

Staffordshire County Council HR Policy			Policy Owner: Corporate HR				
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1. Legislative Framework

1.1 Statutory Sick Pay Regulations

These set out the current allowances payable under the statutory sick pay scheme.

The framework for sickness & absence takes into consideration the provisions of the Employment Rights Act 1996, The Employment Relations Act 1999, the Employment Act 2002, the Disability Discrimination Act 1995 & 2005, the Race Relations (amended act) 2000 and the ACAS Code of Practice on Disciplinary and Grievance Procedures.

1.2 Application of this Policy

The Attendance policy is commended to the Governing Bodies of schools for application to their employees where it has been adopted by the governing body. This policy and procedure applies to all County Council employees regardless of length of service, with the exception of those employees serving a probationary period (whose general performance and attendance/absence records etc, will be assessed in accordance with the [Probationary Policy](#)). For Newly qualified teachers a separate DCSF policy on probationary periods applies.

1.3 Policy Statement

Staffordshire County Council is committed to protecting and promoting the wellbeing of all its employees, and therefore also to the creation of a healthy and productive work environment in which all of its people has equal opportunity in which to flourish, develop and contribute.

This requires action on two fronts:

Firstly the creation of a work environment and way of working that promotes the physical, mental and social health and wellbeing of its employees.

Secondly, the creation of an environment in which we seek to accommodate and include those employees with health or welfare problems that affect their capacity for work.

This will be achieved by looking at ways to adapt work to health problems, whenever this can be achieved by reasonable adjustment or action on the part of the County Council. The aim is to help people remain engaged with their work despite their health or welfare problems, and to achieve early return to work and workplace rehabilitation when health problems have interrupted work. To this end, employees also have a responsibility to maintain contact with their Manager when health or welfare problems disrupt their attendance at work.

Managers, as people in positions of authority and trust, also have a “duty of care” in respect of their staff and a responsibility to ensure that sensitive information relating to their absence and medical records are treated appropriately and in confidence at all times.

The County Council commits to doing whatever can reasonably be expected of it to achieve these aims. But it also expects this commitment to be shared by those it employs, so that wherever possible we can work jointly with employees to find responses to ill health, personal problems or reduced wellbeing which do not involve lengthy absences and, ultimately, possible loss of employment. Preventative actions identified through Health & Safety assessments will also support this approach.

This policy provides Managers with a structured framework that will enable them to manage absence effectively and promote well-being. We recognise the commitment of most staff to achieving excellent service provision through good attendance and active engagement, and aims to encourage this same commitment in everyone.

We do not expect people to attend work when they are too ill to do so. However, ‘fitness for work’ is frequently not an all or nothing situation, and so we will seek to make or commend job modification, the offer of alternative work, active workplace rehabilitation and other measures as appropriate to enable people to contribute and retain employment when unable to work normally because of health problems.

We recognise that alternative work/active workplace rehabilitation is not always possible in schools. It is hoped that employees at all levels, in every capacity, will fully engage with this and commit to the same ends. On the other hand, abuse or misuse of this policy is unacceptable and will not be tolerated – colleagues, service users, partners all deserve better.

2. Rights, Roles and Responsibilities

2.1 The County Council

Under the Health & Safety at Work Act 1974 employers have a duty to ensure, so far as is reasonably practicable, the health, safety and welfare at work of all their employees. The County Council (and therefore, employees acting on its behalf) also has a responsibility to ensure that individuals engaged in the attendance management process are treated fairly (in accordance with the policy) and with dignity and respect at all times.

2.1.1 Employee

The attendance standards and behaviours described within this policy are designed to encourage and help employees at all levels of the organisation, to develop appropriate patterns of attendance and to encourage employees to work with their Managers to find ways to avoid absence whenever possible. Whilst these standards of attendance must be met, each case will be treated on its merits and any mitigating factors the employee puts forward in the face of poor attendance (e.g. disability related absences) should be taken fully into account.

