

Attendance Management Guidance

As at 15 September 2009

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1. Policy Statement

COPFS aims to ensure that its staff are able to provide regular and effective attendance. While it is accepted that employees will be prevented from attending work due to illness or injury from time to time, and need to be properly supported during absences, COPFS also recognises that it has responsibilities to meet its operational requirements. As a result COPFS will take distinct steps to balance the needs of the individual with the needs of the Service and to effectively manage sickness absence. COPFS will therefore take a positive and pro-active approach to attendance management while implementing this policy with sensitivity.

It is accepted that there will be a certain amount of sickness absence within COPFS, both short term and long term.

Individual absence levels must be monitored and it is one of the roles of line managers to monitor the attendance levels of their staff and address any problems. Both long term and persistent short term absences can significantly disrupt the work of a team. However, much can be done to reduce the impact if managers and employees recognise their responsibilities and communicate effectively.

In dealing with short-term absence managers must treat each case on its own merits. Managers must carefully consider whether formal action is appropriate and at what stage it should be taken. In all cases of persistent short term absence, employees will be given support and every opportunity to improve their level of attendance. In those cases where attendance does not improve, formal action, including termination of employment, will be considered.

In each instance of long-term sickness absence the Service's objective in implementing the Attendance Management policy will be to assist the employee to return to work successfully via an individually tailored return to work plan. Where appropriate this plan will include agreeing a phased return to full-time employment after a period of long-term sickness. It is recognised, however, that in certain situations returning to work will not be possible, despite all reasonable support being provided and reasonable adjustments being made. In certain circumstances of long term absence therefore it may be necessary to end an employee's employment.

2. Purpose

The individual employee and his or her line manager(s) are jointly responsible for managing sickness absence. All staff are therefore key to the successful implementation of this policy, from individual members of staff to line, and senior, managers. Where appropriate, Human Resources and the Occupational Health Service Provider will offer support to both employees and managers in implementing this policy.

The application of this policy and any associated procedures will be undertaken in compliance with obligations in relation to the Disability Discrimination Act. This will include, where COPFS deems it to be appropriate, making reasonable adjustments in the application of the policy and procedure to comply with those obligations.

This policy will apply equally to all staff in COPFS, and will be implemented in line with the principles of the People Strategy, Diversity Strategy and Equal opportunities guidance.

This document sets out COPFS policy on managing sickness absence through line manager intervention and the procedures to be followed when an employee's absence becomes a cause for concern. It also sets out the steps to be taken when dealing with high levels of sickness absence. These procedures should not be applied mechanically and each case should be considered on its own merits.

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All employees must:

- accept that they have a responsibility for regular attendance and try to keep their absence to a minimum (returning to work as soon as they are well enough to do so);
- follow procedures for reporting absence;
- maintain regular contact with their line manager or senior manager during periods of absence;
- attend return to work meetings with their line manager and explain the reasons for their absence;
- discuss their attendance record at a meeting with their line manager or senior manager if the frequency or length of sickness absence causes concern.

In addition, all managers must:

- take appropriate action to assist and support the employee during sickness absence and on their return to work;
- accurately record and monitor absence;
- explore the causes of absence and seek advice, when necessary, from Human Resources (HR), Staff Welfare, Occupational Health and/or the Employee Assistance Programme (EAP) provider, in dealing with absences;
- inform the employee when absence becomes a cause for concern and allow them a reasonable period of time to improve; and
- inform the employee of the services offered by their Trade Union representative, Staff Welfare and Employee Assistance Programme

To help managers deal effectively with sickness absence, HR have developed a practical toolkit - Attendance Management Toolkit. **All managers should refer to the managers toolkit when dealing with both short-term and long-term cases.** Please see the sections of guidance below that provide more in-depth information that back-up the toolkit.

3. Scope

The following information sets out the procedures to be followed in managing short-term absence and long-term absence. This applies to all staff with the exception of inward secondees or staff supplied by an employment agency.

Permanent, fixed term, probationary staff and outward secondees are eligible for COPFS contractual sick pay. See [chapter 5.10](#) in the staff handbook for further details.

Your HR Advisor will be able to answer any queries regarding payment for sick leave.

4. Confidentiality

This policy conforms to the Data Protection Act 1998. An employee's medical information is personal and will only be available to those who need to be aware of it. This is usually restricted to HR, Staff Welfare, those in the management chain and any specifically nominated individual with responsibility for collating absence data. Confidentiality is a key principle of this policy.

Breaches of an employee's right to confidentiality by any other employee (including their line manager) may be treated as a disciplinary offence.

5. Preventing Sickness Absence

In order to help reduce the level of sickness absence COPFS will:

- Pro-actively support individuals by considering amendments to working practices (e.g. duties and hours of work) where necessary, in conjunction with the Occupational Health Service Provider, HR, and line management.
- Take reasonable steps to provide a healthy working environment through senior managers, managers and individuals promoting a safe, healthy and supportive workplace.
- Provide health and well-being initiatives via Healthy Working Lives and the Employee Assistance Programme.
- Identify priority action areas for tackling the causes of sickness absence by analysing absence data, accident statistics, and staff turnover data.
- Provide reasonable resources to assist the implementation of this policy, including the provision of advice by HR and Occupational Health, if required at any stage.

6. Roles

As employees, we all have a role to play in managing our own attendance and fulfilling our obligations under this policy and procedure. The following people and organisations all have a distinct role to play in managing absence.

The Line Manager

The key to effective management of attendance lies with line managers. Most line managers know and take an interest in their teams as a matter of routine and are likely to be alert to problems inside or outside the workplace, which could impact adversely on an individual's attendance. This helps employees to be aware of their manager's concern about their well being, and encourages them to take a sensible view of their health and seek help for any problems. By taking prompt and appropriate action, managers can provide their staff with timely support and help to reduce absence.

HR Advisor / HR Manager

Managers can at any time request the assistance of either their HR Advisor or HR Manager who will provide guidance on procedures and advise on specific absence problems. In the event that medical advice is required, HR Advisors or HR Managers will liaise with the Occupational Health Service Provider on behalf of line managers.

Staff Welfare Service

The Staff Welfare Service is available to all staff in COPFS. Staff Welfare Officers offer confidential support and information to assist staff in resolving or coming to terms with various issues regardless of whether the difficulties stem from their personal or working life. Staff Welfare Officers also offer support and advice to managers in their role.

Employee Assistance Programme

COPFS has in place an arrangement with an Employee Assistance Programme (EAP). Access to the service is through a number which is available 24 hours a day, 7 days a week. The 24 hour Helpline number is **0800 587 5670**. This is both confidential and free.

This service is available to all employees and their immediate family.

The EAP counsellors are experienced in dealing with a wide-range of personal and work related problems such as dealing with staff absences, emotional problems, interpersonal difficulties, health

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problems, alcohol and drug dependency, work/life imbalances and family or marital difficulties. The EAP also provides a wide range of information and advice services, including immediate telephone counselling and, where appropriate, face-to-face counselling. Information and advice is available on subjects such as consumer issues, family care problems, financial matters, legal issues and education, health and housing matters.

