



Watton Town Council

Sickness and Absence Policy

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Introduction – Equal Opportunities and Scope

Some employees will inevitably experience periods of absence due to ill health or injury. It is important that a proper balance is struck between the Council managing such absences whilst being supportive and acting as a fair and reasonable employer (i.e. fulfilling the employer's duty of care to employees).

The following principles apply to this model policy and related procedure

- Good attendance is valued.
- Open and honest communication between staff and Councillors is encouraged and promoted.
- Matters raised relating to an employee's attendance do not imply any distrust of employees or concerns regarding their conduct.
- Absence due to injury or ill-health regardless of the cause should be dealt with in a way that is consistent, non-discriminatory and in accordance with the Equal Opportunities Policy and the Disability Discrimination Act 1995.
- Watton Town Council will promote a positive and supportive preventative approach, rather than follow a punitive process.
- Watton Town Council will be sensitive and supportive to those suffering the effects of ill-health.
- Sickness absence cases will be conducted with respect for confidentiality and in accordance with the requirements of the Data Protection and Access to Medical Reports Acts.
- Health & Safety at Work legislation is important and particularly the duty of care owed by the employer to the employee.

All employees are expected to adhere to this policy in line with their obligations under equality legislation. The Council will ensure that all reasonable adjustments or supportive measures are considered to allow equality of access and opportunity regardless of age, gender, ethnicity, sexual orientation, disability, faith or religion, gender identity, pregnancy or marital status.

1. Sickness absence - definitions

Sickness absence occurs when an individual is unfit to work due to ill health. It also occurs when a doctor advises the employee not to attend work due to illness, convalescence, incapacity or the possibility that they may be contagious.

Short term absence is defined as any period of time where an employee is not at work due to illness for a period of up to 28 days in duration, from the first day of absence (including any half days).

Persistent short term absence is defined as where an employee has taken a significant number of short term sickness absences.

Long term absence is defined as a period of time where an employee is absent from work due to illness for a continuous period of greater than 28 days.

Other absence - an employee's absence from work may not be related to illness or incapacity. These absences should be recorded and managed in accordance with Leave and time off work.

Appointments with a GP, dentist, optometrist or other medical practitioner during the working day are also covered within Leave and time off work.

Unauthorised absence - Where an employee has claimed to be absent due to sickness but it is subsequently identified that their absence is not due to sickness will be considered as unauthorised absence. This may result in disciplinary action and/or loss of pay.

3. Scope

This policy and related procedure make clear the expectations on the staff and the Council regarding absences caused by ill-health. It is intended to deal with injury and ill-health that lead to attendance problems regardless of the cause. It is not intended for use where health, either mental or physical, leads to performance problems. These matters should be dealt with separately.

4. Responsibilities under the policy

Final decisions about how to deal with an employee's sickness absence or ill health and the impact on their employment situation, are managerial, not medical. The Council may seek medical advice where work is affecting an employee's health or where an employee's health is affecting their work in order to help inform the decisions that are made.

An Occupational Health report could be requested to provide impartial guidance to the Council on the employee's ability to undertake their duties and what measures can be put in place to support them, where appropriate.

Below is a summary of the main responsibilities and expectations of this policy.

Roles and responsibilities		
Employee	Clerk	Clerk/Council
Tell the Clerk or Chairman of the Council at the earliest opportunity if they believe their job is making them ill or contributing to their illness.	Carry out risk assessments and act promptly on potential health issues, even where they are not causing absence.	Provide support and guidance on risk assessment and what steps can be taken to minimise or eliminate risk.
Take all reasonable steps to maintain personal health and well being and acknowledge responsibility to attend work unless unfit to do so.	Promote a culture in which good attendance is valued and recognised. Report levels of absence (but not details on named individual employees) to Council. Investigate high levels and take steps to improve attendance.	Provide support via Occupational Health or other services in order to improve attendance.
Report sickness absences promptly.	Ensure all employees know who and how often they should report absence to.	Record absence accurately, providing information on effects on employees' pay

To seek advice from GP to improve health at the earliest opportunity.	Pass details of absence to the Council as necessary.	as necessary.
Contact the Council on a regular basis during periods of sickness absence to keep them informed of progress.	Maintain contact with employees during periods of sickness absence in a manner which has been mutually agreed with the employee.	Provide guidance on how to maintain contact in difficult circumstances.

