



**Supporting Attendance Toolkit SA06:  
Management Discretion Procedure  
(Version: 2.0)**



<b>Contents</b>	
<b><u><a href="#">Introduction</a></u></b>	Management Discretion Procedure
<b><u><a href="#">Section 1</a></u></b>	Discretion Criteria
<b><u><a href="#">Section 2</a></u></b>	Requesting Discretion
<b><u><a href="#">Section 3</a></u></b>	Considering a Discretion Request
<b><u><a href="#">Section 4</a></u></b>	Managing Approved Discretion Requests
<b><u><a href="#">Section 5</a></u></b>	Recording Discretion Requests
<b><u><a href="#">Section 6</a></u></b>	Discretion Request Form

<b>Version Number</b>	<b>Effective Date</b>	<b>Details of Last Revision</b>
1.0	21 June 2021	n/a
2.0	April 2024	Amended Section 1 – Discretion Criteria  Bereavement Leave – Close Relationships (as defined in Special Leave Policy) and first 2 weeks of absence does not count towards trigger  Improvement in employee’s attendance levels with other circumstances, takes account of monitoring periods that are almost at an end

## Introduction

The Supporting Attendance Policy and Procedure outlines the levels of attendance expected of all employees. The procedure also provides guidance as to when employees should be invited to formal attendance review meetings. However, where a manager feels that a particular case requires discretion to vary from the prescribed procedures, they can formally request discretion from the Head of Service or nominated Senior Officer.

Discretion should be interpreted to mean an individual will not be progressed to the next stage of the procedure at the time the discretion is granted. They may however remain on the current stage for the remainder of the monitoring period or be re-issued the current stage again i.e. a further 12 months from the date they returned to work. In any event the absence will still be recorded as sickness absence.

The decision not to apply discretion rests with the Head of Service or nominated Senior Officer, however Employment & Policy **must** be consulted as part of the decision-making process in order to monitor appropriate and consistent application of the policy, whilst taking each individual circumstances into account.

Any further absences following discretion will be managed in accordance with the Supporting Attendance Procedure as agreed at the point of the application of discretion.

Pregnancy related absences will automatically be exempt from the formal supporting attendance procedure.

## Section 1: Discretion Criteria

Detailed below are examples of circumstances which **may** lead to the application of discretion:

- Absent due to a chronic illness/disease e.g. cancer, stroke, heart condition
- Has to undergo a surgical procedure/requires hospitalisation which has a specified/expected date of recovery and future absence may be prevented.
- Is likely to be covered by the disability provisions of the Equality Act 2010 advised in an Occupational Health Report and an extension to the timeframes in the procedure would be deemed a reasonable adjustment in the circumstances of the absence.
- Has been identified by Occupational Health as having an underlying medical condition which may affect their attendance intermittently over a set period of time – this will apply to short term absence.
- Employee demonstrates an effort to return to work/consider phased return (the reason for the absence and attendance levels must be considered)
- Reasonable time off due to the bereavement of a Close Relationship (as defined in the Special Leave Policy) (in cases where special leave has been exhausted). The first 2 weeks of an absence of this nature will not count towards trigger (see short- and long-term absence toolkit)
- A significant improvement in an employee's attendance levels over the last 2 years\* ( in conjunction with other circumstances i.e. previous absence was due to a chronic illness or Equality Act may apply). Particularly where the employee is within the last month or so of the monitoring period. This needs to be applied in a consistent and fair manner.

\*this would not apply to new employees or those that have been absent from work due to other types of leave, such as career breaks

## Section 2: Requesting Discretion

Discretion can be requested from Stage 2 onwards in the Supporting Attendance Procedure but can only be applied once during the employee's journey through the formal supporting attendance process.

Where a manager feels that the case merits discretion they must complete and submit a Discretion Request Form (SA06 (a)), attached below, setting out the circumstances of the case, and the reason for the request taking into account the criteria above.

It is for the manager to determine whether a request for discretion should be made, however the line manager should listen to the employee regarding the reasons they consider that discretion should be applied, in accordance with the criteria.

When deciding whether to request discretion managers should consider the employee's absence record, the reason for absence, the expected length of absence and request discretion when they feel that it is most appropriate.

### Examples

- The discretion request may ask that the employee should not progress to Stage 2 of the formal process if they return just after the 13th week, depending on the nature of the absence, and if the employee has been able to return earlier than expected.
- Where a planned return to work has been delayed due to agreed reasonable adjustments not being in place in time.
- Alternatively, it may ask that due to an underlying medical condition which may affect the employee's attendance intermittently over a set period of time that an agreed extension to the previous stage be approved.

In all cases if discretion is granted the relevant "stage" meeting should still be held, and the employee advised of the decision e.g. discretion applied, employee will remain on Stage 1 of the formal process or have Stage 1 re-issued.

If the manager does not consider that a request should be submitted, they must provide reasons to the employee i.e. circumstances do not meet the criteria.

## Section 3: Considering a Discretion Request

When an application for discretion is received the relevant Head of Service or nominated Senior Officer will decide whether the case merits discretion based on the criteria.

When considering cases for discretion Head of Service or nominated Senior Officer should take into consideration the employee's circumstances as detailed in the Discretion Request Form. Decisions must not be based on personal knowledge of the individual. Further information may also be sought from the manager.

Discretion can be approved in full or in part i.e. the employee provides an expected date of return or anticipates a return within a particular timeframe e.g. post-operative recovery.

The Head of Service or nominated Senior Officer can stipulate that discretion can be applied on the basis of an agreed return date but if the employee has not returned by the stipulated date then discretion shall be removed and the formal Supporting Attendance procedure shall continue.

As stated above before making a request for discretion the manager must discuss this with Employment & Policy.