When considering how to deal with staff absences, line managers are encouraged to contact the EAP for advice. The EAP operates a 'Managerial Consultancy' which can be uniquely supportive of managers as they in turn are supporting those in their teams. This service provides an additional valuable resource for managers when they are helping an employee but would value some assistance – perhaps in thinking through their role, other ideas or options, how they are doing and when it might be best to refer on, to whom and how.

The Occupational Health Service Provider

The Occupational Health Service Provider is contracted by COPFS to provide occupational medical advice. The Service can seek medical advice via the Occupational Health Service Provider on matters relating to an employee's health at any time.

Advice must be sought from HR regarding contacting the Occupational Health Service Provider where an employee's sickness is causing concern and is likely to prevent a return to work in the near future and/or where medical retirement may be considered.

Please see section on Occupational Health for more information (page 28).

The Medical Services Advisor

The Medical Services Advisor is appointed by The Cabinet Office as the sole provider of advice to employers on access to medical-related pension scheme benefits; only the Medical Services Advisor can consider whether medical retirement should be authorised even if the Occupational Health Service Provider suggests that it should.

Health and Safety Managers

Health and safety managers provide advice and guidance on all health and safety matters including legislation and procedures. They will also provide advice to any member of staff on a confidential basis, if necessary.

Trade Union Representative

Employees can seek the advice and support of their Trade Union at any stage. All employees have the right to be accompanied at formal meetings by a TU representative.

Learning and Development Division

Managers seeking additional training on the skills required to manage attendance should contact the Learning Development Team for advice on courses available. HR Advisors / HR Managers are able to provide general advice and case specific advice.

7. Occupational Health

Information regarding the timing of a referral to Occupational Health is detailed in the relevant section of this guidance (i.e. managing short-term absence, managing long term absence). However this section gives further details on the services delivered by the Occupational Health Provider and the procedure regarding referrals.

The Occupational Health Service Provider is contracted by COPFS to provide occupational medical advice. The Service can seek medical advice via the Occupational Health Provider on matters relating to an employee's health at any time.

They can advise on:

- whether the Disability Discrimination Act (DDA) 1995 applies
- any reasonable adjustments (if the DDA applies) – these adjustments are not limited to changing the physical environment and may also include changes to duties, working hours etc.
- the state of the employee's health and any underlying causes;
- whether the employee is likely to be able to return to work and when;
- whether the employee is likely to be able to meet the standard of attendance required in the future;
- whether a phased return to work would be beneficial;
- whether medical treatment should be considered and at what stage;
- whether ill health retirement is likely to be an option.

Advice must be sought from HR regarding contacting the Occupational Health Service Provider where an employee's sickness is causing concern and/or is likely to prevent a return to work in the near future and/or where ill health retirement may be considered.

When requested by the line manager, the HR Advisor will arrange for the employee to be referred so that the current medical position can be established. Prior to making this referral the HR Advisor will contact the employee's manager to request that they provide any additional information which they feel is relevant to the referral.

The HR advisor will advise the employee that a referral to Occupational Health is being made and that the employee can expect to hear from the provider regarding an appointment.

Ordinarily, the provider will request that the employee attend a consultation with an Occupational Health specialist. In addition, the provider may seek permission from the employee to request a medical report from the employee's own doctor and/or consultant. However, in some circumstances, it may be more appropriate for only a medical report from the employee's doctor or consultant to be sought.

The Occupational Health provider will then provide a written report concerning the employee's state of health to HR. Referrals can be made at any time and no decision will be made without the most up to date medical advice being taken into account.

The HR Advisor will then share this report with the employee's line manager, drawing particular attention to any "reasonable adjustments" recommended or any other action required by the manager. A copy of the report may also be forwarded to Staff Welfare. Note – the employee is not, as a matter of course, issued with a copy of the report. However, this will be made available on request.

The Occupational Health Service provider also conducts workplace assessments – to assess an employee's working environment and working practices for suitability. Following a workplace assessment a written report is sent to the HR Advisor. This report is shared with the employee's line manager and the appropriate Health and Safety Manager (if any specialised equipment is required).

8. Recording absence

Managers need to know how often their staff are absent from work. They therefore need to accurately record all absences including the dates and reasons for absence. Managers should use the Attendance Management Record form (page 27) to record reasons and dates of absence for the staff that they manage. Managers **must** keep all records they retain confidential.

It may be that some work areas will decide to hold central records; again, all records must remain confidential. Regardless of local arrangements **HR must be notified** about every absence as soon as possible using absence notification form.

When recording sickness absence, all calendar days the employee was absent due to illness must be recorded on the Attendance Management Record but only working days absence will be used in calculating breaches of the trigger points. The Ready Reckoner table below is available to work out absence for part time employees.

Part time employee's Ready Reckoner

Days worked per week	Trigger point in 12 month rolling period
1	2 days
2	4 days
2.5 (week on week off)	5 days
3	6 days
4	8 days
5 part time days	10 days

Line managers should contact their HR Advisor if they require any clarification on how to record and calculate absence.

When is a self certificate required?

If the absence lasts for 7 calendar days or less, the employee must on their return to work complete a Notification of Sickness Absence form (E9A). Absences for less than 7 calendar days do not require a medical certificate from a GP (doctor).

The manager must immediately send all self-certificates along with the Return to Work Discussion to the relevant HR Advisor.

When is a medical (doctor's) certificate required?

If the absence lasts 8 calendar days or more, the employee **must** obtain a medical certificate from their doctor and send it to their manager without delay. Employees can submit a medical certificate from their doctor for absences of less than seven days if they wish to do so.

The manager must immediately send all medical certificates to the relevant HR Advisor.

The E9A and medical certificate (as appropriate) should be provided to your line manager during your return to work discussion, for the counter signature part of the form to be completed. There may be occasions when you do not want your line manager to know the nature of your illness. In this situation you should simply send page 1 of your E9A and/or your medical certificate directly to HR.

What happens if the appropriate medical certificates are not provided?

If an employee fails to send the appropriate medical certificates obtained from their doctor covering their absence to their line manager, the employee will be considered to be on

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unauthorised absence. If this happens, **the employee will not be paid for those absences until the certificates are provided.**

Part day absences

If an employee becomes ill having been at work for at least 30 minutes and has to go home before completing half their contracted hours for that day then a half day sickness absence should be recorded. This absence would count towards trigger points.

If an employee becomes ill after completing more than half of their contracted hours then no sickness absence should be recorded.

In all cases an E9A should be completed.

Sickness absence during or preceding annual leave

If an employee becomes sick during annual leave and is continuously sick for 4 or more days whilst on leave, the absence may be amended to sickness absence providing the employee reports the absence to the line manager on the 4th day of sickness. The process for certifying absence is the same. The employee's leave sheet should be amended as appropriate on their return to work.

Staff who are off sick immediately prior to a period of prearranged annual leave, must contact their line manager to confirm their fitness to return to work, including if appropriate a final certificate stating the date of fitness to return to work, before commencing any annual leave period. A completed certificate from the GP or a completed E9A will be required on return to work.

Hospital Appointments

Hospital appointments for outpatient treatment are not treated as sickness absence but as medical/dental leave and should be recorded as such on the Flexible Working system. Where the appointment lasts less than a full day, staff should make every effort to attend work before and/or after the appointment, and will be credited with a flexi update for the actual appointment and reasonable travel time.