Roles and responsibilities (continued)		
Employee	Clerk	Clerk/Council
Ensure that appropriate certification is completed and submitted promptly.	Monitor receipt of certification and chase when necessary. Maintain proper and accurate records.	Provide advice on interpretation and need for certification.
Communicate openly and honestly with the Clerk/Council.	Respond sensitively, sympathetically and maintain confidentiality.	Work with staff to promote healthy communication.
Co-operate fully with the Clerk, Council, Occupational Health and any other organisation providing support, including being available to attend the Occupational Health provider whenever requested.	Be prepared to listen, and give serious consideration to all reasonable adjustments or ideas to promote recovery and return to work.	Arrange and follow up Occupational Health advice and other support promptly and effectively.
Not delay commencement of medical intervention where it has been identified and made available.	Seek advice promptly to minimise length of absence and promote earlier recovery.	Offer suggestions for intervention when appropriate.
Attend absence management meetings as necessary. Participate in the discussion and understand the consequences if improvement targets are not met.	Manage those with unacceptable absence firmly and fairly. Communicate openly and honestly whilst not avoiding difficult conversations about the impact of an employee's absence.	Provide support and advice at meetings and in interviews where appropriate.
Not to abuse the sickness absence procedures or sick pay scheme.	Ensure the policy and procedures are applied fairly and consistently with regard to the individual circumstances of each case.	Provide advice on what might or might not be considered fair and reasonable when applying this policy and procedure.

5 Absence linked to disability

The Disability Discrimination Act 1995 defined a disabled person as someone who had a physical or mental impairment which had an effect on his or her ability to carry out normal day to day activities. That effect had to be substantial (that is, more than minor or trivial), adverse and long term (i.e. that it had lasted or was likely to last for at least a year or for the rest of the life of the person affected). Physical or mental impairment included sensory impairment. Hidden impairments were also covered, for example, mental illness or mental health problems, learning disabilities, dyslexia, diabetes and epilepsy.

The Equality Act 2010 abandons the list of capacities, relying instead on the general requirement that an impairment has a substantial (i.e. more than minor or trivial) and long-term effect on a person's ability to carry out normal day-to-day activities (without specifying what those activities might be).

The Council should ensure that they have regard to the *Equality Act* when managing the sickness absence of disabled employees. Disabled employees should not be treated less favourably than other employees and reasonable adjustments should be made both in applying the policy and procedure, and to enable disabled employees to remain in employment appropriate to the individual circumstances of the case.

The Council needs to consider any reasonable adjustments that are necessary to assist an earlier return to work, limit future absence and support the employee in achieving an appropriate level of attendance. Examples of reasonable adjustments could be:

- extending trigger points;
- providing specialist equipment;
- modifying days or hours of work;
- modifying duties.

Identifying and implementing the adjustments which are reasonable and appropriate will vary depending on the circumstances of each individual case.

Employees may be able to access support and advice from Access to Work (www.directgov.uk), who can assist with identifying specialist equipment, adaptations to the workplace and in some cases, a support worker. Responsibility for any associated costs arising from implementing reasonable adjustments lies with the Council however Access to Work may make a financial contribution.

Some accommodation of sickness absence directly related to their disability can be a reasonable adjustment under the Equality Act. For example, some people with disabilities may need time off every week, every few weeks, every few months or every year for hospital treatment or counselling. Absence directly related to an employee's disability, recognised under DDA, should not be counted towards trigger points unless there is significant cost or disruption as a result of absence. Absences for other reasons will count towards triggers.

Current case law does not require sick pay to be extended at either full or half pay where a disabled employee has exhausted their entitlement, irrespective of whether this was as a result of disability related absence or not. Case law has shown that it may be appropriate for an employer to extend an employee's sick pay entitlement when the employer has failed to make a reasonable adjustment and that failure has resulted in continuing absence and expiry of the employee's normal sick pay entitlement.

It should be noted that disability or genuine reasons for absence do not prevent the termination of an employee's employment where attendance is not at the required level and all other interventions, adjustments and options under the policy have been exhausted.

