

# YEOVIL TOWN COUNCIL



## SICKNESS PROCEDURE – MANAGER

These guidelines have been written in conjunction with Yeovil Town Council's Capability Procedure, to assist managers to take the appropriate actions, in the interests of the employee and also within employment law. They are available to any employee to read so that they will know what to expect.

The monitoring of sickness absence is the responsibility of the employee's manager and this includes keeping suitable records.

Upon the employee's return to work, a return to work interview should be conducted to complete the return to work form and discuss any initial concerns over their sickness record. Failure to do this will mean that the absence is recorded as open-ended and may affect sick pay entitlements.

### 1. Return to Work Interviews

The purpose of the return to work interview is to establish the cause of the absence and to countersign the claim form to authorise that the claim is genuine. The "Return to Work" interview is important as this gives the employee the opportunity to explain the reason for their absence and for you to complete the second side of the "Return to Work After Sickness" Form with them. It is also a good opportunity for you to:

- Emphasise the importance of good attendance and explain why absence is continually monitored;
- Raise any concern regarding the attendance record;
- See whether any further support is needed; and
- Decide if further action should be taken regarding the attendance record. In the event that they have an unacceptable attendance record (see the definition of recurring absence in the overview document) this will be managed in accordance with the Absence Management Procedure, outlined in the procedure for Managers and with the framework of the Capability/Disciplinary Policy.

If you become suspicious that a dishonest claim may have been made you should consult with the Town Clerk. This may result in pay being withheld and disciplinary action being taken.

### 2. Managing Recurring Absence

A reasonable definition of "Recurring Absence" would be an employee who has:

- Four separate absences, during a 12-month rolling period

- Absence resulting in a loss of 10 or more working days, during a 12-month rolling period
- Any recognised pattern of sickness absence, e.g. Monday/Friday absences, school holidays

This does not include pregnancy-related sickness absence or disability-related sickness absence (see 2.1 Pregnancy-related Sickness Absence and 2.2 Disability-related Sickness Absence below).

This would be irrespective of whether the absences were self-certified or a doctor's statement was produced. All instances of absence must be checked upon return to work and the Return to Work Sickness Declaration (both sides) must be completed.

If a Manager, is concerned that a particular employee is having excessive sickness absences Absence Management Procedure should be followed.

## **2.1 Pregnancy-related Sickness Absence**

Women are protected in equality legislation from being treated unfavourable because of their pregnancy or illnesses related to their pregnancy. This applies within a 'protected period' starting from the beginning of pregnancy and stopping at the end of maternity leave, or when they have returned to work. Any pregnancy-related sickness must be recorded separately from other sick leave, so that pregnancy-related sickness absence is not used as a reason for disciplinary action, dismissal or redundancy.

If an employee is off sick with a pregnancy-related illness (other than odd days of illness) in the last four weeks before the expected week of childbirth, the Town Clerk can ask the employee to start their maternity leave.

## **2.2 Disability-related Sickness Absence**

The employer must be mindful to make reasonable adjustments in the particular circumstances of the individual case. What is reasonable can depend on the alteration being sought by the disabled employee for an illness linked to their disability. A reasonable adjustment in the management of sickness absence would be to proportionally modify policies or absence triggers so a disabled employee is not at a disadvantage to a non-disabled employee. This could include, but not limited to:

- Allowing 'disability leave', for instances for medical treatment, recuperation or rehabilitation, with a time limit agreed between employer and employee
- Recording disability-related sickness absence separately from other illness absence for a time limit agreed between employer and employee
- Discussing changes with the employee, and possibly an expert advisor, so they can return to work – for instance, a phased return, working from home on some days, etc.

### **3. Absence Management Procedure**

Notes should be kept at every stage of the process.

The procedure below recommends the necessary steps, which a Manager/Supervisor should take when interviewing a member of their team. This procedure appears complex, but is necessary to make sure the right steps so the Council can:

Get all the information needed so that the Manager can understand the medical condition, i.e. what the illness is, how long the employee is expected to be off sick, what is the likelihood of the sickness re-occurring and any support that can be provided etc;

- Be open and honest with each other; about the medical condition, and about the need to minimise absence;
- Make sure that the employee is seeing a Doctor if appropriate
- Explain clearly the steps that the Council expects within the process.

#### **3.1 Stage One – Initial Review**

- The Manager should obtain all relevant documents and records relating to the absence(s) under review.
- Arrange for an absence interview with the employee, clearly explaining the reasons for this and giving at least 10 days' notice of the date, time, venue etc. If the employee is agreeable the interview can take place before 10 days has elapsed.
- Ensure that you keep a written record of the interview by completing the absence review meeting record.
- Ensure you notify the employee, in writing, of the outcome of the interview.

The main purpose of this meeting is to discuss your concerns with the employee and establish any underlying causes relating to the absence such as a medical issue or personal problems that the employee may be experiencing. If there is any support that can be offered to assist the employee to improve their attendance this should be discussed a note made.

Where appropriate, dependent on the individual circumstances, you may wish to set attendance targets as acceptable guidelines as to the levels of absence that can be tolerated and agree timescales reviewing attendance. An oral warning should be issued. It should be made clear that failure to improve attendance will result in further action being taken. An improvement note can be issued which clearly outlines the concerns and the action required to improve. This should be placed on the employee's personal file. In the case of recurring absence due to an underlying medical condition you should discuss a referral to the Occupation Health Unit.