However, if the member of staff is unfit for work as a direct result of the treatment received at a hospital appointment, this does constitute sickness absence and should be recorded and managed as for any other such absence as described in this guidance. If managers are in doubt as to whether such an absence should be treated as sickness absence, they should consult HR for advice.

If such an absence is due to a hospital appointment or treatment being given directly in relation to a DDA condition, consideration will be given, on a case by case basis, to any necessary reasonable adjustments (such as the sickness absence not counting towards trigger points).

Staff are expected (where possible) to arrange hospital, or any other medical appointments at the start /end of a working day.

9. Keeping in touch

Reporting absence to the Line Manager

On the first day of sickness employees are required to contact their line manager or, if unavailable, another manager by 9.30 am (or within half an hour before their normal start time) to report that they will be absent. Employees must phone even if they are only likely to be absent for half a day. It is expected that any contact will be directly between the employee and their line manager unless

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there are exceptional circumstances which prevent the employee making contact. Communication by text, email or through colleagues is **not** acceptable.

Employees should explain the reason for absence, its likely duration and agree with their line manager arrangements for keeping in touch, if the absence is likely to last for more than a couple of days.

The Line Manager will be concerned to know how the employee is feeling and whether there is any urgent work outstanding that needs to be dealt with in their absence. Employees should make every effort to speak to their line manager or another manager on the first day of absence.

If there has been no contact from the employee within one hour of the start of core time, the manager should attempt to contact the employee by telephone. If you are unable to make contact at all on the first day of absence, contact HR for advice on further action.

The information provided by the employee as to the reason for absence should remain confidential to the line management chain unless express permission is obtained from the employee to disseminate the information more widely.

Contacting the employee

It is important that contact between the manager and the employee is maintained during the absence.

Each case needs to be treated individually. When managers are notified of a minor illness that is likely to end within two or three days, further contact is not usually necessary. With absences likely to last more than three days, sensible contact arrangements between the line manager and the employee should be set on a case by case basis. This may vary from every few days, once a week or once a month depending on the circumstances. The line manager should keep a note of any conversations that they have with the employee whilst they are off sick.

Employees have an obligation to provide line managers with a means of maintaining contact.

The line manager must remind employees that if the absence continues for over 7 calendar days, then they will need to submit a medical certificate. **The line manager is responsible for keeping HR informed if the absence is longer than 7 calendar days**

Contact in cases of long term absence (20 working days or more)

If a member of your staff is absent for 20 working days or more, it is appropriate to stay in touch with them on a regular basis. Not only does this show them that they are valued and missed, it also helps minimise the loss of confidence and connection to work which many people suffer during long-term absence, and which can make it harder to come back once they are well.

Although many managers are understandably concerned about being intrusive, many people who are on long-term absence welcome the opportunity to stay in touch with the workplace and appreciate genuine concern for their well-being.

Regular contact is vital to:

- Ensure that any support needs can be identified
- Identify when a return to work can be expected
- Convey the value that COPFS places on the employee, encouraging a positive attitude to a return to work
- Give time to discuss and organise any necessary special arrangements to facilitate a return to work

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- Give an opportunity to keep the individual in touch with developments at work
- Advise the employee of significant issues affecting them
E.g. early advice about their entitlement to sick pay
- Provide the employee the opportunity to raise any issues or concerns.

If necessary, the manager can seek advice from HR, Staff Welfare and/or the Employee Assistance Programme. The manager should also encourage the employee to seek advice and support from Staff Welfare, the Employee Assistance Programme and any other appropriate sources during their absence. If the absence is caused by stress, anxiety, depression or any other mental health related cause, the line manager must immediately notify their HR Advisor.

If the employee refuses contact with their line manager, they should be offered an alternative person to maintain contact with. Employees are required to co-operate fully with this policy and procedure, including maintaining contact throughout. The manager should make a record of all contacts made with the employee.

10. Managing short term (intermittent) absence

Managers must use their discretion about whether formal action is appropriate and at what stage it should be taken.

Any employee can become unable to attend work as a result of illness from time to time. Short term absences will become a cause for concern if they become regular.

As with all sickness absence cases, it is important that the current medical position is established before any action is taken. Line managers must discuss the need for a referral to the Occupational Health Service Provider with their HR Advisor at the earliest opportunity. A referral will indicate whether there is a specific underlying medical reason for the absences or not. **Please note** – Early intervention where absence is due to stress, depression, anxiety, nervous debility or other psychological illness is important. Advice on timing of an occupational referral in these cases should be obtained from HR.

What level of short term absence requires action?

Actions should be considered when the following trigger points are reached:

- 10 working days (pro-rata for part time staff) in a rolling 12 month period
- or 4 occasions in a rolling 12 month period

Managers must use their discretion about whether formal action is appropriate. Every case must be dealt with individually after consideration of the circumstances and employee's history. **If managers have any doubts after reading all of the guidance about the correct course of action, they should speak to their HR Advisor for advice.** The flow chart on page 8 of the manager's toolkit sets out the roles and responsibilities for dealing with intermittent absences.

Part time employees

Part time staff will work less than 37 hours each week. Trigger points for taking action under the Managing Attendance procedure must reflect the hours worked.

For example one of the trigger points for full time employees is 10 days absence in a 12 month rolling period. For part time staff this is calculated as follows

Part time employee's ready reckoner

Days worked per week	Trigger point in 12 month rolling period
1	2 days
2	4 days
2.5 (week on week off)	5 days
3	6 days
4	8 days
5 part time days	10 days

Monitoring the employee's attendance record

Where an employee is absent for short spells, the manager should closely monitor the attendance record and look at the total number of occasions/days within the rolling 12 month period. They should consider whether any trends seem to emerge, for example sickness absence usually occurring on the same day of the week or around holiday periods, and look at the reasons for the absences. They should also look back at the employee's previous attendance record. If this information is unavailable, then they should contact their HR Advisor. The HR Advisor will supply any relevant information.

When should a manager speak to an employee about their attendance record?

When reaching the trigger points that cause the manager concern, we would expect the manager to review the attendance record and conduct a Stage 1 meeting and review in accordance with the guidelines contained within toolkit.

Formal meetings and reviews do not lead automatically to prescribed action such as a warning. In some cases, no further action may be the right conclusion. Matters which should be taken into account and the action to consider are set out below.

Stage 1

Meeting and Review

The manager must formally invite the employee to attend the meeting allowing them sufficient time to prepare (at least one week). The invitation to meet should be in writing and should include:

- details of the attendance record;
- confirmation of the employee's right to be accompanied by a Trade Union representative or a workplace colleague; and
- contact details for Staff Welfare and the Employee Assistance Programme

At the meeting, the manager should discuss the attendance record as a whole with the employee and explore whether any further support or action is necessary and what form it should take. The employee should be encouraged to speak openly about the reasons for their absences and the manager must give them the opportunity to ask for support and advice.

One of the matters to consider is whether the employee should be given a formal warning about their level of absence. Where the manager considers that a formal warning is appropriate at this stage they should move to issue a stage 1 warning letter. If the manager is unsure they may wish to consult their HR Advisor who will help them to decide whether a formal warning is appropriate and whether occupational health advice may be beneficial.

It is not possible to provide examples of when it is or it is not appropriate to give a formal warning. Managers must consider each case individually; no two cases of sickness absence are the same. Managers must not allow personal feelings to form part of the decision making process and must remember to act in a fair and reasonable way. Any action taken should be timely and based on facts.