6 Absence linked to pregnancy

Where the employee is absent due to non-pregnancy related sickness either during her pregnancy or at the end of her maternity leave, this should be managed under the *Improving attendance and ill-health absence management policy and procedure* as for any other absent employee.

Where an employee is on long-term sickness as a result of her pregnancy, the Council will seek advice. The dismissal of an employee due to absence caused by a pregnancy-related illness would be automatically unfair under sex discrimination/equality legislation.

It is not unfair under sex discrimination legislation to refuse to extend sick pay where it has been exhausted as a result of pregnancy-related absence.

7. Absence due to accident or industrial disease

Absence as a result of accident or industrial disease should not be counted against an employee's entitlement due to normal sickness; there is a separate but equivalent entitlement. Entitlement to paid absence due to accident or industrial disease is identical to the employee's period of entitlement for normal sickness.

All requests for extensions to an employee's basic entitlement to receive payment during absence due to accident or industrial disease should be addressed to the Council which would seek advice.

8. Ill health that does not lead to absence from work

There may be occasions where an employee is suffering from ill health but it does not lead to the employee being absent from work. If the employee believes that their ill health is having an impact on their ability to undertake their job they must raise the matter with the Council.

The Council should take any concerns seriously and seek advice. The Council should objectively assess all reasonable measures that can address the health problem and retain the employee at work. Any intervention should be discussed with the employee prior to implementation.

If the Council has concerns that an employee is suffering from ill health which is having an impact on their ability to undertake the duties of the post, these should be raised with the employee in a sensitive and supportive manner. The Council should seek advice on any proposed intervention prior to discussions taking place with the employee.

The Council should consider the following:

- Identify any temporary or permanent adjustments that will help the person stay at work (e.g. work from home, time off for treatment, physical adjustments, etc).

- Identify any long term or permanent adjustments that may be required (e.g. temporary/permanent reduction in working hours, physical adjustments, adjustments to duties, reasonable time off related to the disability, etc)
- Consider whether referral to Occupational Health is necessary.
- Consider whether a counselling, IPRS or other organisation, specific to the individual's condition can provide support.
- If ill health is ongoing then there will be a need to review adjustments made to ensure they are still relevant to the person. A review should take place at least once every month or at other mutually agreed intervals.

9. Employees who are at work but not considered fit

Where there are concerns about an employee's fitness to be at work, it is important that the Clerk discusses those concerns with the employee in a sensitive manner. Each discussion will be different based upon the circumstances of the case, but it is important that the employee is encouraged to access the support of their GP and reminded of other support available where appropriate.

Where the concerns about an individual's fitness still remain and/or they are unwilling to seek medical assistance, the Council should seek advice.

10. Infectious diseases

Specific arrangements exist within Conditions of Service for dealing with serious infectious diseases. In any case, where an employee is absent with an infectious disease, guidance should be sought if necessary on how to deal with the situation.

11. Work related ill health including stress

When an employee reports that they are experiencing any form of ill health (back or other musculoskeletal problems, skin complaints, stress, etc) that they believe are caused by work, the Council should seek advice.

This will include investigating the potential cause of ill health, carrying out any necessary risk assessments and implementing remedial action as soon as possible.

12. Sick pay entitlements

The level of sick pay entitlements will vary on an individual basis.

Where an employee is receiving sick pay, any change to their sick pay entitlement should be notified to them in writing, prior to any change occurring e.g. where their full pay entitlement has been exhausted or will reduce, detailing the reason, the effective date and confirming the pay position.

13. Occupational health provision

Early and effective medical advice can be key to identifying the most appropriate way to manage sickness absence. The timing of an Occupational Health referral will depend on the particular circumstances of the case.

The purpose of an Occupational Health referral is to provide advice and guidance to employees and employer regarding:

- the nature of the illness
- the prognosis regarding recovery
- timescales for a return to work

- recommendations for a phased/therapeutic return to work where appropriate
- recommendations for other appropriate support measures which will enable the employee to return and sustain their attendance at work.

Referrals to Occupational Health are managed by the Council. It is important, however, contact is made with the employee to explain the need for a referral and to allay any fears they may have regarding this process.

14. **Appendix A – Sick pay entitlements**

Occupational sick pay

Regardless of any entitlement under the Statutory Sick Pay Scheme (SSP) (see 3 below) employees are entitled to receive allowances under the sickness payments schemes laid down in the appropriate national conditions of service.