Any employee (regardless of grade) failing to achieve these minimum standards will have the situation addressed and his/her attendance monitored. Formal action will only be considered for those employees breaching the standards of attendance in accordance with the Bradford scores outlined in this policy.

Employees also have a duty to engage fully in the attendance management process. This will include things like participation in “Return to Work” discussions, attending Occupational Health appointments, or absence meetings, and providing appropriate medical certification for the duration of the absence. Employees are expected to co-operate in this process, and

the County Council/Governing Body will, for their part, make every effort to work with the employee to improve attendance at work.

Failure to co-operate will leave the County Council/Governing Body no alternative but to make decisions regarding their absence and future employment, based only on the information available to them at that time. Managers are expected to involve HR in respect of absence where Disability Discrimination may be a factor and make reasonable allowances where DDA applies.

Employees have the right to be treated with dignity and respect throughout the attendance management process, and to be provided with the support appropriate to their needs in order to maintain a fully acceptable record of attendance.

2.2 Accountabilities

All managers have a responsibility to help maintain good attendance standards. Statistics by themselves will not achieve anything. Action must also be taken to monitor the information produced to assess any potential problem areas and look at how best to rectify them. The responsibility for monitoring day to day absence belongs with Supervisors and Managers, because they are in the best position to create a positive working atmosphere and address any issues which may be contributing to increased levels of absence. They also influence the behaviour of individuals within that environment. Action should be taken at the appropriate level as described within the scheme of Sub Delegation. Refer to your Directorate HR for advice

2.2.1 Trade Union

There are many trade unions working within the County Council who can assist with this process. Trade Unions have a vital role to play in supporting their members, by working with the County Council to enable employees to maintain the attendance standards expected by the County Council. To this end it is recommended that a trade union representative be contacted by the employee at the earliest stage in the formal process so that appropriate advice, guidance and support can be offered to the employee.

2.2.2 HR Units

The HR Shared Service Centre and Directorate HR units are on hand to all employees to offer support and guidance regarding this policy, including referral to other experts as appropriate such as Occupational Health. Therefore, an HR representative (and HR Shared Service Centre where appropriate) should be contacted at the earliest possible stage in the process so that appropriate advice, guidance and support can be given from the outset.

2.2.3 Important Issues to Consider when Applying the Policy

Careful consideration must be given regarding whether an absence should count towards the formal process for certain categories of illness. These categories are not exhaustive but include any absences that are related to disability, industrial injury or maternity. For further guidance refer to your Directorate HR team.

Employees choosing not to engage fully in the Attendance Management process (including keeping OHU appointments) may have decisions regarding their absence and future employment made on the basis of information already to hand. In these cases, Managers must refer to Directorate HR for advice.

2.2.4 Levels of Authority

Throughout this policy document, there are many references to 'Manager'. For the purposes of this policy 'Manager' is the person delegated by the Director or Governing Body to perform the task. The Manager could vary according to Directorate staffing structures, but is likely to be the employee's Line Manager or more senior Manager where appropriate. In a school context, the Head Teacher may be the Manager who issues both the Stage One and Stage two warnings. For further clarification please check with your Directorate HR Unit and scheme of Sub Delegation.

3. Occupational Sick Pay

The payment of occupational sick pay for all Green/Red Book employees is a 12 month rolling programme from the first day of sickness. This is

calculated according to the employee’s length of service and the number of sickness absence days they have already incurred in the year prior to the current period of sickness (except where the absence is due to an industrial injury – refer to your Directorate HR Unit). (For teaching staff, please refer to the Burgundy Book). In order for these periods to be taken into account, the Manager needs to have received appropriate certification. The current occupational sick payments are:-

Years Service	Non Teaching - NJC - Green Book Mechanics – Red Book Soulbury – Blue Book JNC Youth Workers – Pink Book	Teaching - JNC Burgundy Book
During first year	One month full and after four months two months half pay	25 working days full and after four calendar months 50 working days half pay
Second year	Two months full full/two months half pay	50 working days full and 50 working days half pay
Third year	Four months full/Four months half pay	75 working days full and 75 working days half pay
Fourth and Fifth year	Five months full/ five months half pay	100 working days full pay and 100 working days half pay
Sixth year onwards	Six months full/ six months half pay	

(NB. For Teachers “working days” means teaching and non-teaching days within “directed time” as specified under paragraph 59 of the School Teachers’ Pay and Conditions Document 2000)

The facility to extend sick pay can be considered only under one of the 4 conditions described below:

- i). Where current medical advice suggests that a return to work is imminent (i.e. within a matter of days), in which case sick pay may be extended subject to regular review.

