



Supporting Attendance  
Policy  
January 2022

## Table of Contents

Part 1 – Policy Statements .....	4
Policy Statement .....	4
Scope.....	4
Policy Principles .....	4
Part 2 – General .....	6
Supporting Wellbeing and Attendance.....	6
Notifying Absence .....	6
Certification of Absence.....	6
Return to Work Conversations .....	6
Certification during phased return to work .....	7
Maintaining Contact .....	7
Secondary roles (paid or unpaid).....	7
Monitoring Sickness Absence Levels.....	8
Sickness and Pregnancy .....	8
Sickness and Disability .....	8
Sickness and Annual Leave .....	9
Occupational Health (OH) .....	9
Payment for Sickness Absence.....	10
Part 3 – Short Term Sickness Absence .....	12
Trigger points .....	12
Formal Short Term Sickness Process.....	12
Part 4 – Long Term Sickness Absence .....	14
Critical or Terminal Illness.....	15
Enhanced Sickness Absence Pay .....	16
Mutually Agreed Termination of Contract.....	16
Part 5 - Right of Appeal Against Final Formal Advice and Dismissal .....	17
Part 6 – Appendices .....	18
Appendix 1 .....	18
Summary of Responsibilities.....	18
Managers are expected to:.....	18
Employees are expected to:.....	18
Terminology used in this Policy .....	20
Enhancement of contractual half or full pay sick pay .....	22
Work Related Injury Allowance Process .....	28

we put our **customers first** - we are **positive** about **working with others** - we **value** our **employees**

we put our **customers first** - we are **positive** about **working with others** - we **value** our **employees**

## Part 1 – Policy Statements

### Policy Statement

At Tewkesbury Borough Council ('the council') we value our staff and are proud of the support we offer to staff to maintain and improve their health and wellbeing, and the range of options we offer to support and manage colleagues during periods of ill health. Our [Wellbeing Zone on the staff intranet](#) acts a point of access for much of this support.

This policy sets out the framework for supporting attendance and managing absence caused by ill health in order that the council is able to balance using publicly funded resources responsibly and minimising the impact of working days lost, alongside managing those experiencing ill health with compassion and fairness.

The management of absence will be achieved through:

- Promoting the health, safety and well-being of all employees, including supporting risk assessments to identify and manage hazards impacting on health in the workplace.
- Monitoring levels of sickness absence for individuals, sections, and the council.
- Implementing procedures to support and manage staff absence, whilst dealing with unexplained and/or high levels of sickness absence,
- Providing clear guidelines and standards to both Managers and staff which can be consistently applied.

### Scope

This policy covers absence caused by ill health. The organisation has other policies in place to deal with time off work for issues such as medical appointments, maternity leave etc.

This policy is formulated on the assumption that reported sickness absence is genuine. Only if there is a clear indication that the policy may be being abused will use of the Disciplinary Policy apply.

This policy applies to employees only, (except for those on probation who will be managed through the Probation Policy), and does not apply to members, contractors, consultants, agency workers or any self-employed individuals working for the council.

This policy and its associated guidance and toolkit are non-contractual.

### Policy Principles

The following principles apply to the council's policy and procedures. They consistently support attendance and the effective management of sickness absence:

we put our **customers first** - we are **positive** about **working with others** - we **value** our **employees**

- We accept that everyone experiences ill health from time to time. This policy supports management of the impact of health related absence and that absence's impact on the employee's ability to fulfil their contract with the council. The focus of this policy is to support attendance in a positive and preventative way.
- Sickness absence will be treated automatically as genuine ill health unless there is a clear indication to the contrary. Nevertheless, however genuine the reason for absence, if attendance levels fall below the levels set in this policy this will have an impact on the effective running of the service and therefore needs to be managed in line with this policy.
- If there is a clear indication that this policy is being abused, the matter may be dealt with under the Disciplinary Policy following consultation with HR.
- The council invests in the wellbeing of its staff and will operate safe systems in order to reduce as far as possible the risk of work being a contributory factor to absence, but if an employee considers that their absence may be wholly due to their work with us it can be considered under the processes set out in Appendix 4.
- Sickness absence will be addressed consistently and with respect for confidentiality and in accordance with the council's Equalities and Diversity Policy, Health and Safety Policy, Capability Procedure, Disciplinary Procedure and, more broadly, the General Data Protection Regulation and Access to Medical Reports Acts. These policies are available on the intranet or from the Human Resources Section ("HR").
- Employees will be supported consistently and the sickness absence procedures will be fairly applied across the council
- Managers will be sensitive and supportive to those experiencing the effects of ill health
- Where the council is aware that an individual has an underlying medical condition or disability, as defined by the Equality Act 2010, this will be taken into account when applying this policy and its procedures. Every effort must be made to support staff in these circumstances and advice should therefore be sought from HR and/or Occupational Health
- Any information relating to concerns about an employee's health and action taken should be disclosed only to those who need to know in order to support the management of the case. Any breaches of confidentiality may be dealt with via the disciplinary procedure.
- Open communication between Managers and employees will be encouraged and promoted
- The Supporting Attendance policy and guidance will be monitored and reviewed to ensure that they continue to meet the council's aims and comply with these principles. Staff and trade union representatives will be encouraged to be involved in this process

