



Sickness Absence Policy 2021

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1. INTRODUCTION

Employee absence can be very costly if not managed correctly. It is recognised that there will always be some sickness absence and it is not the intention of this policy that employees should be made to attend work if they are genuinely ill. However the Council has set itself a target of reducing sickness absence to below 3% which is believed to be a reasonable and achievable target.

This Policy and the accompanying Sickness Absence Procedure sets out the guidelines for reporting and recording sickness absence and explains:

- What is expected from managers and employees when handling sickness absence.
- How we can work together to reduce absence levels to a minimum.

This Policy together with the services offered by the Occupational Health Unit, work life balance policies including agile working should help to reduce employee ill health thus reducing sickness absence.

A key priority area for the Council is to reduce the cost and impact to service delivery of sickness absence.

The Council aims to ensure that employees experiencing problems with attendance at work are supported, when it is both practicable and reasonable. Employees who are absent from work due to sickness will be treated with respect and understanding.

Consequently this Policy has been developed as part of a range of measures to confirm the Council's commitment to the effective management of sickness absence and to set out procedures to ensure the fair and consistent operation of the policy and procedure.

2. SCOPE OF POLICY

This Policy applies to all employees of Merthyr Tydfil County Borough Council. It does not apply to workers who are not employees (e.g. agency workers). It does not include school employed staff who will follow a separate policy.

3. GENERAL PRINCIPLES OF POLICY

The following principles will apply to the application of this Policy.

- i. Regular, punctual attendance is an implied term of every employee's contract of employment. Employees should take responsibility for achieving and maintaining good attendance.
- ii. The Council will endeavour, where possible, to support employees who have genuine grounds for absence for whatever reason. This support may include:
Special leave for necessary absences not caused by sickness. Please refer to MTCBC's Special Leave Policy
- iii. To deal with sickness absence in a fair, consistent and proactive manner for all employees.

- iv. To demonstrate a shared commitment of all parties to the management of sickness absence.
- v. To encourage employees to attend work regularly and on time.
- vi. To inform and forewarn an employee if they do not attend work regularly an improvement in attendance is necessary, and also to offer to support, where possible, for employees to deal with any problems that may be attributing to poor attendance, which themselves may not be sickness related.
- vii. To ensure that a discussion into the circumstances surrounding any absence is undertaken before any formal action is initiated.

This Policy is intended to help and encourage all employees to achieve and maintain acceptable standards of attendance and aims to ensure a consistent and fair approach to the application of the Council's attendance requirements within the Council.

Employees who have more than one job with the Council or another employer and are absent from one job may only remain working in another job if the nature of illness does not impact on their capability or ability to become fit for work in order to carry out the duties of their other job. Advice from Human Resources/Occupational Health must be obtained in all sickness cases where an employee has more than one job with the Council and this includes where one post is a school based post.

Employees must not engage in any other work (paid or unpaid) whilst on sickness absence from the Council, without prior approval from their manager. Human Resources and Occupational Health advice should be obtained prior to approval.

Any form of alleged misconduct, abuse or non-compliance of the requirements of the Sickness Policy and Procedure will be dealt with under the Council's Disciplinary Policy.

However where an employee is unable to return to work due to illness and a phased return to work / workplace adjustments / permanent ill health retirement and alternative duties have been considered, termination of the employee contract of employment will be considered. In this case a capability hearing will be held with a recommendation to terminate their contract of employment due to their continuing ill health.

4. LEGAL POSITION

The Council will adhere to all relevant legislation in the implementation of the Policy and in particular will adhere to the requirements of all Equality legislation, the Social Security and Housing Benefits Act and the Statutory Sick Pay Regulations.

5. TYPES OF SICKNESS ABSENCE

Not all patterns of absence fall neatly into one of the following groups and/or the pattern may change over a period of time, so some flexibility of approach may be needed.

Repeated Short Term Sickness Absence

Frequent/persistent absences are normally sporadic and are often attributable to unconnected, minor ailments. The trigger points which will initiate the appropriate sickness absence process are

- 3 or more occasions of sickness in a 12 month rolling period.
- An aggregate of 10 working days or more in a 12 month rolling period (pro-rata).