Statutory Sick Pay (SSP)

Under the statutory sick pay scheme, employers are responsible for paying SSP for up to 28 weeks to employees incapable of working under their contracts of employment by reason of some specific disease or disability.

Entitlement to SSP applies to Periods of Incapacity of Work (PIWs) lasting for at least four consecutive days, including Sundays and Public Holidays. However, SSP is not payable if an employee:

- is taken on for a specified period of no more than three months
- have average weekly earnings less than the lower weekly earnings limit for National Insurance liability;
- was entitled to incapacity benefit, disablement allowance or maternity allowance in the previous eight weeks;
- has done no work under his/her contract of employment;
- has provided leavers' statements showing that they have been due 28 weeks' SSP from their former employers, and the gap between the first day of the PIW with their new employer and the last day of SPP shown on the leavers' statement is eight weeks or less;
- is outside the European Union on the first day of a PIW;
- is in legal custody.

SSP is only paid for 'qualifying days'. SSP is payable for sickness absence which lasts for four calendar days or more. The first three days of absence are classified as 'waiting days' during which SSP is not payable and normal payment arrangements will apply (unless the sickness occurs within 14 days of a previous period of sickness for which SSP was payable and is therefore 'linked' for the purposes of attracting SSP payments).

Entitlement to SSP while on maternity, paternity or adoption leave

Maternity leave

An employee may not receive SSP throughout the whole of her 39 week period of entitlement to Statutory Maternity Pay (SMP) or Maternity Allowance (MA) even where the employee returns to work during this 39 week period. The employee's SSP entitlement commences afresh at the end of the 39 week period. An employee who does not qualify for either SMP or MA may not receive SSP for an 18 week period.

Paternity leave

An employee cannot be paid Statutory Paternity Pay (SPP) and SSP at the same time. If an employee is sick prior to commencing their period of paternity leave, then the paternity leave should be postponed, however the 56 day period in which the employee can take their paternity leave is not extended,

Adoption leave

An employee cannot be paid Statutory Adoption Pay (SAP) and SSP at the same time. Where the employee is sick prior to the commencement of adoption leave, the adoption leave should be postponed until the employee is well.

Where the employee becomes sick during their adoption leave, SAP should not be paid during any week of their adoption leave where the employee is entitled to SSP. SAP may be paid during the waiting days to receive SSP.

14. Appendix B: Formal Procedures for Managing Sickness Absence

1. The formal procedures for managing sickness absence will be triggered if an individual reaches 12 or more working days of absence, or six or more episodes of absence, during any rolling 12 month period or a single absence of 4 or more weeks long-term sickness absence.
2. Prior to the formal procedures being triggered, the line manager should normally provide informal indication to the employee that this may happen, for example during a previous return to work meeting. If, as part of this process, matters come to light which indicate that a member of staff has an impairment/condition which is directly relevant to the sickness absence guidance should be sought.
3. A three stage process is outlined below. It should be noted that each case will be treated individually and therefore some flexibility within the procedures may be required.
4. Where an employee has had a single period of long-term sickness absence, e.g. following an operation, it may be sufficient to hold a return to work interview, to support and facilitate a return to work and not proceed to a Stage One sickness absence meeting.
5. Where there are repeated patterns of long-term sickness or a combination of short and long-term sickness the formal procedure (stages 1 - 3) should be followed. For circumstances where, following advice, an employee is unable to return to work consideration should be given to ill health retirement. Where ill health retirement is not agreed by the relevant Pension Scheme a Long-Term Sickness Review meeting may be convened.
6. At every stage, the Council will aim to provide as much support to the individual as is necessary for them to achieve and maintain a satisfactory level of attendance.
7. If a target is set at any stage and has been met, but another Sickness Absence Meeting is then triggered within 6 months, this procedure can be restarted from the next stage.
8. If, with support, a satisfactory level of attendance has not been achieved or maintained it may become necessary to issue a formal warning, to inform the employee that his/her job may be at risk if attendance levels do not improve

9. If, with support, and following a formal warning, a satisfactory level of attendance has not been achieved or maintained, it may become necessary to dismiss the employee on the grounds of capability.