Once a decision has been made the Head of Service or nominated Senior Officer must record this on the Discretion Request form and return it to the manager.

## Section 4: Managing Approved Discretion Requests

Once the manager is in receipt of the outcome of the discretion request, they must arrange or re-convene the relevant attendance review meeting and provide the employee with the outcome.

The employee will either be advised that:

- Discretion has not been applied and they are progressing to the next stage of the formal process, or;
- Discretion has been applied in full and they will remain on the existing Stage of the process (this will depend on the circumstances of the absence, how long the employee has been on the current stage and absence history) – see examples above, and any further absence will be managed in accordance with the Supporting Attendance policy/procedure, or;
- Discretion has been applied in part and the employee will;
  - re-commence on the existing Stage of the formal process for 12 months (this will depend on the circumstances of the absence, how long the employee has been on the current stage, and absence history) – see examples above, or,
  - not proceed to the next stage of the formal process on the provision that they return to work on the agreed date\*
  - not proceed to the next stage of the formal process due to delays with treatment or to allow additional recovery time due to complications with a surgical procedure\*, or,
  - not proceed to the next stage of the formal process to allow a reasonable time for the employee to demonstrate that they are fit to be back at work\* (long term absences only)

\*In these instances, the employee will remain on the existing stage of the formal process.

Please note that the above list is not exhaustive and other circumstances may merit discretion being applied.

### Employee Returns to Work within Discretion Period

Where the employee returns to work within the period allowed for discretion then no formal action should be taken at this time.

### Employee Does Not Return to Work within the Discretion Period

Where the employee does not return to work within the agreed period or is absent over any agreed trigger points, then the formal procedure should be re-instated

If a manager is unsure as to when the relevant formal stages should take place following approval of discretion, please contact Employment & Policy for advice.

## Section 5: Recording Discretion Requests

A copy of the completed Discretion Request Form must be sent to Employment & Policy and will be placed in the employees file until such times it no longer applies.

The outcome of the attendance review meeting must be provided in writing to the employee using the relevant template contained in the Supporting Attendance Toolkit. The employee can also be provided with a copy of the discretion form if they wish.

## Section 6: Discretion Request Form

### SA06 (a) - Discretion Request Form

Where a manager considers that a particular case requires discretion to be applied to vary from the prescribed procedures, they can formally request discretion from the Senior Manager/Head of Service. Discretion can only be applied from Stage 2 of the process and can only be applied once during the employees' journey through the formal supporting attendance process.

**Before submitting this form the manager must discuss the request with Employment & Policy.**

Managers Details			
Managers Name		Designation	
Service		Division	
Employee Details			
Employee Name		Designation	
Dates of current/most recent absence		Reason for absence	
What Stage in the process is the employee at?		Has discretion been applied before? If yes provide details	
Does the employee have an underlying health condition?	Yes <input type="checkbox"/> No <input type="checkbox"/>	Does the underlying condition relate to the current/most recent absence?	Yes <input type="checkbox"/> No <input type="checkbox"/>
Summary of Absence Record in last 12 months (occasions, days lost, patterns)			
Section A – Grounds for Discretion This must be completed by the manager			Please tick applicable reason
1. Absent due to a chronic illness/disease e.g. cancer, stroke, heart condition			
Provide further details			
2. Has to undergo a surgical procedure/requires hospitalisation which has a specified/expected date of recovery and future absence may be prevented.			
Provide further details including date of surgery and anticipated return date			
3. Is likely to be covered by the disability provisions of the Equality Act 2010 and advised in an Occupation Health Report that an extension to the timeframes in the procedure would be deemed a reasonable adjustment in the circumstances of the absence.			
Provide further details including proposed length of extension to the timeframes for moving to next stage			

4. Has been identified by Occupational Health as having an underlying medical condition which may affect their attendance intermittently over a set period of time – this will apply to short term absence.	
Provide further details	
5. Employee demonstrates an effort to return to work/consider phased return (the reason for the absence and attendance levels must be considered)	
Provide further details including agreed/actual return to work date and phased return plan	
6. Reasonable time off due to the bereavement of a Close Relationship (as defined in the Special Leave Policy) (in cases where special leave has been exhausted). The first 2 weeks of an absence of this nature will not count towards trigger (see short- and long-term absence toolkit)	
Provide further details	
7. A significant improvement in an employee's attendance levels over the last 2 years* ( in conjunction with other circumstances i.e. previous absence was due to a chronic illness or Equality Act may apply).	
Provide further details	
8. Other Reason	
<b>Section B – Type of Discretion Requested</b>	
<b>This must be completed by the manager</b>	
<b>1. Apply discretion in full</b> Employee will remain on the existing Stage of the process for the remainder of the 12-month monitoring period	(tick if appropriate) <input type="checkbox"/>
<b>2. Apply discretion in part</b> (tick appropriate discretion and provide any timescales/dates that the request is dependent on)	<input type="checkbox"/> employee will re-commence on the existing Stage of the formal process for another 12 months <input type="checkbox"/> employee will not proceed to the next stage of the formal process for the reason outlined above and will remain on existing stage of the process unless agreed timescales/agreed return to work date is not met.  Agreed date of return (if applicable):  Timescale for treatment/recovery (if applicable):



Date Request Submitted:		Request agreed with Employment & Policy:	Yes <input type="checkbox"/> No <input type="checkbox"/>
<b>Section C – Decision of Head of Service or nominated Senior Officer</b>			
Has the discretion request been approved? Yes (Fully) <input type="checkbox"/> Yes (in Part) <input type="checkbox"/> No <input type="checkbox"/> (If the request has been approved in part please provide reason e.g increase/decrease timescale for return to work)			
Date Request Approved:		Name:	
<b>Please return the completed form to the requesting manager named above</b>			