On some occasions, managers/supervisors will be required to take action in line with the short term absence trigger stages when there is a pattern of absence which gives cause for concerns. Examples of patterns of absences are:

- Sickness absence during school holidays/Christmas period.
- Sickness absence immediately before or after Bank Holidays/annual leave.
- Sickness absence on Fridays/Mondays.
- Sickness absence at other times of years (e.g. around deadlines, inspections).
- Recurring dates.
- Sporting events.

This list is neither prescriptive nor exhaustive and there is no set number of times that absences have to occur before it becomes a pattern. Where a pattern is observed this must be dealt with in a timely manner.

Long-term Sickness Absence

Long term sickness absence is defined as continuous sickness of 4 weeks or more and can sometimes be traced to a particular medical condition.

Each case, particularly of long term absence, must be assessed individually with advice and support from Human Resources and Occupational Health where necessary. However, the Council cannot keep jobs open indefinitely and the underlying principle in dealing with long-term absence must be to balance the Council's needs against the circumstances of the employee concerned.

Disability related Absence

It is recognized that the majority of disabled employees maintain an excellent attendance record and that it should not be assumed that if an individual is disabled they are at a higher risk of sickness absences.

Whilst the Council is committed to being supportive of individuals affected in this way and to implement reasonable adjustments, care must also be taken not to create a situation that can be abused and in turn be seen as unfair to other employees.

There is no automatic entitlement to have any adjustment to the trigger stages for absences related to disability. Where an employee is disabled their absences should be counted for the purposes of the 'triggers' as detailed within this Policy. However, whether they should subsequently be counted will be determined at the formal sickness meeting.

Pregnancy related Absence

An employee who is suffering from a pregnancy related illness will be protected under the Equality Act 2010.

Special rules apply to sickness absence which is related to a woman's pregnancy or to her having given birth.

Pregnancy related illnesses/absences should be recorded separately from other kinds of illness and should not count towards someone's total sickness record.

6. PROCEDURE FOR NOTIFICATION OF SICK LEAVE

If an employee is unable to attend work because of illness or injury, they must contact their manager/supervisor in person by telephoning the number issued to them, every day no later than one hour after their normal start time for the first **five working days** of their sickness absence (pro-rata'd for part time staff). (This is at the manager's discretion if the absence is likely to be long term). The purpose of this process is to keep their manager/supervisor updated of their current medical condition.

If the sickness absence continues for more than 5 days, an agreed time for a weekly phone call should be agreed.

All calendar days of sickness need to be reported even if the sickness relates to a non-working day. This may mean that staff will have to inform their manager (or the manager asking their staff) when the first calendar day of sickness is.

An agreed time and point of contact for the following days should be decided during the initial telephone call on the first day of absence.

In instances where the illness is in relation to an employee raising bullying or harassment allegations against their line manager, provision should be made for the employee to report their absence to an alternative manager/supervisor.

In the event of an employee becoming ill, and unable to carry out their duties, whilst at work, they must notify their line manager before leaving work. Half days of sickness also need to be recorded. Thereafter, the above procedure will apply.

7. CERTIFICATION OF SICKNESS ABSENCE

For all sickness absences of up to **7 calendar days** duration (including non-working days), the employee is required to complete a Self-Certification of Absence Form.

When absences continue beyond **7 calendar days**, the employee is required to submit a Medical Statement of Fitness for Work (i.e. the Fit Note) from their General Practitioner. The Fit Note should be submitted to their manager/supervisor ~~who is responsible for managing the absence~~ by the 8th calendar day of their sickness absence and should continue to be submitted at appropriate intervals thereafter. Upon receipt of the Fit Note, The manager/supervisor should send the original note to Payroll Section. ~~Civic Centre~~

Fit Notes should **not** be sent directly to Payroll or the Human Resources Department or given to Occupational Health.

Failure to provide Fit Notes to the manager in a timely manner may result in an Employees sickness pay being suspended.

Medical Statements of Fitness for Work (the Fit Note)

These will fall into one of two categories:

- a) May be fit for work taking into account the advice given
- b) Not fit for work.