Guidance for arranging and facilitating the meetings

Notification

10. An employee who has reached the absence triggers should be provided with a copy of this Policy at the time they receive notification to attend a Stage 1 Sickness Absence Meeting or Long-Term Sickness Absence Review meeting. They should be reminded of it and where it can be found before each meeting at any further stage.

11. The employee must be given at least 5 working days notice of any meeting, in writing. However, a meeting can be held with less notice if the employee agrees to this.

Who should be present?

12. A Stage 1 meeting will be held by the employee's Line Manager

13. A Stage 2 meeting will be held by the HR Committee

14. A Stage 3 meeting will be held by the Line Manager, a representative of the HR Committee and either the Chairman or Vice-Chairman of the Council.

15. A Long-Term Sickness Absence review meeting will be held by the employee's Line Manager and a member of the HR Committee.

16. The employee must be informed that they are entitled to be accompanied at any formal meeting by a workplace colleague or trade union rep if they wish. If the individual's workplace colleague or trade union representative is unable to attend the meeting at the appointed time, s/he may request a postponement and suggest an alternative time and date. Where the suggested alternative is reasonable and within 5 working days of the original date, the meeting will be rescheduled.

Occupational Health advice

17. At any stage of the process, a referral to Occupational Health (OH)) can be arranged. A further meeting with the employee will be arranged on receipt of the report, to discuss any additional support or work adjustments that have been recommended.

Targets & Monitoring

18. The Council will set minimum targets for improved attendance taking into account the individual circumstances of the case, any advice received from OH, the impact of any underlying impairment/condition and any reasonable workplace adjustments that need to be put in place to enable the employee to improve their attendance.

19. When a target is set, the employee's level of sickness absence will be monitored over an appropriate, specified period, for example; 'no more than 5 days absence or 2 episodes within the next 6 months'.

20. The outcome of any Sickness Absence Review meeting must be confirmed to the individual in writing within 10 working days.

Review meetings

21. If an attendance target set has been met, a review meeting should be held at the end of the specified monitoring period. The employee should be told that their attendance has improved and it is expected that their improved attendance will continue. They should also be informed that should another sickness absence meeting be triggered, further action will be taken and if the trigger occurs within the next 6 months, action could be taken at the next stage of the procedure.

22. If the target set has been exceeded, the procedure can move to the next stage and the review meeting can be arranged before the end of the specified monitoring period. This meeting will provide the opportunity to review the employee's attendance, give them an opportunity to discuss any problems they have encountered, discuss the need for any further OH advice and ensure that any reasonable adjustments recommended have been put in place and that they are receiving the support needed to improve their attendance at work.

Stage 1 Sickness Absence Meeting

23. The purpose of the Stage 1 Meeting will be as follows:

- To review the employee's attendance record during the relevant period, confirming the accuracy of information held.
- To give the employee the opportunity to discuss any problems or raise any concerns.
- To remind the employee about expectations as to levels of attendance.
- To decide whether any further action is required, such as a referral to the OH.
- To consider whether any reasonable adjustments may be required.
- To set a target for improved attendance and a specified period over which absence levels will be monitored.
- To set a review date at the end of the monitoring period.
- To issue an informal warning to the individual, explaining the further stages of this policy and possible consequences if attendance does not reach a satisfactory level with support.
- To inform the employee that if the target set is exceeded, a Stage 2 Sickness Absence Review meeting will be held and this may be arranged before the end of the monitoring period.

Stage 2 Sickness Absence Meeting

24. The purpose of the Stage 2 Meeting will be as follows:

- To review the employee's attendance record during the relevant period, confirming the accuracy of information held.
- To review the steps which have already been taken to support him/her in achieving the required level of attendance.
- To give the employee the opportunity to discuss any problems, raise any concerns or to highlight any mitigating circumstances that they wish to be taken into account.

- To decide whether any new information requires a further referral to OH.
- To consider any further reasonable adjustments that may be required.
- To set a target for improved attendance and a period over which absence levels will be monitored.
- To set a review date at the end of the monitoring period.
- To issue a formal warning to the individual; explaining that his/her job may be at risk if their attendance levels do not improve.
- To inform the employee that if the target set is exceeded, a Stage 3 Sickness Absence Review meeting will be held and this may be arranged before the end of the monitoring period.
- If a formal warning is issued, to provide details of the Appeals Procedure.