we put our **customers first** - we are **positive** about **working with others** - we **value** our **employees**

## **Part 2 – General**

### **Supporting Wellbeing and Attendance**

Tewkesbury Borough Council values our employees. We recognise the holistic nature of wellbeing and how we can support employee health and wellbeing. We are proud to offer a wide range of activities to support this agenda including: health-related training, publicising health campaigns, offering discounted gym membership and free counselling, free flu vaccinations and much more. We seek to support and train managers support employees to raise health related issues early to so that we can support their wellbeing and avoid periods of ill health where this is possible. However, we also recognise that there may be times where health related absence will occur and this policy and the associated guidance sets out how this will be managed by the council.

### **Notifying Absence**

Employees are required to telephone their manager as soon as they know that they are not fit to attend work on their first day of absence. They should keep their manager informed each day of their progress in the case of ongoing absence (unless other arrangements are agreed with the manager due to the nature of the illness).

From the 8<sup>th</sup> consecutive day of absence (regardless if these have been working days) a GP fit note must be presented by the employee and arrangements for future contact between the employee and their manager should be established along with any additional supportive measures such as OH involvement.

Employees are responsible for timely communication and presentation of fit notes. Managers are responsible for responding appropriately sensitively to colleagues reporting their sickness absence, and recording the absence promptly and following up under this policy.

Further information regarding notification of absence is available within the Absence Guide Section 2.

### **Certification of Absence**

Every absence has to be certified, either with a self-certification, or for absences over 7 days, with a fit note, to ensure prompt and correct payment of contractual statutory sick pay and to ensure that accurate records are maintained and that sick pay is not lost.

It is the employee's responsibility to submit certification promptly and the manager's responsibility to record it, liaise with HR and contact the employee should any certification be missing.

Where there is continuing sickness absence the employee must submit to the Manager continuous fit notes to cover the whole period of absence with no gaps.

If an employee returns to work on an agreed phased return the whole period of the phased return, this also must be covered by a fit note or notes.

Misleading or false statements may be dealt with under the council's disciplinary procedure.

### **Return to Work Conversations**

we put our **customers first** - we are **positive** about **working with others** - we **value** our **employees**

Upon return to work following sickness absence the Manager should arrange to meet privately with the employee, ideally during the first day back of the employee's return to work to carry out a return-to-work conversation, the Manager must record this and complete the Return to Work Conversation Form. If the absence has been less than seven consecutive days, no fit note is required and this completes the self-certification process.

Return to Work conversations are an important informal part of the management of absence. They should be open conversations which help managers and employees share information which if appropriately actioned in some cases may then help to avoid further absence.

Further information about how to conduct Return to Work Conversations is available in the Absence Management Guidance document.

### **Certification during phased return to work**

A phased return to work is a time limited option (no more than 4 – 6 weeks) to support colleagues returning to work after a period of long term sickness.

If a phased return is agreed and supported by a GP fit note for its duration, any unworked hours during the phased return will be recorded as sick pay and paid as such, if any entitlement remains. If preferred by the employee some of the phased return hours could be redesignated as annual leave, but this should be balanced with the need for the employee to take a proper break for holiday. It is usual for advice to be sought from Occupational Health regarding a phased return and any other adjustments which might be required prior to a return to work.

Employees are responsible for obtaining timely fit notes from their GP. The Manager must ensure that appropriate and timely fit notes are received from the employee and that certificates are forwarded promptly to HR to ensure the employee's on-going absence is recorded and paid correctly.

More detail about managing phased returns is available in the Supporting Attendance Guidance document.