#### **3.2 Stage Two – Follow Up Review**

Review subsequent attendance over the timescale agreed and arrange further review meetings as required. Where there is an improvement in attendance, ensure this

documented and that the employee is encouraged to sustain this improvement over a further agreed timescale.

If the attendance does not improve to the required standard and there is no underlying medical reason, you should arrange a second absence interview. As this meeting may result in formal action being taken, the employee should be given the right to representation. The main purpose of this meeting is to clarify the expectations that were set and ensure that any support agreed has been actioned. Where the employee has been given every opportunity to improve and there is no new information presented at the second absence interview a first written warning should be issued. Further agreement should be reached regarding the improvement required and the action that will be taken should an improvement not be achieved.

Follow up this interview in writing to the employee ensuring they are informed of the right of appeal against this decision. Continue to monitor for the agreed timescale where there is an improvement in attendance, ensure this is documented and the employee is encouraged to sustain this improvement.

### **3.3 Stage Three – Follow Up Review**

If attendance does not improve a further meeting should be arranged with the employee. As this meeting may result in formal action being taken the employee should be given the right to representation. During this meeting the employee should be offered a referral to Occupation Health to determine whether there is an underlying health problem. If they refuse a referral a note should be made and the meeting can continue. Where a referral is actioned, the meeting should be postponed pending the outcome of the referral and reconvene when possible.

Where an underlying health problem is identified, further discussion should take place with the employee, the Town Clerk and the Occupation Health Unit as appropriate, to determine what support/adjustments are required to achieve an improvement in attendance.

Where there is no underlying health problem, the meeting should reconvene and a final written warning issued. It should be made clear at this stage that a further failure to improve will result in dismissal. The outcome of the meeting should be confirmed in writing and the employee given the right of appeal against this decision.

### **3.4 Stage Four – Final Capability Review**

Stage four of these procedures is regarded as the dismissal stage.

If you are satisfied that the employee

- Has been given every opportunity to improve their attendance
- There is no underlying medical condition.

Dismissal proceedings should be instigated in accordance with the Council's Capability Procedure. The Town Clerk should conduct this meeting.

The outcome of the meeting should be confirmed in writing and the employee given the right of appeal against the dismissal decision.

#### **4. Long Term Sickness Absence with an Underlying Medical Condition**

Due to the possible long-term nature of some conditions the Capability Procedure should still apply. However, at what stage this will be implemented depends on each individual case.

Definition of Long-Term Absence: A member of staff who is absent for more than 28 consecutive working days due to a known underlying medical condition or a single acute sickness incident.

Here we are concerned with employees who have a genuine illness, and in such cases it is important to manage the situation with sensitivity and kindness, and to consult fully to achieve an appropriate and fair outcome.

The principal question to be answered is how the medical condition is likely to affect the person's ability to perform the job that they are contracted to do, in the short and long term.

#### **5. Consultation period**

The procedure must be followed in a sensitive and understanding manner.

Contact the member of staff to arrange a meeting or a home visit as appropriate. Notes should be taken and kept using the record of a home visit form. If necessary advise them that you would like to refer them to the Occupation Health Unit.

If a member of staff refuses to co-operate in giving consent for a report, or to be examined by the Occupation Health Unit, they must be advised in writing that a decision regarding continued employment will be taken on the basis of available information and that it could result in dismissal.

If the absence is long term due to a single acute sickness incident then it is particularly important to ensure that regular contact is maintained throughout the consultation procedure.

If the medical prognosis is that it is no longer appropriate to continue in a current job, or the likely date of return is operationally unacceptable. The employee should be kept fully informed if their employment is at risk.

In cases of genuine or serious ill health that affects the employee's ability to do daily tasks, the employee may fall under the cover of the provision of the Equality Act 2010.

If after full consultation the person's job can no longer be kept open, then the employee will normally be given notice of dismissal on grounds of capability.

## **6. Returning to work after a long term Sickness**

When an employee returns to work after a long term sickness, a Fit Note will be requested. The Fit Note was introduced so that the GP can provide simple, clear and practical advice about an employee's fitness to work. The Fit Note provides the opportunity for the employee and the Town Clerk to work together to find the best approach to return to work. This could include (and not limited to) phased returns, altered hours, amended duties or workplace adaptations.

## **7. Currency of Warnings**

If a warning is withdrawn following review, appeal or for any other reason, all reference to it on the employee's file will be removed. An employee may require the Town Clerk to remove from his/her file any warning in relation to the performance deficiency normally after 12 months. However, if the period of training or support is longer than 6 month, the warning will remain on file for an agreed period, which may be longer than 12 months.

The Town Clerk will accede to the request unless indicated otherwise in the warning or there are special circumstances to warrant retention of the warning on file. In such event, the Town Clerk will advise the employee of these special circumstances. If the employee is unhappy with the decision he/she can submit a grievance.

## **8. Right of Appeal**

In the event of dismissal the employee has the right of appeal to the Council's Appeals Panel. Any such appeal must be lodged within 10 working days of receipt of the decision and must be in writing stating the name of the person to whom any appeal must be address.

An employee who decides to appeal, will, together with his/her representative (if any), be notified of the time, date and venue of the hearing. Under normal circumstances the date and time will be fixed in consultation with the employee of his/her representative. Such a hearing will take places as soon as possible.

The decision reached by the Appeals Panel will be final.