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Managers should not count absences which are the result of a pregnancy related illness for these purposes. See Section 16 on Sickness absence during pregnancy for further information.

The outcome of the Stage 1 meeting and review can be:

Action other than a stage 1 warning

Following discussion with the employee, the manager may decide that it is not necessary to give a stage 1 warning. At this point managers should issue a no further action letter confirming the trigger points as set out in the policy. It is important that employees are aware that any further sickness absence may result in a stage 1 warning being issued.

If it appears that the employee's absences may be linked to difficulties at work, the manager should offer support and discuss with the employee whether any action needs to be taken to solve the underlying problem. If the employee is experiencing personal problems which appear to be affecting their attendance, the manager should encourage them to seek appropriate help and advice.

If the cause of the absences is work related stress the manager should contact HR or Staff Welfare for advice.

The manager should also consider whether there are any alternative options to enable the employee to reach the standard of attendance required. These may include changing the work environment or reviewing conditioned hours. These options may not be appropriate in every case and managers will need to balance the needs of the employee against the business needs of the organisation.

Stage 1 warning

The manager should issue stage 1 letter which formally warns the employee that any further absence in breach of trigger points may lead to an escalation to stage 2 of the attendance management policy and details the appeals process.

An employee can appeal against a decision made to issue warnings at any stage of the process

The manager should also make the employee aware that further absences could ultimately lead to dismissal.

Any warning will remain live for 12 months from date of the letter.

Record of the meeting and agreed action

The manager should record the meeting and highlight any action that either they or the employee have agreed to take. Copies of agreed actions signed by the employee and/or warnings must be sent to the HR Advisor for information and filing on the employee's personal file.

What Action should be taken if trigger points are breached again within the warning period? (When a stage 1 warning has been issued)

The process should be escalated to stage 2 which is dealt with by the second level manager.

What Action should be taken if there is a further breach of trigger points? (When a no further action letter has been issued)

The manager should arrange to hold a meeting in line with stage 1 procedure detailed above.

What Action should be taken if no further absence is recorded?

- Issue letter to acknowledge improved attendance
- The employee will return to standard monitoring and the absence rate will continue to be reviewed such that if normal trigger points are breached – 10 days (pro-rata for part-time staff)

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or 4 occasions in a rolling 12 month period the employee will repeat the most recent stage of attendance management review. The manager would be expected to review the attendance record and conduct a Stage 1 meeting in accordance with guidelines contained within the toolkit.

For further guidance and advice please refer to the flow chart on page 11 of the manager's toolkit.

Stage 2 – Consider issuing a Final Warning

The procedure for Stage 2 is the same for stage 1 (meeting & review, issue letter either indicating staff member to remain on Stage 1 or a warning letter, record meeting details and agreed actions) however the following additional points should be noted:

The manager will be a second level manager rather than first level manager

Contact HR to arrange an Occupational Health referral

The line manager still maintains responsibility for monitoring sickness absence even though formal action is being taken by a more senior manager

What Action should be taken if trigger points are breached again within the warning period?

The process is escalated to stage 3 which is a case conference

What Action should be taken if there is a further breach of trigger points? (When a no further action letter has been issued)

The manager should arrange to hold a meeting in line with stage 1 procedure detailed above.

An employee can appeal against a decision made to issue warnings at any stage of the process

What Action should be taken if no further breaches of trigger points are recorded?

- Issue letter of recognition
- The absence rate of the employee will continue to be reviewed for a further 12 months such that if normal trigger points are breached -10 days (pro-rata for part-time staff) or 4 occasions in a rolling 12 month period the employee will repeat the most recent stage of attendance management review. In this case the stage 2 process would be repeated (meeting and review).

Monitoring during the review period after a final written warning has been given

If a final written warning is given, the employee's attendance must be closely monitored during the review period. They should be encouraged by their manager to attend work regularly and be given every opportunity to discuss any concerns or difficulties. The line manager should, in any event, be meeting with the employee regularly (or if they work remotely from the employee, contact them regularly) during the review period to encourage them and offer the necessary support to achieve regular attendance.

Are there any circumstances when the time limit of a final warning can exceed 12 months?

The senior manager may notice that the employee's attendance record shows fluctuating levels of attendance over a number of years. For example, an employee may have improved their attendance during previous monitoring periods, only to lapse very soon after. Where a clear pattern emerges which indicates that the employee's absence level increases shortly after the review period has expired, the senior manager may consider (in consultation with their HR Advisor) whether it would be appropriate for the final written warning to remain active for a period of 13 to 18 months. The duration of the final written warning must be confirmed in writing to the employee when the warning is given. The HR Advisor will be able to give advice on the wording of the letter and will ensure consistency of approach.

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For further guidance and advice please refer to flow chart in the Attendance Management Toolkit (page 12).

Stage 3 – Case Conference

The aim of the case conference is for the line manager, second level manager and HR to discuss and consider appropriate next steps.

A review of all previous steps in the process should be conducted including

- Previous attendance/absence history
- return to work interviews;
- notes of Stage 1 and 2 interviews conducted;
- letters issued
- any reasonable adjustments made
- up to date occupational health advice (within the last 3 months)

This will ensure that all previous steps have been taken and that all relevant material is available to inform further action.

Potential outcomes are

- Continuation of Stage 2 monitoring process for a further period (usually 3 months)
- Consideration of ill health retirement
- Consideration of dismissal on the grounds of inefficiency due to poor attendance (this will include consideration of any compensation payment under the Principal Civil Service Pension Scheme).

If the decision is something other than the consideration of dismissal then the employee should be notified about the outcome by letter.

Stage 4 – Final Hearing

If the decision at the case conference is to consider dismissal of the employee, a final hearing must be arranged. Prior to the final hearing meeting, the employee must be advised in writing that consideration is being given to their dismissal on the grounds of inefficiency due to poor attendance. A third level manager will chair the meeting and be accompanied by the HR representative.

The invitation to a meeting must confirm the employee's right to representation by a TU representative or work colleague.

The procedure at the meeting should be as follows:

- The third level manager should open the meeting by explaining the reasons why the meeting has been arranged and detailing the background.
- The third level manager must then outline the previous discussions including occupational health advice.
- The employee should be given the opportunity to respond and to provide any additional information they wish the panel to consider.
- The detail of the employee's response should be discussed with them

Given the seriousness of the situation, third level manager and the HR representative will need to take time to decide the outcome. This is best done by adjourning the meeting to allow consultation to take place. This means that the employee is advised of the outcome on the day of the meeting. Thereafter the HR representative should confirm the decision in writing within 5 working days of the meeting. If the decision is to dismiss the letter should include the date of termination of employment

together with any notice pay period or payment in lieu of notice and the right to appeal via the Appeals procedure.

11. Managing long term (continuing) absence

Definition

COPFS defines long term absence as 'a single spell of 20 working days absence'. The normal expectation will be that the employee will return to work.

Outcomes

With all long term absence cases, it is our aim to get employees back to work as soon as possible. This requires a joint approach from the employee, the line manager, HR, Staff Welfare, the Occupational Health Service Provider, the employee's GP (through Occupational Health) and any other appropriate organisation including the Employee Assistance Programme. **Please note** – Early intervention where absence is due to stress, depression, anxiety, nervous debility or other psychological illness is important. Advice on timing of an occupational referral in these cases should be obtained from HR.