### **Maintaining Contact**

When an employee is absent from work due to sickness it is important that contact is maintained between the manager and employee, so that the employee is not left to feel isolated, vulnerable or out of touch and so that the manager is aware of the current situation to enable them to make provision for the service. The frequency and method of contact should be agreed between the manager and employee. Should there be any issues with regular contact, HR should be consulted.

Employees are required to provide contact details so that appropriate and regular contact can be maintained and they must expect that such contact will be made during their absence. If acceptable to both parties contact may be made outside of the employee's working hours, but it is expected that during the employee's normal working hours they will be available to attend appointments at the council's request (ie with their manager, or Occupational Health).

For more detail about keeping in touch consult Section 3 of the Supporting Attendance Guide

### **Secondary roles (paid or unpaid)**

we put our **customers first** - we are **positive** about **working with others** - we **value** our **employees**

Employees who have second jobs (including those which are unpaid, such as volunteering roles) may be permitted to continue in their second job with the agreement of their Manager and HR, providing that they are not undertaking work that is inconsistent with their stated reason for absence. This work should not prolong or worsen their absence or impede their recovery. Employees are required to discuss their individual circumstances with their Manager and/or HR to agree the appropriateness of their secondary employment in the context of their sickness. If an abuse of the sickness absence scheme is suspected the matter may be dealt with under the Disciplinary Policy.

### **Monitoring Sickness Absence Levels**

Managers must accurately record all sickness absences on the council's HR System as soon as it is reported.

The HR & OD team will provide corporate sickness absence level statistics in order to monitor the success of the Supporting Attendance Policy and identify causes for concern. These statistics will not disclose confidential information on individual cases.

Each Manager is required to report and manage sickness absence within their section and take further action as necessary when the trigger points defined in Section 6 are reached and/or where there are concerns about an employee's absence levels.

All absence reporting will be done in accordance with the relevant General Data Protection Regulation and the Council's Data Protection policy and will protect individual anonymity.

### **Sickness and Pregnancy**

Pregnancy-related sickness is defined as any illness that occurs specifically as a result of a woman being pregnant, including postnatal depression. All pregnancy-related sickness absence will be recorded in the normal manner and a return to work interview should be carried out following any episode of pregnancy related sickness absence and support will be offered wherever possible, but will not be counted in relation to triggers. All other sickness absence during pregnancy will be dealt with under this policy. Where an employee is to commence maternity leave during any part of the formal process, the review period will be suspended. The employee will be given time to return to their role following maternity leave before the review period re-commences, this period should be up to 4 weeks.

If an employee is absent from work due to a pregnancy related illness at any time from the beginning of the 4<sup>th</sup> week before the expected date of confinement, this will automatically start the Ordinary Maternity Leave period from the day following their first day of absence.

Where an employee is going through IVF fertility treatment, we recognise this can be a difficult and stressful time. An employee does not need to inform us that they are going through IVF treatment, but where they do so, then a sensitive approach will be taken and wherever possible requests for time off in order to participate in fertility procedures will be accommodated. This should be requested as annual leave, unpaid leave or accommodated within the flexitime scheme. It should not be recorded as sickness unless the employee is unwell. Should the employee become unwell, this should be recorded as sickness, supported by medical or self-certifications as appropriate and managed under this policy. Once ova have been fertilised and implanted the employee will be deemed to be pregnant.

### **Sickness and Disability**

The council recognises that many of our staff may live with a disability. We value all of our staff and we recognise our duty under the Equality Act to make reasonable adjustments for those with a disability. We will aim to

we put our **customers first** - we are **positive** about **working with others** - we **value** our **employees**

support people at work so that absence does not become an issue, but if there is an attendance issue which may relate to a disability it will be managed via this policy and Occupational Health advice will always be sought. The council will consider adjustments and wherever reasonable, will put these in place.

### **Sickness and Annual Leave**

Employees who become ill during the course of annual leave are eligible to reclaim those days affected as long as they have followed the proper reporting procedures from the first day that they wish to reclaim, and provide a GP certificate (or documentation deemed equivalent by HR– eg letter from overseas hospital etc) to cover this absence from the first date which they would like to reclaim.

Where an employee is absent owing to sickness on a bank holiday they will receive sick pay as normal, but no substitute leave days will be granted for that bank holiday so the hours that would normally have been worked will still need to be deducted from their leave total.