- ii). Where alternative work is at an advanced stage of being arranged and there is a reasonable expectation of a return to work in the next few days, in which case sick pay may be extended subject to regular review.
- iii). Where the County Council's Occupational Health Unit provides formal notice that an employee is terminally ill, in which case the Directorate will if it is felt to be helpful, extend for the full period at the outset (subject to length of service etc) i.e.
 - 20 plus years service = 100% of normal full pay entitlement
 - 15-20 years service = 75%
 - 10-15 years service = 50%
- iv). Where the governing body makes a decision to extend sick pay.

4. Essential User Car Allowance Lump Sum Payment

Where a car is not used because of sickness, payment of the lump sum is affected. The lump sum is paid for the remainder of the month in which the vehicle is first not used. For the following three months the allowance is paid in full. For the next three months a payment equal to 50% will be made. At the six months stage all payments will cease.

5. Accidents Whilst on Duty

Managers have a responsibility for investigating all accidents reported to them ([Accidents Policy](#) - Appendix 5) and for completing an Accident Investigation Report Form which should be submitted to their Directorate Health and Safety Team within the specified time-scales. Immediate absences (or subsequent absences) resulting from an accident at work will normally be discounted from the employee's Bradford score for the purpose of deciding if a formal warning is due consideration. However, in exceptional cases where the level of absence becomes excessive, procedural guidance should be sought from Directorate HR. Occupational sick pay entitlements may be affected by an absence of this nature, so individuals are advised to refer to their Directorate HR unit in such cases.

6. Reporting Absence

It is the employee's responsibility to speak to their line manager personally as soon as possible on the first day of absence.

All absence will be recorded to monitor the attendance and establish if there are any Health and Safety implications to be addressed.

Employees must agree to maintain regular contact with their manager during the absence reporting in to their manager on days 1, 4, 7 and then at a minimum of every 2 weeks. A manager has every right to initiate and maintain contact with their employee without fear of it being construed as harassment.

6.1 Certification

An employee must complete a self certification form immediately on their return to work covering them from the first day of absence to the seventh. The exception to this is if a medical certificate has been submitted from day 1 of the absence, then there is no requirement to submit a self certificate as well for this period. Ongoing medical certificates are required from day 8 of the absence.

6.2 Falsification/Abuse of Sickness Absence

Any intentionally false reporting of sickness absence or abuse of sickness absence procedures can result in disciplinary action. (See model [Discipline Policy](#))

6.3 Failure to Produce Medical Certificates

Failure to produce a medical certificate within 5 working days of it being due will (except in exceptional circumstances) result in the withdrawal of occupational sick-pay from the date of the last medical certificate expiration.

In this situation the employee will be recorded as being on unauthorised absence and the circumstances investigated with a view to pursuing the matter under the disciplinary procedure.

6.4 Contact During The Absence

The Manager is responsible for maintaining contact with the employee for the duration of the absence, both as a duty of care and as part of the attendance procedure detailed in this policy. Employees should generally be encouraged by their Manager to meet with them on County Council premises for the purpose of discussing their absence and ways in which their recovery and resumption of work can be assisted. If the meeting is scheduled as part of the **formal** attendance process, the employee may be accompanied by a Union Representative or work colleague.

Employees are expected to co-operate in attending this meeting, and failure to do so will leave us with no alternative but to make decisions regarding their absence and future employment, based only on the information available to us at that time.