The possible outcomes of long term sickness absence are:

- a declaration from the employee's GP or the Occupational Health Service Provider that the employee will be fit to return to work at a specified date;
- a return to work on a different basis, such as part-time or by modifying the duties of the post or by transferring to a new post with duties appropriate to the needs of the employee. Any change made may be on a temporary or permanent basis as appropriate, following advice from the Occupational Health Services Provider;
- eligibility for ill health retirement under the provisions of the pension scheme. Eligibility is defined as permanent incapacity to carry on existing employment because of mental or physical ill health; or
- termination of the contract of employment on grounds of capability due to ill-health.

Considerations

The three main considerations which need to be balanced when dealing with long term sickness absence are:-

1) The needs of the employee

The welfare aspects of long term sickness are a key consideration and cannot be ignored. The employee has the right to expect that the service will consider all aspects and options before finally deciding whether or not dismissal is inevitable. In cases of serious and terminal illness, the needs of the employee are paramount.

2) The needs of the organisation

It is reasonable for Management to expect that an employee is, and remains capable of carrying out the duties of the post in which he or she is employed.

3) The need to act fairly and reasonably

COPFS must act fairly and reasonably in dealing with such cases and follow this policy and procedure.

In all cases, it is necessary, before terminating employment on the grounds of ill health, to consider all the circumstances and to have discussed the situation with the employee, seeking his or her views on the proposed course of action and advising on pension or other rights.

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Whatever the medical evidence, it has been recognised under UK employment law that the decision to dismiss a long-term sick employee is not a medical but a management issue.

Consulting the employee and getting proper medical opinion will provide enough information to answer the following questions which will inform how the case is managed:

- Is the employee likely to make a full recovery, and if so how long will it take?
- Can we reasonably be expected to keep the employee's job open until they're fit to return to work?
- If the employee isn't going to recover completely, what will be the extent of their continuing disability?
- Will this affect their ability to do the job they were employed to do?
- If it's likely that the employee will only recover sufficiently to resume work in some different capacity, is it possible to offer some alternative role on their return from sickness absence?

Review Stages

After 20 working days absence the manager must conduct a review of the absence. Line managers can speak to an HR Manager about the most appropriate way to do this.

Stages 1 & 2

If the employee is invited to attend a meeting it must be done in writing, giving them at least 5 working days notice. The letter must explain the reason for the meeting and remind the employee of their right to representation.

The meeting should be held at a location convenient to the employee, if necessary away from their normal place of work and with consideration to the employee's physical condition (for example, in a ground floor office). Meeting the employee in their home should only take place with the employee's consent and where it is not possible for the employee to attend the meeting at work.

The meeting will allow the line manager the opportunity to assess progress and to discuss the possible future outcomes; including return to work, reasonable adjustment to duties, medical retirement or dismissal.

If a return to work is not an option at this stage, the employee must be told that if he or she is not able to return to work within a reasonable timescale, or there is no suitable work available, their contract may be terminated on grounds of capability. The employee must be told that dismissal is a last resort and any decision to dismiss will be taken by a senior manager in consultation with an HR Manager.

Depending on the circumstances of the absence and stage of review, an action plan may be agreed and a further review period set. The review period will be determined according to individual circumstances but meetings will normally take place at regular monthly intervals.

A summary of the discussion, copy of any action plan (if appropriate), review period etc must be confirmed to the employee (and their representative) within 5 working days of the meeting.

When the line manager meets the employee they should give the employee information to assist them while they are absent. This should include:

- Information on the long term process;
- Advice on how the employee and their manager will maintain contact;
- Information on referrals to the Occupational Health Service Provider;

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- Advice about entitlement to sick pay and the processes which may lead to a reduction in pay; and
- Information about the support services available.

Stage 3 – Case Conference

The aim of the case conference is for the line manager, third level manager and HR to discuss and consider appropriate next steps.

A review of all previous steps in the process should be conducted including

- Previous attendance absence history
- return to work interviews;
- notes of Stage 1 and 2 interviews conducted;
- letters issued
- any reasonable adjustments made
- up to date occupational health advice (within the last 3 months)

This will ensure that all previous steps have been taken and that all relevant material is available to inform further action.

Potential outcomes are

- Continuation of Stage 2 monitoring process for a further period (usually 3 months)
- Whether a timescale should be given for a return to work date
- Consideration of ill health retirement
- Consideration of dismissal on the grounds of capability due to poor attendance (this will include consideration of any compensation payment under the Principal Civil Service Pension Scheme).

If the decision is something other than the consideration of dismissal then the employee should be notified about the outcome by letter.

Ill health retirement

If the employee's sickness is likely to prevent a return to work in the near future, HR should refer to the Occupational Health Service Provider who will advise on whether ill health retirement should be considered and when it should be actioned.

HR will action the medical retirement recommendation through the Medical Advisor. The Medical Advisor is appointed by The Cabinet Office and is the only person who can authorise medical retirement of ill health (and other Civil Service) employees.

Retirement must not take place before the date of the retirement certificate issued by the Medical Advisor. At least 9 weeks notice of the date on which retirement is to take effect should be given, unless a shorter time is convenient for both sides. The HR Manager will make the arrangements.

Employees have the right to appeal against the decision to recommend or refuse medical retirement. See Section 19 – 21 (the Appeals Procedures) for further details.

If medical retirement is not recommended, the employee's situation must be reviewed by the HR Manager in conjunction with the senior manager and the line manager. The HR Manager may wish to discuss the case in more detail with the Occupational Health Service Provider. The employee must be consulted about the prospect of a return to work and must be given every opportunity to discuss their circumstances and consult with Staff Welfare, the Employee Assistance Programme or their Trade Union representative, as applicable.

Stage 4 – Final Hearing

If the decision at the case conference is to consider dismissal of the employee, a final hearing must be arranged. Prior to the final hearing meeting, the employee must be advised in writing that

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consideration is being given to their dismissal on the grounds of capability due to poor attendance. The third level manager will chair the meeting and be accompanied by the HR representative.

The invitation to a meeting must confirm the employee's right to representation by a TU representative or work colleague.

The procedure at the meeting should be as follows:

- The third level manager should open the meeting by explaining the reasons why the meeting has been arranged and detailing the background.
- The third level manager must then outline the previous discussions including occupational health advice.
- The employee should be given the opportunity to respond and to provide any additional information they wish the panel to consider.
- The detail of the employee's response should be discussed with them

Given the seriousness of the situation, the third level manager and HR representative will need to take time to decide the outcome. This is best done by adjourning the meeting to allow consultation to take place. This means that the employee is advised of the outcome on the day of the meeting. Thereafter the HR representative should confirm the decision in writing within 5 working days of the meeting. If the decision is to dismiss the letter should include the date of termination of employment together with any notice pay period or payment in lieu of notice and the right to appeal via the Appeals procedure.

12. Sick pay at pension rate

Sick pay at pension rate should be considered when the normal entitlement to sick pay is exhausted. The HR Manager will refer any case to the Occupational Health Service Provider well before entitlement to statutory sick pay is exhausted so that they can consider whether the eligibility requirements for sick pay at pension rate have been met. An employee will be eligible if there is a likelihood of them being able to return to duty within the next **3 months** or they are likely to fulfil the requirements for medical retirement.