The information on the Fit Note is advice to the patient and it is for the Employer to decide whether or not to accept the information.

An employee who is sick may return to work at any time (including before the end of the Fit Note) without going back to see their doctor (even if the doctor has indicated that they need to assess them again). A suitable risk assessment may be required.

Furthermore, employees do not need to be signed back to work and there is no option on the Fit Note to do so.

8. SICKNESS ABSENCE TRIGGER PROCESS

When an employee returns to work following a period of sickness absence, their line manager must conduct a return to work interview after **every** incidence of sickness, preferably on the day of return but no later than 5 working days after their return to work. If an employee has hit the triggers within this policy, they will be informed by their manager/supervisor at the return to work interview that they will be referred to a Stage 1 meeting.

The Stage 1 meeting is an informal meeting with the employee and allows the manager/supervisor to discuss and determine whether there is an underlying problem resulting in the sickness absence and to offer any appropriate support. The employee should be allowed an opportunity to show an improvement in their attendance.

If the employee does not demonstrate sufficient improvement then the matter should be referred to the formal process.

The formal process may involve a series of meetings depending on the individual's attendance, however if the required improvement has not been achieved it could lead to the possible dismissal of the employee.

Employees must be advised of their right to be represented at all formal stages of the procedure by a recognised trade union representative or work colleague. At the informal meeting stage an employee would not normally need to be represented but they may be represented if they feel that the circumstances require it.

9. APPEAL

Appeals against warnings can only be made if there are appropriate grounds for appeal as detailed below:

- There was a procedural error which has resulted in a significant detriment to the employee.
- The decision reached at the hearing was unfair and unreasonable in the circumstances having due regard to any mitigating circumstances.
- Further information has come to light, which had it been known at the time of the meeting, may have affected the outcome.

The appeal must be submitted in writing, to the manager within **7 working days** of the date of the written confirmation.

10. SICKNESS AND ANNUAL LEAVE

Employees who are taken ill and wish to take sickness absence whilst on annual leave must follow the normal sickness notification procedure. This includes the requirement to make contact with their manager/supervisor on the first day of sickness absence. **The total period of incapacity must be fully certified by a qualified medical practitioner.** Self certification is not appropriate in this situation.

Where an Employee is abroad when they fall ill or get injured, evidence must still be produced that they were ill. This can be by a medical certificate or proof of a claim for medical treatment on an insurance policy claim for medical treatment at the location.

All costs of medical certification are to be borne by the employee.

Annual leave may then be reclaimed for the days that the employee is sick. Any claims should be discuss with Human Resources before the sickness is authorised.

An employee on long-term sickness will continue to accrue statutory annual leave entitlement. The European Working Time Directive allows employees to carry forward any annual leave which cannot be taken due to long term sickness absence. Where an employee comes back before the leave year ends, any outstanding annual leave wherever possible should be taken before the end of that leave year, however, where this is not possible any unused leave from one year may be carried over to the next entitlement year.

If an employee wishes to take annual leave whilst on long term sickness absence they must make a request **in writing** to their manager to ask permission to go away on holiday. Before any request is authorised the manager must discuss the matter and seek agreement from Human Resources, Occupational Health may also be consulted where appropriate. If the leave is granted to the individual, it will be deducted from their leave balance and the time will be considered as annual leave rather than sickness absence.

11. ELECTIVE SURGERY

Where an employee elects to have surgery, which is not for medical reasons (i.e. breast enlargement, laser eye surgery, vasectomy or sterilization), they will be required to use their own time (i.e. annual leave or unpaid leave), for the time of the procedure and the recovery time.

Applications should be made to their manager/supervisor prior to the surgery being booked.

If complications arise (e.g. infection) then the terms of the sickness procedure will apply. The total period of incapacity must be fully certified by a qualified medical practitioner.

If the surgery is for medical reasons (e.g. rhinoplasty (nose job) to alleviate breathing difficulties, then the terms of the sickness policy will apply.

12. OCCUPATIONAL HEALTH

The Occupational Health Unit aims to support and assess all employees (if they are in work or absent due to sickness) if they are unwell or experiencing difficulties in their work or home lives.

