during which absences recur. In some circumstances however, managers will initiate additional or alternative medical appointments as necessary to ensure the effective management of the absence.

At an appropriate stage, preferably early on in the process, but no earlier than the stage of a formal review meeting, employees must be advised that the potential ultimate outcome of ongoing absence may be termination of employment.

10.1.2 Absences attributable to stress

In cases relating to stress, every effort will be made by both parties to try and resolve the problems quickly, although it is acknowledged that this may be difficult, especially with personal (non-work related) stress.

It is important that an early meeting is arranged to ascertain how the head of establishment/senior officer can assist or provide support to the employee. This support could take the form of any of the following:

- referral to the employee counselling service (ECS)
- providing details of other appropriate agency eg Relate, CRUSE
- providing details of money advice or welfare rights officer
- self referral to Housing and Social Work Services, where appropriate in cases of homelessness, domestic abuse etc
- referral to occupational health
- self referral to LLS welfare officer

This is by no means an exhaustive list, however, it is important that the head of establishment/senior manager tries to assist the employee whenever possible, dealing with this sensitively, being mindful of the employee's welfare.

10.1.3 Capability

- (i) If an employee has been absent from work on a continuous long term basis or has had substantial absences due to a recognised underlying health problem(s), there will come a time when the absence(s) cannot continue to be sustained. Whilst it would be inappropriate to issue formal warnings through the disciplinary procedure, the employee needs to be made aware early on that they need to maintain a satisfactory level of attendance and failure to do so may ultimately result in termination on the grounds of capability.

It is important that the employee is referred to the occupational health physician and all medical advice considered. The length of service of the individual and medical prognosis etc. must be taken into account. This is often a lengthy process because the employee should have every opportunity to return to the workplace.

It is particularly important that an employee who is absent from work, has regular meetings with their head of establishment/senior officer. The head of establishment/senior officer is responsible for ensuring the council is doing all they can to support this individual.

- (ii) Capability meeting – level 1

If the absence is causing concern then the manager, after consulting with an officer within Learning and Leisure Personnel, should set up a 'Capability Meeting – level 1'. The following should be discussed:

- Pattern of absences (if applicable)
- Monitoring periods
- Likelihood and date of return to their current post
- Likelihood and date of returning to their current post, with reasonable adjustments
- Likelihood and date of returning on reduced hours
- Likelihood and date of returning to a different post, if appropriate, and all other options have been exhausted
- Other potential outcomes/options
- The latest occupational health report and advice provided by the occupational health physician. This may include consideration of redeployment if applicable, where other alternatives have been exhausted.

At this meeting the manager would explain that the employee's absence can no longer be sustained, is causing concern and cannot be sustained indefinitely.

The employee should be advised therefore that their absence will be monitored over a set period of time to be determined. It is the responsibility of the head of establishment/senior officer to explain that if their attendance does not improve/or they are unable to return to work, then the ultimate outcome may be termination on capability grounds. The employee would then be given a period of time in which to discuss their situation with their medical practitioners. The employee has the right to have a trade union representative or other appropriate person in attendance.

(iii) Capability meeting – level 2

If the employee was still unable to provide a suitable date to return to work at the end of the monitoring period, i.e. if the level of absence can no longer be sustained (and if ill health retiral is not supported), then the head of establishment/senior officer would arrange to meet with the individual at a 'Capability Meeting – level 2 (the HR representative should be in attendance). The head of establishment/senior officer must have an up to date medical opinion so that this can be discussed at the level 2 meeting. The employee has the right to have a trade union representative or other appropriate person in attendance.

At this meeting the manager would discuss all medical opinion, particularly the latest report from occupational health and the employee's views on their continued absence. If no return to work date is imminent or if the absences are such that the level of absence cannot continue to be sustained, then the employee should be advised that their case will now be dealt with under the Disciplinary Framework for Teachers and this could lead to the termination of their employment.

10.1.4 Termination on the grounds of capability

While it is inappropriate to issue formal warnings in cases where there is an underlying medical condition, the employee must be fully aware of the head of establishment/senior officer's position and that the potential ultimate outcome of the continued absence or level of absence is dismissal. There is a distinction between termination on the grounds of capability and disciplinary action for absences (possibly dismissal) as a result of conduct. If termination is a possible course of action in cases where there is an underlying health condition, the head of establishment/senior officer must have discussed this option with the relevant personnel officer and the

employee at an earlier stage and confirmed this to the employee in writing, in accordance with the Disciplinary Framework for Teachers.

The appropriate action to be taken will be dependent upon the merits of the particular case in question and due attention will be paid to medical advice, if relevant. It is not always necessary to refer the employee to the occupational health physician/adviser prior to taking any form of disciplinary action. However, managers will have regard for the review periods, details at paragraph 8.4 when determining the point at which to initiate formal disciplinary consideration.

The fact that warnings are issued should not prevent or dissuade head of establishments or senior officers from considering other measures to address the problems such as training, redeployment, counselling, medical interventions etc.

Both support and challenge can operate concordantly.

Where the absence level remains unsatisfactory the final steps will be dismissal. However, before the decision is taken to dismiss, up to date medical information should be obtained. The decision to terminate employment will be taken by the Executive Director of Learning and Leisure Services in line with the Disciplinary Framework for Teachers.

10.1.5 Ill Health

Ill health retiral applies to teaching staff that are members of the SSPA scheme and meet the criteria for either total incapacity benefit or partial incapacity benefit. Decisions will be made by SPPA based on the application and medical evidence received.

- Total Incapacity Benefit
A teacher must be in pensionable employment when making an application (continuing to make contributions)
 - Retirement with enhancement.

- Partial Incapacity Benefit
A teacher must be in pensionable employment when making an application (continuing to make contributions)
 - Early payment of pension but no enhancement.

It is therefore important to note that teachers should apply for ill health retirement whilst in paid employment. A time delay in making application could result in the pension being deferred until normal retirement age.

Arrangements should be made through the head of resources.

11 Disability Discrimination

The Disability Discrimination Act 1995 as amended by the Equality Act 2010, defines a disability for this purpose as “A physical or mental impairment which has a substantial and long term adverse effect on his or her ability to carry out normal day to day activities”. The legislation creates a duty on employers to make “reasonable adjustments” and head of establishments/senior officers must make every reasonable attempt to retain a disabled employee in employment. This may impact on methods undertaken to manage absence. However, it should be borne in mind, that if, after all attempts to make reasonable adjustments have been made and if the employee is still unable to return to work, then their employment may be terminated on capability grounds with appropriate payment in lieu of notice.

The Council will use the “social model of disability” as the basis for our work to promote equality of opportunity and to tackle discrimination against disabled people. This describes disability not as a medical issue, but one where disabled people face daily barriers in society such as attitudinal, environmental, institutional, information and communication barriers.

12 Accrual of annual leave entitlement

During the sickness absence, a teacher’s entitlement to annual leave will accrue as outlined in Part 2 Section 6 of the SNCT handbook.

13 Review of the policy

As part of this process, a review mechanism is in place to ensure the Managing Attendance Policy - Teachers is being adhered to and administered consistently. This review will be carried out on a regular basis and any patterns identified further explored, as well as an annual overview to ensure the recommendations of this policy have been implemented. In addition, this will be a standing item of discussion between the JNCT Joint Secretaries. Additionally, the Service as part of its ongoing review process is committed to working with the Employee Disability Forum and to conducting an Equality Impact Assessment.