Payment is admissible while there is a reasonable prospect of recovery and a return to duty. It should continue until:

- the Occupational Health Service Provider confirms that the employee is fit to return to duty;
- the Occupational Health Service Provider confirms that the employee is no longer expected to return to work in the foreseeable future; or
- medical retirement is effected.

The HR Manager will review the case every month with the senior manager, to reassess the criteria for sick pay at pension rate to ensure that payment does not go on indefinitely.

PCSPS injury benefit scheme

Injury benefit is paid to bring your income up to a guaranteed level if you are injured while on duty. For further details see www.civilservice-pensions.gov.uk

13. Return to work

Studies show that Return to Work Discussions are the most effective approach for managing both short term as well as long term absence. Line managers must meet with the employee on their first day back from sick leave.

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It is important to welcome the employee back so that they feel valued on their return. The manager should update them on anything that they have missed so that they can get on with their job effectively, even if they have only been absent for one day. Otherwise the employee might return to work with a sense that it didn't matter that they had been off. This might make the difference between them staying off work for another day or coming back.

If the line manager is due to be out when the employee returns they may wish to make alternative arrangements, e.g. for a fellow manager to conduct the return to work discussion.

Employees who work at a remote location from their line manager should phone their line manager to tell them they have resumed duty. If there is going to be a lengthy period before the line manager meets the employee, they should conduct the Return to Work Discussion by telephone and when they next both meet the manager should, if they feel it necessary, hold a face to face Return to Work Discussion with the employee.

The manager should prepare for the discussion by looking at the employee's attendance record and considering whether there are any trends or common features to the absences.

Short Term (Intermittent) Absence

Discussion preparation

It is important to prepare appropriately so that the Return to work discussion is constructive and helpful.

Sickness absence can result from a whole host of medical problems, ranging from minor infections and ailments to distressing and serious illnesses. You should carefully consider the known circumstances and the history of the situation before deciding on the issues you wish to raise and the depth at which they need to be explored. If you need support, you can talk it over with an HR Advisor.

In practical terms, you should:-

- Consider the setting. It is not appropriate to hold a return to work discussion where colleagues are within earshot (eg at a desk in an open plan office). Even if you do not anticipate the discussion covering confidential or sensitive issues you should book a meeting room.
- Allow enough time for the conversation and ensure you will not be interrupted.
- Review your notes of previous discussions, if any, to refresh your memory.
- Review the person's absence record so you are aware of the frequency, timing and (if disclosed) the reasons for previous absences, if any.

Some members of staff, for example for cultural or gender related reasons, may find it embarrassing to discuss reasons for sickness absence with someone of the opposite sex. The member of staff may prefer to have the Return to work discussion with a manager of the same sex and you should agree to any such request where this is possible.

Conducting the Discussion

Where an employee is absent on an infrequent basis and the line manager does not have an immediate concern over their attendance, a more informal Return to Work Discussion might be appropriate.

In these cases the manager should:

- Welcome back the employee and find out how they are feeling (checking they are well enough to be back at work);
- Ask them if there is anything else they wish to discuss or whether they require any support;
- Update them on what has been happening in the workplace during their absence;
- Ensure that any outstanding certificates are completed;
- Update the sickness absence record

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- Advise the employee that a further meeting will be necessary (if the trigger points have been reached)

The tone of the return to work meeting should always be constructive and supportive. There should be no suggestion, unless there is clear and specific evidence to the contrary, that the absences were anything other than genuine. A line manager is not expected to question the diagnosis and is not medically qualified to do so. A heavy handed approach is likely to instil feelings of resentment and would most likely be counter productive. Indeed, employees will respond more favourably if dealt with in a courteous manner and shown genuine concern. All Return to Work discussions should be held in private.

Work-related issues

Some situations may require a more in-depth conversation. One such situation is where the staff member tells you that there is a work-related issue affecting their attendance.

As a manager you have a responsibility to tackle these issues and to try to help and support staff – not only is it good business sense and good employee relations practice, but COPFS has a legal obligation to do so.

If you do not want to discuss with your line manager you might want to do so with someone else in the management chain. Alternatively you might want to talk to your HR advisor, who can offer you support in approaching your line manager if this would be appropriate.

Issues outside work

Issues outside work can and do affect our health and well-being. You should not ask staff about their personal or domestic circumstances, but someone may tell you that his or her attendance is being affected by a difficulty in their personal lives (e.g. the illness of a family member, domestic violence, housing or financial problems, etc).

If you are both comfortable doing so there is no reason why you cannot talk the issues over with the person, offer sympathy and support, and discuss whether anything can be done to help.

Managers are not expected or (usually) qualified to be welfare professionals or counsellors. Where a more substantial intervention is needed, your responsibility is to steer the person towards professional help, not to provide it yourself. Managers will need to take care to avoid insensitive and unnecessary questions.

In the event of intermittent, frequent short-term absence, which is causing concern, a more formal review will be appropriate – refer Section 10 Managing short term absence.

Keeping a record of the Return to Work Discussion

Even although the discussion is informal, the manager should record any points raised about the employee's most recent absence or their overall attendance record as a whole on the standard form Return to Work Discussion Record. The member of staff must be given the opportunity to review your minute and you should record any disagreements or further comments

Long Term (continuing) Absence

It is our aim to facilitate a return to work for all employees who are absent on a long-term basis. One of the key considerations is whether or not we can provide a phased or supported return to work. This should be possible in most cases and could include:

- Reintroducing the employee into the workplace on a phased basis – for example, initially for a short period to acquaint them with work practices.
- Providing practical support in the early stages of returning to work – for example, additional resources or guidance.

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The Occupational Health Service Provider will provide guidance on the terms of the phased return to work for the line manager, employee, staff welfare and HR Manager to design a return-to-work plan for the employee. It is very important that employees are fully involved in designing this programme and progress is monitored and the programme is reviewed throughout.

What can be done to help the employee return to work?

The HR Manager, in conjunction with the senior manager and line manager, should also at this stage examine and discuss, with the employee and their representative, any action which may be possible to enable the employee to return. HR should seek advice from the Occupational Health Service Provider and other appropriate organisations. For example, alternative work and/or adjustments to equipment could be considered.

According to the Health and Safety Executive, possible work adjustments include:

- Provide new or modify existing equipment and tools, including IT, modified keyboards etc,
- Modify workstations, furniture, movement patterns.
- Provide additional training for employees to do their job, for example, refresher courses.
- Modify instructions or reference manuals
- Modify work patterns or management systems and styles to reduce pressures and give the employee more control
- Arrange video conferences to reduce travel or if face-to-face meetings cause anxiety.
- Provide the employee with a buddy or mentor while they gain confidence back at work.
- Provide supervision.
- Reallocate work within the employee's team.
- Provide alternative work.

Before any employee returns from a long term absence, the line manager should consider what changes have taken place in the workplace since the employee's absence. For example, is the job the employee was doing before they left being undertaken by someone else or was the original cause of the employee's illness anything to do with their working environment or immediate colleagues?

Information on the possible actions to consider when assisting an employee's return to work is included in the flow chart on page 8 of the Attendance Management Toolkit.