Occupational Health can be defined as advisory and support services which help to maintain and promote employee health and wellbeing. Occupational health services support

organisations to achieve these goals by providing direct support and advice to employees and managers, as well as support at the organisational level. It focuses on the physical and mental wellbeing of employees at work, and can cover:

- Preventing work-related illness or injury through encouraging safe working practices, and helping employers to implement policies and health and safety compliance.
- Supporting employees to manage conditions and remain in work through reasonable adjustments (e.g. ensuring the workplace is accessible, making changes to employees' desks or chairs for more comfortable working, amending job roles, or sign-posting appropriate interventions);
- Supporting the management of sickness absence, both long and short-term, and employees' return to work (including amending job roles, or flexible/phased returns);
- Preventing common health concerns from becoming a problem through monitoring the health of the workforce (trying to proactively prevent sickness absence), including conducting pre-employment health assessments, or supporting health promotion and education programmes; a
- Providing advice and counselling to employees around non-health or non-work related problems.

Referral to the Occupational Health Unit

There is often reluctance by manager/supervisors to refer their employees to Occupational Health, especially if they are sick with an emotive illness such as stress, cancer or bereavement. However, the Occupational Health Unit can offer support to the employee including advice on accessing other support agencies (e.g. counselling/physiotherapy).

After a period of not later than 4 weeks absence the employee must be referred to Occupational Health for a consultation.

It is the responsibility of the manager/supervisor to ensure that all the relevant information is forwarded to Occupational Health via the cohort Occupational Health Computer System. Managers/supervisors must provide as much information as possible and detail any specific issues on which they would like a medical opinion.

Action on Occupational Health Reports/Response forms

The Council's Occupational Health Adviser will, where possible give an opinion on the individual's fitness for work. There will usually be one of 5 options indicated in relation to the employee referred:

1. Fully fit to resume duties.
2. Unfit to return at present, but likely to be able to return within a given timescale.
3. Unfit to return to full duties of their substantive post but could return with adjustments, or to an alternate job.
4. Unfit to return to work for the foreseeable future.
5. Possible ill-health retirement.

13. EMPLOYMENT OPTIONS

Where an employee has been absent from work for 2/3 months their continued employment should be reviewed to ascertain whether an employee is likely to recover and return to work. If it is unlikely that an employee will be fit to return to their original post, in the near future, the following employment options should be discussed with the employee to ensure they are not on sickness absence for an unforeseeable/unreasonable length of time.

- **Therapeutic Return to work**

To make the transition back from sickness absence into the workplace easier for the Employee, a therapeutic return to work may be encouraged.

The employee remains on sickness absence, but would go into the workplace regularly for a short period of time to re-familiarise themselves with the working environment and their colleagues. Usually this is followed by a phased return to work.

- **Phased Return to Work**

The Council recognises that after a long period of sickness absence, it may be difficult for an employee to return to work immediately to their full hours and/or duties. A phased return to work gradually increasing their hours/duties may help the individual successfully return to work sooner as an alternative to remaining on sick leave until they are fully fit to return.

It is important to note that many employees are able to return to their contracted hours without needing to access a phased return to work programme and managers/supervisors should consider each case individually.

The phased return is for a limited period of time only, jointly agreed between the manager/supervisor and the employee and is up to a maximum of 4 weeks.

During the first week of the phased return to work the employee will be expected to work a minimum of 50% of their contract hours gradually increasing over the phased return period.

If additional time is needed following this, the employee will be expected to take leave by agreement with their manager.

During this time the employee will not be on sickness absence and will receive their full pay.

- **Re-arrangement of Duties**

To enable the employee to return to work at the earliest possible time it may be appropriate to give consideration to a re-arrangement of their current duties. The re-arrangement of duties must be a reasonable adjustment. This may include lighter or less stressful duties for a specified period of time. In some cases it may mean that an employee will not be able to carry out a particular part of their job or certain duties will only be able to be carried out for a maximum time period in any day. Alternative duties will then need to be allocated for the remaining time. If it becomes evident that the employee cannot return to their substantive role in full within a reasonable time, it may be necessary to look at redeployment or other options.