6.5 On Return from Absence

The Business Unit/School will ensure the sickness absence information is accurately recorded against the employee record. Where the employee has more than one job, you should refer to your Directorate HR Unit/HR SSC for guidance.

6.6 Return to Work Discussion

The return to work (RTW) discussion is crucial in managing attendance. It enables a Manager to find out what caused the absence, and if possible to address that cause, (including identifying any reasonable adjustment under the terms of the Disability Discrimination Act 'DDA'.)

The discussion must be carried out sympathetically and in private, maintaining confidentiality and promoting an atmosphere of trust. It is important to ensure consistency and uniformity of approach by allowing sufficient time (avoid fitting them in before important meetings). Sensitivity will need to be exercised in certain cases where professional counselling may be required (identified in liaison with the Directorate HR Unit and Occupational Health) or where the issue is potentially embarrassing or stressful to the employee.

Care should be taken to ensure that the discussions provide a constructive way of assisting implementation of the policy, in order to reduce sickness absence levels and encourage the employee to return to work. The opposite could easily become the case if the discussions are seen as an empty formality without having any real purpose, or as a threat to employees. Each employee must be considered as an individual and treated with a thoughtful and caring approach. It should be explained, for example, that no one expects people to work when they are too ill to do so.

After **every** absence (regardless of duration) a Manager **will** conduct a return to work discussion with the employee, referring to this policy to see if the attendance standards have been breached, thus requiring further action (see [Unacceptable Attendance Levels](#) below).

6.7 Rehabilitation

In assisting an employee to return to work managers should in conjunction with OHU and Directorate HR consider a phased return to work of up to 4 weeks or a temporary adjustment of duties of up to 4 weeks i.e. workplace modifications, temporary equipment or temporary reallocation of duties, working from home or redeployment where appropriate.

The using of annual leave or accrued flexi leave may be appropriate to assist this where there is a need to extend the period beyond 4 weeks.

7. The Bradford Factor Scoring System

The triggers in the Bradford Factor are designed to encourage and help employees to develop appropriate patterns of attendance, and all employees are monitored against them by Managers informally through Return to Work discussions, and where necessary, through the formal stages of this policy.

7.1 Unacceptable Attendance Levels

Where an employee's attendance becomes unacceptable in line with this procedure, and weighted in accordance with the Bradford Factor scoring system (see [table](#) below), formal action must be considered by the Manager in consultation with their Directorate HR unit.

The Manager should refer to their Directorate HR Unit prior to taking any formal action although it must be noted that this process and any subsequent actions are owned wholly by the Line Manager who has a responsibility to ensure that appropriate action is taken. This will include full consideration of any normally discountable absences relating to such things as; disability; industrial injury; maternity; or part-day absences, which would normally be discounted except where the level of absence becomes unmanageable (refer to [Managers Guidance notes](#) Appendix 8A). Absence may be regarded as warranting formal action if an employee, over a 12 month rolling period, attains a score of:

Table

<u>Points Score</u>	<u>Consideration Required By Manager</u>
Score of at least 150 (E.g. this could equal 4 absences totalling 10 days, or 5 absences totalling 6 days in a 12 month rolling period).	Stage 1 The manager/Head of Department/ Head Teacher formally reviews the employee's sickness absence record in consideration of issuing a written warning.
Score of at least 500 (e.g. 5 absences totalling 20 days or 7 absences totalling 11 days in a 12 month rolling period).	Stage 2 Following a Stage 1 warning being issued, the manager/Head of Department/Head teacher formally reviews the employee's sickness absence record with regards to issuing final written warning.
Score of at least 875	Stage 3 Manager/Head of Department/Head teacher formally considers sickness absence record, regards dismissal.

Note: Bradford scores are calculated on the same basis as statutory sick pay i.e. calendar days. For Bradford Score calculator see [Appendix 10 of Guidance notes](#).

8. Probationers

For the purpose of this review, employees who have recently completed their probationary periods, will have the whole of the attendance record is taken into account. This will be from the date their employment commenced, not just from the date their employment was confirmed. (i.e. at end of probationary period)

(For Newly Qualified Teachers please refer to a separate DCSF policy).