Stage 3 Sickness Absence Meeting

25. The purpose of the Stage 3 Meeting will be as follows:

- To review the employee's attendance record during the relevant period, confirming the accuracy of information held.
- To review the steps already taken to support him/her in achieving the required level of attendance.
- To give the employee the opportunity to discuss any problems, raise any concerns or to highlight any mitigating circumstances that they wish to be taken into account.
- To discuss any OH advice that has been received previously and how it has been applied e.g. adjustments made.
- To decide whether any new information requires a further referral to OH.
- To inform the employee that either;
 - the formal warning will be extended to allow further time for a sustained improvement; or
 - they will be dismissed on the grounds of capability.
- If the formal warning is extended; to set a target for improvement, a period over which absence levels will be monitored and a review date;
- If the employee is to be dismissed; to provide details of the Appeals Procedure.

26. The option of extending the formal warning to allow further time for improved attendance should only be considered if some signs of improvement have already been shown and it is expected that allowing further time will lead to an acceptable, sustained improvement in attendance.

27. If following an extension of the formal warning and after a period of satisfactory improvement based on the target set, the individual's absence levels deteriorate and a further review is triggered, Stage 3 of the Sickness Absence Policy will be repeated. This may result in a decision to dismiss the employee on the grounds of capability.

Long-Term Sickness Absence Review Meeting

28. Following referral to OH where professional advice has been received that the employee is unlikely to return to work, or is substantially or permanently unfit to perform their duties, the individual will be invited in writing to a meeting with his/her manager to discuss the advice.

29. If the employee is unable to travel, the meeting will be conducted via the telephone or, in exceptional circumstances, a meeting may take place at a venue nearer to his/her home. Alternatively, written representation can be submitted.

30. If the employee is considered by OH to be unfit to resume his/her duties, despite reasonable adjustments being made, job redesign or an amendment to the job description early retirement on the grounds of ill health may be pursued.

31. If an employee is deemed unfit for employment, and after all the above options have been explored, consideration will be given to termination of his/her employment. The employee will be invited to attend a meeting with their manager and a representative of the Council to discuss the proposed termination of their employment. Following consultation, if termination of employment is appropriate this will be confirmed in writing. The right of appeal against the decision and the appeals procedure will also be explained.

33. If an employee is considered by OH to be fit for work, this will be discussed with the individual and a return to work date will be set. In exceptional circumstances, if s/he does not return to work on the date advised, entitlement to Occupational Sick Pay may be withdrawn and disciplinary action may be taken. Entitlement to Statutory Sick Pay will not be affected if the continued absence is covered by a fit note.

Appeals

34. An employee has the right to appeal against a formal warning or dismissal for capability, including for one or more of the following reasons:

- The procedure - a failure to follow procedure had a material effect on the decision
- The decision - the evidence did not support the conclusion reached
- The penalty - was too severe given the circumstances of the case
- New evidence - which has genuinely come to light since the last meeting

35. An employee wishing to appeal should submit notice in writing to the Council.

36. The employee must be specific about the grounds of appeal as these will form the agenda for the hearing.

37. An appeal must be submitted within 5 working days of the employee's receipt of the formal letter confirming the action taken. The formal action taken will remain in force unless and until it is modified as a result of the appeal.

38. Arrangements will be made for appeals to be heard as soon as reasonably practicable.

39. The employee will be notified as soon as possible of the time, date and place of the appeal hearing with a minimum of 10 working days notice. The employee will be advised that they may be accompanied by a workplace colleague or Trade Union representative.

40. Appeals against formal warnings will be heard by two Councillors who have not previously been involved in the case.

41. Appeals against dismissal will be heard by a panel of three Councillors who have not previously been involved in the case. A separate person will be note taker.

42. The possible outcomes of the Appeal are;

- The appeal is not upheld and the formal action/sanction stands.
- The appeal is not upheld but if the Appeal Panel considered the sanction to be inappropriate, this may be reviewed.
- The appeal is upheld and the sanction will no longer be applied. If the appeal was against dismissal, the employee shall be paid in full for the period from the date of dismissal and continuity of service will be maintained.

43. The result of the appeal will normally be notified to the employee orally within one working day and in writing within 10 working days of the hearing.

44. The decision of the Appeal Panel is final.