Return to work on a phased basis (if appropriate)

Once all the measures that need to be taken to assist the employee's return to work have been identified, the next step is to prepare a return-to-work plan. The plan should balance the needs of the employee with the needs of the office and take into account any professional advice received. The plan should ensure that the re-establishment of working practices and the recovery process are properly balanced.

It is useful to include in a plan:

- The approximate date of the employee's return to work
- The time scale of the plan e.g. 1 week, 2 weeks etc. It should generally last 2-4 weeks.
- If the days/hours which are not being worked will be recorded as sick leave or as annual leave
- When the plan will be reviewed.

It is essential that the plan is properly understood, implemented and kept under close review. The last point is crucial, as this will allow the line manager, HR and the employee to decide whether the plan is delivering or whether it needs changing.

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It is standard practice for the days/hours which are not worked to be recorded as sick leave. This is known as a “part-time medical”. The line manager must record the actual hours worked each week and submit these records to the HR Advisor to ensure that accurate sickness absence records are maintained and that the individual’s salary is correct.

In some circumstances, an employee may chose to use their annual leave for this purpose i.e. instead of the days/hours which are not worked being recorded as sick leave. In this case, the HR advisor does not need to be kept informed of the hours worked as the employee’s annual leave sheet will be adjusted accordingly by their line manager.

The return to work plan can, and should, be amended if necessary.

The phased return to work template should be used. Examples of phased return to work plans can be obtained from Staff Welfare.

The initial period

On the day of the employee’s return following long-term absence the line manager should hold a return to work meeting with the employee, ensuring that medical certificates and sickness absence records are up-to-date. See Return to Work section for short term absence (page 19).

During the first few weeks of the employee’s return to work the manager should have regular informal meetings with the employee to make sure they are settling back into the workplace and to sort out any difficulties that may arise.

14. Probation

All employees, recruited through fair and open competition, undergo a probationary period of 12 months before confirmation, subject to a satisfactory probation period. Probationer’s are subject to the same high standards of attendance as other employees and in order to pass the probationary period they need to demonstrate that they can give regular and effective attendance.

The following trigger point applies to probationers and action should be considered when the trigger point is reached: 8 working days absence (pro-rata for part time staff).

Line managers must also seek advice from their HR Advisor at an early stage when dealing with sickness absence problems with Probationary employees. Attendance should be assessed at the 3, 6 and 9 month stage.

The line manager must bring any concerns about a probationer’s attendance record to their attention as soon as possible and inform them of the consequence of failing to improve. This may mean an extension to probation or termination of contract.

Line managers and HR will liaise in managing poor attendance during the probation period. HR will continue to be responsible for issuing any advisory letters.

If your probation is extended, your HR Advisor will advise you on the standard of attendance that is expected during the period of extension. For example, if your probation is extended for a further 6 months, your HR Advisor will normally consider taking action if your sick absences during this period add up to a total of 5 working days. If further action becomes necessary, your appointment could be terminated.

Further guidance can be found in the staff handbook – [Chapter 3.11](#)

15. People with disabilities

The Disability Discrimination Act 1995 imposes a duty on employers to make reasonable adjustments to enable a person with a disability to continue in post, such as specialist equipment, changes to duties, flexible working, part-time working etc.

The nature of some disabilities may mean that an employee needs to take more time off work than someone who does not have a disability. Consequently, when dealing with an employee who has a disability, it is essential that a line manager consults their HR Manager before taking action under this policy and procedure.

For some employees with disabilities, their disability may lead to increased levels of sickness absence. In all such cases, line managers must seek the advice of an HR Manager on appropriate action in respect of occupational health referrals and possible reasonable adjustments. Absence records should show clearly which occasions of sickness absence are disability-related. However, these will not necessarily be disregarded totally if action needs to be taken in respect of the individual's levels of absence.

Managers should be aware that there may be alternative solutions (reasonable adjustments) that they should consider when dealing with employees who have a disability as defined by the DDA. 'Reasonable adjustments' that could be considered in consultation with the employee could include:

- acknowledging that the individual might need more time off work than someone who does not have a disability
- being flexible about working hours - allowing employees to have different core working hours and to be away from the office for assessment, treatment or rehabilitation for short periods of time
- providing modified equipment
- making instructions and manuals more accessible

Managers **must** seek further advice from an HR Manager and the Occupational Health Service Provider. They should also refer to the Being Positive about Disability and Additional Needs section in the Staff Handbook under Staff Diversity.

16. Sickness absence during pregnancy

The Attendance Management Policy and Procedures should not be applied mechanically. For example, consideration should be given to the needs of particular groups of employees, including pregnant women. It is important that sickness absences relating directly to pregnancy should be identified separately for monitoring purposes, and for the purposes of this policy and procedure.

It may not initially be apparent that the absence is pregnancy-related. Pregnant women are encouraged to attend antenatal appointments and, in order to benefit from statutory maternity leave and pay, are required to notify COPFS of the pregnancy at least fifteen weeks before the baby is due. Full details about statutory and contractual maternity provision can be found in the staff handbook - [Chapter 4.03](#)

Medical and self-certificates should make it clear that the absence is pregnancy-related, as these absences should not count towards the limits for reduced sick pay or for 'inability to attend work on a regular basis' purposes. All other aspects of the management of sickness absence during pregnancy should be dealt with in accordance with the attendance management policy.

17. Terminal Illnesses

In cases of terminal illness the employee's circumstances will be considered in a compassionate and sensitive manner. A Staff Welfare Officer will be appointed as a designated point of contact for the employee and his/her nominated relative/partner. If requested, the Staff Welfare Officer will provide information on the options available regarding pension entitlement, death in service benefits, and benefits for partners and dependants where appropriate.

HR will refer cases of terminal illness to the Occupational Health Service Provider with the employee's permission. An HR Advisor will undertake appropriate management of the case in liaison with Occupational Health, Staff Welfare, the line manager, and the employee.

18. Infectious Diseases

Employees who have been in contact with infectious diseases (other than scarlet fever, measles, rubella, whooping cough, chicken pox or mumps) should consult their doctor about whether it is appropriate to attend work and keep their manager informed of the position.

Employees who have had any contact with rubella must tell their manager at the earliest opportunity as they could be working with a colleague who is in the first 16 weeks of pregnancy.

If there is a genuine belief that an employee is showing symptoms of or carrying an infectious disease, they will be asked to see their GP and then inform their line manager. COPFS reserves the right to ask the employee to stay away from work until such time as they are declared fit to return by their GP.

HIV/AIDS/Hepatitis B

Employees who are HIV positive and/or have AIDS or Hepatitis B are not required to inform their colleagues, line manager, HR or anyone else in the organisation. However COPFS encourages such employees to confide in their manager or their HR Advisor in order to gain the support available from the organisation. All such information will be treated with the strictest of confidence. If, for example, an employee confides in their immediate manager, that manager must not report the matter to higher management, unless they have the express permission of the employee.

If information made available to the Occupational Health Service Provider reveals that an employee is HIV positive and/or has AIDS or Hepatitis B, the information will not be communicated to COPFS without the permission of the individual.