9. Formal Attendance Procedure

The Formal Attendance Procedure consists of three stages leading up to (and including) consideration of dismissal. The stages are progressive and intended to remind and enforce the attendance standards that are expected from all employees, with support mechanisms to encourage this.

An individual must never unknowingly find him or herself under consideration of the formal Attendance Procedure (except perhaps where their absences have been closely consecutive). At each return to work discussion the manager must make the employee aware of their Bradford Score

9.1 Maternity Related Sickness Absence

Absences related to pregnancy/maternity will not count towards the Bradford score, consult your Directorate HR Unit if you require any advice on this. Ensure that a Risk Assessment has been carried out, and if not, then do so immediately.

9.1.2 Non Attendance at Formal Meetings

If the employee declines to attend the meeting or is prevented from attending, the meeting may still proceed without them. The person conducting the meeting may request that the employee be offered a further opportunity no later than two weeks from the original date. However if their non attendance is due to sickness the employee must produce a medical

certificate, which clearly states that they cannot physically attend the meeting. Occupational Health may be able to offer advice on the employee's fitness to attend.

Formal Procedure

9.2 Stage one - (Score of at least 150 points in a rolling 12 month period)

When an employee's attendance first becomes a concern (with a score of at least 150 points on the Bradford Scale), their Manager (usually their Line Manager) will review the attendance record and consider the actions appropriate at this stage. These considerations must be well documented by the Manager and retained on file against the absence record.

- The Manager will attempt to establish whether or not there is a contributory underlying medical, welfare or work problem, referring to Occupational Health where appropriate. Some absences may be covered by DDA and so Managers need to determine these with assistance from Directorate HR and/or OHU, and decide if appropriate equipment is being made available/required for the employee to be able to complete the tasks demanded by the job.

Should the Manager decide to proceed with a formal meeting over and above the return to work discussion, this should be arranged within 10 working days of an employee returning to work

- The Manager must give their employee notification of the formal meeting in writing (minimum of 10 days notice), clearly stating that it is being convened under the formal attendance procedure (see [standard letters and documents](#)).
- The employee has a right to be accompanied at the formal meeting by their union representative or a colleague.
- Where the Manager chooses to issue a written warning at Stage One of the attendance procedure, the employee will have a right of appeal (within 10 working days of the warning being issued) to a more senior Manager/Committee of Governors.

- Employees need to be reassured that their private medical details can, and will, remain private and that it is only the impact of these on their work and ability to attend that need to be understood, The discussion should not lead to employees feeling forced to reveal intimate details of medical problems or diagnoses with line managers.

Where a Stage One warning has previously not been issued, and the Bradford score is now well in excess of 150.

If an employee has previously reached a Bradford score of more than 150 points but the manager chose not to issue a Stage One warning, the manager should still consider a Stage One warning following subsequent absences, but **only** as long as the Bradford score is more than 150 points. Managers must consult their Directorate HR Team in these circumstances before taking any action.

9.2.1 Stage One: - Expired Attendance Warnings

A copy of the first stage written warning should be kept on file, but will lapse after 6 months, subject to satisfactory attendance standards being maintained. Where an employee has previously received two Stage One written warnings within the preceding 2 years but attained the required level of improvement during each of the six month warning periods, they should be formally advised by their manager that further failure to maintain an acceptable level of attendance will automatically be addressed under Stage Two of the procedure

9.3 Stage Two: - (A score of at least 500 points)

If an employee who has been given a 1st Stage Warning continues to incur absences which lead to a score of at least 500 on the Bradford Scale, their Manager may then decide (in consultation with their Directorate HR Unit) to call them to a Stage Two meeting with a more senior Manager. ([See paragraph 2.2.4 for Schools](#)) The purpose of the meeting is to advise the employee that their attendance is still unsatisfactory, and furthermore, that should they incur further absences totalling a score of at least 875 points, they will be facing Stage 3 of the Attendance Procedure at which point their

dismissal will be considered. (Follow same meeting process as per [Stage One](#)).