- **Redeployment/Alternative Employment.**

In the case of employees incapability to return to their full duties of their current post, even after implementing reasonable adjustments, the Council may recommend the employee seek re-deployment where appropriate. This should also be recommended by Occupational Health. The time period for which redeployment opportunities will be sought will be discussed and advised on a case by case basis, but will be for a period of 4-6 weeks.

Where appropriate, employees will remain in their substantive post or on sickness leave for the duration of their time on the redeployment database.

- **Termination of Employment.**

If the employee is unable to return to work, the employer will decide how reasonable it is to maintain an employee's sickness absence.

In some circumstances it may be determined that the employee may no longer be capable of returning to work in any capacity.

If attempts to assist the employee to return to work have been unsuccessful and the employee is likely to remain on long-term sickness absence, or be unable to provide regular service, consideration will be given to terminating their Contract of Employment on the grounds of their continuing ill-health.

In this instance the employee will be asked if they would like to consider to agree to the termination of their contract of employment by mutual consent.

If the employee refuses, a capability hearing will be arranged with a recommendation to terminate their contract of employment due to their continuing ill health.

Pay in lieu of notice and any outstanding holiday pay will be paid to the employee.

- **Permanent Ill-Health Retirement.**

This is only applicable to employees who are in the Local Government Pension Scheme. Where an employee is likely to be permanently unable to return to work in any capacity due to a medical condition, following a referral to Occupational Health, they will be referred to an approved Independent Registered Medical Practitioner.

Where an employee is determined by the approved Independent Registered Medical Practitioner as being permanently incapable of discharging efficiently the duties of their job or any other comparable employment, their employment will be terminated on the grounds of permanent ill health retirement.

There are 3 tiers in determining an employee's level of permanent ill-health retirement, these are:

Tier 1 – There is **no reasonable prospect** of them being capable of undertaking any gainful employment before their normal retirement age.

If the employee, in the medical opinion of the approved registered medical practitioner, meets the criteria for a tier 1 ill health pension under the Local Government Pension

Scheme, the employee will be entitled to the immediate payment of accrued pension benefits with the highest level of enhancement (100% of prospective membership to the normal retirement age) subject to approval of the Council.

Tier 2 – The individual is **not capable** of undertaking gainful employment within the next three years but **is likely** to be capable of undertaking gainful employment before their normal retirement age.

If the employee, in the medical opinion of the approved registered medical practitioner, meets the criteria for a tier 2 ill health pension under the Local Government Pension Scheme, the employee will be entitled to the immediate payment of accrued pension benefits with the lower level of enhancement (25% of prospective membership to the normal retirement age) subject to the approval of the Council.

Tier 3 – He/she **is likely** to be capable of undertaking gainful employment within the next three years or before his/her normal retirement age if earlier.

If the employee, in the medical opinion of the approved registered medical practitioner, meets the criteria for a tier 3 ill health pension under the Local Government Pension Scheme. Under this arrangement, the employee will be entitled to immediate payment of accrued pension benefits WITHOUT enhancement, reviewable after 18 months by the employing Council.

The opinion given by the approved medical practitioner does not, in itself, give entitlement or otherwise to an ill health award. Nor should the medical practitioner indicate to the employee that such an award will or will not be made. It is for the Council to make the formal ill health award determination.

A meeting can be arranged with the employee where possible and appropriate, explaining to them the reason their employment is being terminated and that they may be entitled to pension benefits, pay in lieu of notice and any outstanding holiday pay.

Please be aware that the above relates to the Local Government Pension Scheme (LGPS) only and is not applicable for Teachers' Pensions. Furthermore ill-health retirement would not be applicable to those employees who are not in the Local Government Pension Scheme.

If there are any differences between the LGPS Regulations and this Policy then the details of the pension regulations will prevail.

- **Industrial injury**

If termination is being considered as a result of an industrial injury, the Council's Risk and Insurance Officer must be notified prior to dismissal as there may be a claim for damages in the future.