19. Appeals

The Appeals Procedure should be used if employees wish to appeal against formal action taken within the procedures set out above. An appeal must be lodged within **10 working days** of the employee receiving written confirmation of the warning or notice of dismissal. The person nominated to consider appeals (the Appeals Manager) will have had no previous involvement in the decision making process.-

An employee can appeal against any decision made at any stage of the process.

[An appeal should be resolved before the effective date of dismissal.](#)

Every effort must be made to resolve any appeal before the effective date of dismissal (i.e. the date of expiry of the notice period). However, if the appeal process is not concluded at the expiry of the notice period, employment will be terminated and pay will cease. The appeal process will continue and if the appeal is subsequently upheld the employee will be reinstated in line with the

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recommendations of the Appeals Manager. The employee will receive back-pay to cover the period from the expiry of the notice to the date of reinstatement.

The appeal hearing will normally be held **within 10 working days** of receipt of the appeal. The Appeals Manager will, whenever possible, verbally inform the employee of the decision reached and confirm this decision in writing **no later than 5 working days** after the hearing.

Appeals against medical decisions

An employee also has the right of appeal against recommendations made by the Medical Advisor appointed by The Cabinet Office. An appeal may be made against either a proposal to medically retire the employee or a refusal to recommend retirement on health grounds.

What is the procedure for filing an appeal against refusal of ill health retirement?

- The employee must appeal to the Medical Advisor via their HR Manager within 3 months of the date when the employer notifies them in writing about the content in the medical retirement or refusal certificate;
- Employees can appeal with or without medical evidence in support of the appeal. However, failure to submit such evidence at this stage of the appeal means that it is unlikely that the case will progress;
- A senior physician will consider the appeal in the light of the medical evidence previously considered plus any additional reports provided by the employee and recommend whether the original assessment is supported or overturned. If the appeal is not supported and the employee has not been examined by the medical services advisor as part of the decision making process he or she will be offered an appointment, whenever practicable, to gather any additional information and to explain the reasons for the recommendation;
- If the employee is unfit to make the appeal personally then a relative, close friend, recognised Trade Union representative or workplace colleague may appeal on the employee's behalf during the allowed period.

The decision of the appeal manager will be final

Appeal against being medically retired

- The appeal, with supporting documented medical evidence, should normally be made via Human Resources to the medical services advisor appointed by The Cabinet Office before the employee's last day of service. Employees can appeal with or without medical evidence in support of the appeal. However, failure to submit such evidence at this stage of the appeal means that it is unlikely that the case will progress;
- A senior physician will consider the appeal in the light of the medical evidence previously considered plus any additional reports provided by the employee and recommend whether the original assessment is supported or overturned. If the appeal is not supported and the employee has not been examined by the Medical Advisor as part of the decision making process he or she will be offered an appointment, whenever practicable, to gather any additional information and to explain the reasons for the recommendation;
- If the employee is unfit to make the appeal personally then a relative, close friend, recognised Trade Union representative or workplace colleague may appeal on the employee's behalf during the allowed period;
- The appeal will not prevent Human Resources from continuing to undertake the necessary procedures to effect the medical retirement and both procedures will run in tandem;
- If the appeal process is not concluded before the effective date of retirement, employment will be terminated and pay will cease. Appropriate pension benefits will be put into payment with effect from the day following the employee's last day of service but benefit will have to be returned immediately if the appeal is successful;
- The decision of the appeal board will be final. Further information may be obtained from Human Resources.

20. Civil Service Appeal Board

On dismissal some employees have a further right of appeal to the Civil Service Appeal Board. Qualifying conditions include continuous employment in the Civil Service for at least 1 year. An employee considering exercising this option may seek advice and further information from their HR Manager and/ or their Trade Union representative.

Eligibility for Compensation

On dismissal some employees have a further right of appeal to the Civil Service Appeal Board. Qualifying conditions include continuous employment in the Civil Service for at least 1 year. An employee considering exercising this option may seek advice and further information from their HR Manager and/ or their Trade Union representative.

21. Eligibility for Compensation

Employees who are dismissed on the grounds of excessive absence may be eligible for compensation under the Rules of the Principal Civil Service Pension Scheme (PCSPS). Details may be obtained from Human Resources.

Attendance Management Record form



Crown Office and Procurator Fiscal Service

Trigger points – 10 days cumulative
or 4 occasions in a rolling 12
month period
(Please see guidance for part-time)

ATTENDANCE MANAGEMENT RECORD – 2009/10

NAME				GRADE	DEPARTMENT		
ABSENCE START DATE	ABSENCE END DATE	WORKING DAYS ABSENT	CUMULATIVE TOTAL IN ROLLING 12 MONTH PERIOD	OCCURRENCES IN ROLLING 12 MONTHS e.g. 1 st , 2 nd	SELF CERT. MEDICAL CERT	REASON	RETURN TO WORK DISCUSSION DATE

If trigger points are breached within a rolling 12 month period from the date of first absence please start to record absence on sheet below to monitor any further absence.

Occupational Health

Information regarding the timing of a referral to Occupational Health is detailed in the relevant section of this guidance (i.e. managing short-term absence, managing long term absence). However this section gives further details on the services delivered by the Occupational Health Provider and the procedure regarding referrals.

The Occupational Health Service Provider is contracted by COPFS to provide occupational medical advice. The Service can seek medical advice via the Occupational Health Provider on matters relating to an employee's health at any time.

They can advise on:

- whether the Disability Discrimination Act (DDA) 1995 applies
- any reasonable adjustments (if the DDA applies) – these adjustments are not limited to changing the physical environment and may also include changes to duties, working hours etc.
- the state of the employee's health and any underlying causes;
- whether the employee is likely to be able to return to work and when;
- whether the employee is likely to be able to meet the standard of attendance required in the future;
- whether a phased return to work would be beneficial;
- whether medical treatment should be considered and at what stage;
- whether ill health retirement is likely to be an option.

Advice must be sought from HR regarding contacting the Occupational Health Service Provider where an employee's sickness is causing concern and/or is likely to prevent a return to work in the near future and/or where ill health retirement may be considered.

When requested by the line manager, the HR Advisor will arrange for the employee to be referred so that the current medical position can be established. Prior to making this referral the HR Advisor will contact the employee's manager to request that they provide any additional information which they feel is relevant to the referral.

The HR advisor will advise the employee that a referral to Occupational Health is being made and that the employee can expect to hear from the provider regarding an appointment.

Ordinarily, the provider will request that the employee attend a consultation with an Occupational Health specialist. In addition, the provider may seek permission from the employee to request a medical report from the employee's own doctor and/or consultant. However, in some circumstances, it may be more appropriate for only a medical report from the employee's doctor or consultant to be sought.

The Occupational Health provider will then provide a written report concerning the employee's state of health to HR. Referrals can be made at any time and no decision will be made without the most up to date medical advice being taken into account.

The HR Advisor will then share this report with the employee's line manager, drawing particular attention to any "reasonable adjustments" recommended or any other action required by the manager. A copy of the report may also be forwarded to Staff Welfare. Note – the employee is not, as a matter of course, issued with a copy of the report. However, this will be made available on request.

The Occupational Health Service provider also conducts workplace assessments – to assess an employee's working environment and working practices for suitability. Following a workplace assessment a written report is sent to the HR Advisor. This report is shared with the employee's line manager and the appropriate Health and Safety Manager (if any specialised equipment is required).