Where their Senior Manager chooses to issue a second written warning at Stage Two of the attendance procedure, the employee will have a right of appeal to a more senior Manager/Committee of Governors, (usually within 10 working days of the warning being issued, but this may be reasonably extended to provide opportunity for union representation)

Where a Stage Two warning has previously not been issued, and the Bradford score is now well in excess of 500.

Stage Two can only be considered where a Stage One warning has already been issued within the previous 6 months (i.e. is still active), **and** where the Bradford point's gap between Stages One and Two is at least 350 (i.e. the same gap/difference as between the regular Stage One and Two considerations).

Managers must consult their Directorate HR Team in these circumstances before taking any action.

9.3.1 Stage Two: - Expired Attendance Warnings

A copy of this written warning should be kept on file but will lapse after 9 months, if no further breaches of attendance standards have occurred.

9.4 Stage Three - Dismissal (A score of at least 875 points)

After receiving a 2nd Stage Warning, if there is insufficient improvement in the employee's attendance, and

- They attain a score of at least 875 on the Bradford Scale, **and**
- Following consultation with their Directorate HR unit, and having an up to date OH referral no more than three months old) their Senior Manager considers that dismissal may be appropriate,

the employee should accordingly be advised by the Manager in writing ([see standard letters and documents](#)) that his/her dismissal is being considered.

PLEASE NOTE: Up to date medical evidence (not more than 3 months old) must be considered in reaching this decision.

At this stage the employee must be provided with a full record of the absences and warnings that have led to Stage Three dismissal consideration, along with the Manager's written notification.

This notification should invite reasons (in writing) why the employee considers they should not be dismissed (allowing 5 working days from the receipt of notification, for them to make this written response), also inviting the employee to put his/her case forward at a hearing/meeting (arranged by their Manager and allowing a minimum notice of 10 working days). At the meeting, the employee may be accompanied by their union representative or a colleague. The purpose of this meeting is to consider the inability or failure of the employee to fulfil their contractual duties by virtue of unacceptable levels of absence. ([See standard letters & documents](#)).

When the meeting has been held, the presiding Manager, the headteacher, or Chair of Governors (where the employee is the headteacher) will make a recommendation regarding dismissal. The case will then be referred to the appropriate Senior Officer (refer to section H in scheme of Sub Delegation) / Governing Body Committee where they have not already been involved in the formal meeting. Where the recommendation to dismiss is upheld, the employee will be advised accordingly in writing and informed of the last day of service, setting out their appeal rights to an impartial Corporate Director/ Governing Body Appeals Committee.

However, where the Corporate Director has already been involved in the formal process, the employee's appeal will be to the Regulatory Committee of the County Council. Their decision is final.

The employee will have a right of appeal within 10 working days of the notice being issued. The expiry or otherwise of an employee's payments under the sickness absence scheme will not affect the decision.

Where a Stage Three (dismissal) has previously not been issued, and the Bradford score is now well in excess of 875.

A Stage Three (dismissal) can only be considered where a Stage Two warning has been issued within the last 9 months (i.e. is still active), **and** where the Bradford point's gap between Stages Two and Three is at least 375 (i.e. the same gap/difference as between the regular Stage Two and Three considerations).

If not, then a Stage Two warning may be appropriate now (consult with your Directorate HR Team). Please also note: the Bradford point's gap between Stages Two and Three would usually be 375 (i.e. Stage two is considered at 500 points and Stage Three at 875).

Managers must consult their Directorate HR Team in these circumstances before taking any action.

9.4.1 Stage 3: Decision Not To Dismiss

Where the Manager/Governing Body Appeals Committee decides that dismissal is not justified (following discussion with Directorate HR) or where the appeal is upheld, the employee will return to Stage Two of the procedure and the standards appropriate to that stage will apply.