14. DYING IN WORK CHARTER

Unfortunately, some employees may acquire a serious illness at some time in their working lives. In some cases, this can be diagnosed as being terminal. A terminal illness is a disease that cannot be cured or adequately treated and there is a reasonable expectation that the patient will not recover. Usually, but not always, they are progressive diseases such as cancer or advanced heart disease.

Sometimes, the nature of the illness is such, that the person is unlikely to be able to work again. In other cases, a person may decide that they do not want to work anymore and would rather spend their remaining time with their family and friends.

As a caring employer, Merthyr Council makes provisions and additional support for all employees, including those who are diagnosed with a serious illness and has signed up to the TUS's Dying in Work Charter.

Therefore if an Employee has terminal diagnosis, as defined by UK Social Security legislation, *i.e. a progressive disease where death as a consequence of that disease can reasonably be expected within 6 months*, they will not be dismissed due to their terminal diagnosis because of their condition.

Merthyr Tydfil County Borough Council has agreed to the terms of the Dying in work Charter as listed below:

- We recognise that terminal illness requires support and understanding and not additional and avoidable stress and worry.
- Terminally ill Employees will be secure in the knowledge that we will support them following their diagnosis and we recognise that safe and reasonable work can help maintain dignity, offer a valuable distraction and can be therapeutic in itself.
- We will provide our employees with the security of work, peace of mind and the right to choose the best course of action for themselves and their families, which helps them through this challenging period with dignity and without undue financial loss.
- We support the TUC's Dying to Work campaign so that all employees battling terminal illness have adequate employment protection and have their death in service benefits protected for the loved ones they leave behind.

Any manager who has an employee with a terminal illness prognosis should contact HR. They will be supported by a HR Adviser to assist them discussing future plans with any employee who has a diagnosis of a terminal illness, and on what adaptations to work arrangements that may be necessary if they wish to remain in work.

Following receipt of a E-DS1500 form or a letter from a GP or Consultant declaring that Employee has a terminal diagnosis as defined by the UK Social Security Legislation, they will receive full salary from the date on the form/letter up to the day that they die (or they recover).

15. GRIEVANCES RAISED DURING THE SICKNESS PROCESS

All matters of sickness absence will be handled fairly and sensitively. However, there may be times when the employee wishes to raise a grievance.

If an employee feels they wish to raise a grievance, it will be dealt with in accordance with the Council's Grievance Procedure.

In some circumstances, if the grievance and sickness is intrinsically linked, wherever possible, the grievance will be investigated concurrently to the sickness process.

16. NON-COMPLIANCE

Any employee who does not comply with the sickness notification procedures may have their occupational sickness pay suspended and be subject to disciplinary action. Non-compliance could be in relation to:

- Failure to notify/keep in contact with their manager/supervisor of their absence.
- Failure to submit Medical Statement of Fitness for Work (i.e. the Fit Note) in a timely manner without a valid reason.
- Failure to attend meetings arranged to discuss their sickness absence without a valid reasonable reason.
- Failure to attend and engage in Occupational Health Consultations

Furthermore, non-compliance by the manager/supervisor could also result in a disciplinary investigation against them; non-compliance could be in relation to:

- Not recording the sickness absence on the appropriate forms/HR21,
- Not keeping in contact with the sick employee while they are absent,
- Not referring an employee who is on sickness absence for 4 weeks or more to the Occupational Health Unit.
- Not carrying out the return to work interview.
- Not referring/carrying out sickness meetings where appropriate.

17. OCCUPATIONAL SICK PAY

NJC EMPLOYEES (GREEN BOOK)

For the purpose of NJC employees, the sick leave year is deemed to be a 12 month rolling period. Occupational sick pay allowances vary according to the length of continuous service as follows:

| Length of Service | Full Pay | Half Pay |
|--|---|-----------------|
| During 1 st year of service | 1 month (after completing 4 months service) | 2 months |
| During 2 nd year of service | 2 months | 2 months |
| During 3 rd year of service | 4 months | 4 months |
| During 4 th & 5 th year of service | 5 months | 5 months |
| After 5 years' service | 6 months | 6 months |