The managerial decision to dismiss at Stage 3 is not a medical one but should be based on among other things, medical opinion and/or advice regarding capability and fitness for work. The absence of a medical diagnosis or prognosis does not prevent the Manager taking action to dismiss an employee; however without a medical referral an Employment Tribunal could view the dismissal as unfair. Managers should not make medical judgements and are advised to refer cases (prior to decision) to the Directorate HR Unit and/or Occupational Health Unit in order to establish if an underlying medical condition does exist. The clear aim however, is for Managers to manage and for occupational health advisers to provide advice

or interpretation about the effect of health on work on their behalf, and for the benefit of employees.

9.4.2 Expired Attendance Warnings

Stage Three: Where a decision not to dismiss is made, a copy of the written warning should be kept on file but will lapse after 12 months, subject to satisfactory attendance standards being maintained.

- 10. Long Term Absence** - single absences of (usually) more than 20 working days. The purpose of contact is to demonstrate concern and support, and to ensure that the employee complies with sickness reporting procedures resulting in correct sickness payments being made and to explore options (in consultation with Directorate HR) for helping the employee to return safely to work using mechanisms such as phased returns, job modification or the offer of temporary alternative duties. Managers should also discuss any need for referral to the Occupational Health Unit with the employee as and when this becomes appropriate, to provide assistance in facilitating a return to work, and stress the importance of ensuring OHU appointments are kept by employees. Occupational Health may be able to provide advice about options for assisting in the employee's return to work.

A Manager does not have to wait until the end of a certificate or for a formal attendance warning to become due in order to make a referral. Early referral is often more beneficial to the employee in assisting their return to work. Managers are also encouraged to maintain open communication with the employee, and embark on a system of absence management through regular Case Management discussions, involving OHU and their Directorate HR. Employees are reminded that they have a duty to engage fully in the attendance management process such as attending OHU appointments and absence meetings. Managers should initially seek advice from their Directorate HR Representative regarding their intention to refer, and the reason for referral, and this should be discussed with the employee.

It is in the best interest of all concerned to try and resolve sickness absence matters early and co-operatively. Early intervention is usually more effective and helpful than late intervention, when achieving a return to work becomes

more difficult. Referral to the Occupational Health Unit to obtain information and advice is usually made for cases where an employee has been absent for 20 working days or more but attempts to understand and react positively to the absence should already be well established between the Manager and employee before this stage is reached. In instances where the absence is stress related Managers are advised to refer to OHU at a much earlier stage.

11. Long Term Prospects

At an appropriate time, and not later than the 6 month stage of a continuous sickness absence, the Manager (with advice from their Directorate HR Unit) shall in normal circumstances make an assessment of the case based on the following considerations:

- Up to date medical evidence or report, not more than 3 months old.
- The nature of the illness and any medical information available.
- The length of absence to date and what is known about the likelihood and timing of any return to work.
- The need to cover the work for which the employee is engaged to do.
- The feasibility of continuing with any temporary arrangement.
- The employee's length of service.
- Can the service unit cope with the level of disruption caused by the employee's sickness absence, and if so, then for how much longer? Any action determined by the Manager must be well considered and justifiable.
- Any other relevant circumstances, including adjustments under the terms of the Disability Discrimination Act (DDA).

Following this review, the Manager must discuss their findings with the relevant Directorate HR Unit in order to explore available options with a view to progressing the case, including termination where appropriate.

12. Disability Discrimination Act (DDA) 1995 & 2005.

The DDA gives rights to disabled people who have, or have had, a disability which makes it difficult for them to carry out normal day-to-day activities. The term 'disability' covers both physical and mental impairments that have a

substantial and a long-term (i.e. has lasted or is expected to last for at least 12 months) effect on the person's ability to carry out normal day-to-day activities.

It is unlawful for an employer to discriminate against a person where, for a reason "related" to their having a disability, they receive (unjustified) less favourable treatment than they would otherwise receive, or if the employer fails (unjustifiably) to meet any duty to make a "reasonable adjustment" in relation to a disabled person under Section 6 of the Act. The Act also covers people with past substantial or long-term impairments (who have since recovered) in cases where it is likely that the impairment could reoccur. From December 2005, people with cancer, HIV infection or multiple sclerosis are also considered to be disabled, whether or not the condition has an effect on their ability to carry out normal day-to-day activities, as too are people with progressive conditions who can show that the condition has, or has had, an effect on his or her ability to carry out normal day-to-day activities, and will at some stage in the future have a substantial adverse effect on his or her ability to carry out day-to-day activities.

12.1 Managers are not required to become experts on disability but they must ensure they do not unlawfully discriminate.

Managers should use discretion when assessing absence against these criteria and in deciding how to react to poor attendance. Advice should be sought from Directorate HR Units and Occupational Health Unit, giving employees the opportunity to discuss with medical experts in confidence where an underlying medical condition may be present that needs to be taken into account.

12.2 Staff Care Counselling

Employees should be made aware of the Staff Care Counselling Service which is available to staff (see policy on [Staff Counselling](#)).

12.3 Accidents Away From the Workplace

The appropriate indemnity forms should be completed by employees incurring absence, following an accident away from the workplace. The

Directorate HR Unit should be consulted (regarding recovery of sick-pay) where an accident involving a third party is known to be the cause of absence

13. Termination of Contract – with regards to the inability to fulfil the terms of contract on grounds of sickness absence.

The County Council/School may (having regard to all circumstances of the case) consider termination of the contract on these grounds (at any stage during the absence but usually no later than 9 months into the absence), where an employee who is on long term sickness absence:

- does not meet the criteria for early retirement on grounds of ill-health,
- is not able to return to work in the near future, and
- where re-deployment is not appropriate or where it has not been possible to redeploy the person.

Application of the policy must be consistent across the workforce. Under respective national conditions of service, employees will have, subject to meeting service requirements, a sick pay entitlement of up to six months (or 100 days) at full pay followed by six months (or 100 days) at half pay. This does not mean that action under the Attendance Management Policy should not be considered, including dismissal during these periods.

Where this is considered, the employee concerned will be fully consulted with and a formal meeting (regarding capability) will be arranged to discuss consideration of dismissal. If a decision is made following the meeting, that it is not reasonable to wait any longer for the employee to return to work and a decision is taken to dismiss, the employee will be advised by Directorate HR of the "minded to dismiss process".

Ten days after being issued with the minded to dismiss letter, the notice of dismissal may be served in writing to the employee (see [standard letters](#) including minded to dismiss). In a school environment the decision to dismiss must be referred to a Committee of the Governing Body. The employee will have a right of appeal (within 10 working days of the notice being issued) to the appropriate Senior Manager/Governing Body's Appeals Committee.

A decision of this type will be taken only after having regard to a number of different factors which will be carefully considered before any action is taken. The expiry or otherwise of an employee's payments under the sickness scheme will not affect the decision, or when that decision is made.

Employees who are issued with notice to terminate whilst on sick leave have a contractual right to continue to receive full pay if in line with current employment legislation

Employees are not entitled to be paid twice for the same period. Therefore if an employee is served with notice whilst in receipt of state benefits and put back onto full pay for the notice period they should notify the DSS that they are again in receipt of full pay. Failure to do this will result in benefit fraud.

14. Further Advice and Information

If you need any further advice on how to apply this policy please contact your departmental HR Manager.

Further information and Advice

Further background information on this topic is available on the following Websites:

www.berr.gov.uk

www.jobcentreplus.gov.uk (re Access to Work)

www.acas.org.uk

www.disability.gov.uk

www.lg-employers.gov.uk

http://www.direct.gov.uk/en/DisabledPeople/RightsAndObligations/DisabilityRights/DG_4001070

See also national conditions of service and local agreements before determining or issuing advice.

14.1 Other Contacts

Please note that the County Council takes no responsibility or liability for any material produced by or contained in external sites or for any advice or services given by external organisations. It is the responsibility solely of each person to decide whether or not they use any such material, advice or service.

This information can be made available in a range of formats and languages, including Braille and large print. If this would be useful to you or someone you know, please contact your Departmental HR Manager.