Employees who are absent owing to sickness will continue to accrue annual leave entitlement during the current leave year accruing occupational paid leave at their normal rate.

Employee are able to take annual leave during sickness absence. If an employee wishes to take annual leave during their period of sickness absence they should request this in the normal way from their manager. If approved, the employee will be recorded as taking annual leave for the period approved. The employee will not be required to be available to attend meetings with the council during the period of annual leave.

If there is any question that a planned holiday may be detrimental to the recovery of the employee, the employee may need to provide confirmation from their GP or Occupational Health that taking this annual leave will not be detrimental to their recovery. If this is not confirmed, permission for the annual leave may be refused.

If an employee is not able to take all of their annual leave entitlement because of a period of long-term sickness the employee will be entitled to carry over their remaining accrued annual leave in to the next leave year. If it is not possible to take any annual leave by the end of the leave year the outstanding statutory annual leave will be carried over to the next leave year. If it is deemed that there is sufficient time for the accrued leave to be taken in the current leave year it is expected that the leave should be taken before the end of the leave year and therefore the ability to carry over any remaining leave will not be an automatic right (excluding the 5 days carry over allowed to all staff).

If an employee is on long-term sickness absence and does not return to employment their accrued untaken annual leave will be paid in their final salary

### **Occupational Health (OH)**

The role of the Occupational Health service is to provide advice and guidance to the council and its employees on an employee's ill health or their ability to undertake their duties and what measures can be put in place to support the employee, where appropriate. The following points should be noted:

It is a contractual requirement that employees co-operate fully with the council when a medical referral to Occupational Health is necessary. Referrals will normally be recommended by the council, but if an employee has not been referred but believes a referral would be beneficial, they should contact their manager initially, and if that is not appropriate in the circumstances, they can contact HR directly.

All referrals should be made via HR.

we put our **customers first** - we are **positive** about **working with others** - we **value** our **employees**

A referral can be made to Occupational Health at any time there is a health related concern, whether the employee is currently attending work or not, but will be expected when an employee has been, or is expected to be absent for 28 days. If an employee is signed off with stress, depression or anxiety an immediate referral is expected from day one.

HR will complete the Referral Form in consultation with the employee and their manager. The reason for a referral to Occupational Health could be to assess for example:

- what, if any, steps we might be able to take to facilitate their return to work and/or to support them on their return, and
- if there are any specific underlying health reasons for their frequent or long-term absences from work
- their current state of health in relation to their ability to perform their job
- the likelihood of them being able to resume working in the foreseeable future
- what action(s) might now reasonably be open to the council regarding their ongoing employment with the organisation.

Employees have statutory rights under the Access to Medical Reports Act and this will be explained when a referral is made. The council would not expect employees to waive their statutory rights around access to medical records. Following an appointment, the Occupational Health Practitioner will issue a draft medical report to an employee before it is released to the council. On receipt of the draft medical report the employee has 7 consecutive calendar days in which to agree or amend the report.

Where the employee does not give their consent to the Occupational Health seeking a report from their doctor and/or the employee unreasonably refuses to meet with Occupational Health, the implications of this are that any decisions regarding the management of the employee's future employment with the council can only be based on the information available. The importance of this therefore should be discussed with the employee and confirmed in writing.

In the event that an employee does not attend an arranged appointment with the Occupational Health without prior cancellation and/or discussion with HR and without a good reason for non-attendance, the paragraph above will apply. The council is liable for a cancellation fee for non-attendance, or may have procured cover, so the employee would need to be mindful of the costs incurred due to their unauthorised attendance.

### **Payment for Sickness Absence**

Contractual sick pay will be made in the normal monthly salary and will be subject to tax, national insurance and other authorised deductions in the usual way. Adjustments to salary will normally be made one month in arrears.

Employees are entitled to receive sick pay for the following periods:

- During 1st year of service 1 month's full pay and, after completing 4 months' service, 2 months' half pay
- During 2nd year of service 2 months' full pay and 2 months' half pay
- During 3rd year of service 4 months' full pay and 4 months' half pay
- During 4th and 5th year of service 5 months' full pay and 5 months' half pay
- After 5 years' service 6 months' full pay and 6 months' half pay

The maximum payment receivable is normal full salary (subject to length of service/eligibility). This will include any entitlement to Statutory Sick Pay (SSP) with the council element adjusted accordingly.

Payment for sickness absence is not an automatic entitlement and the council may withhold or reclaim contractual sick pay, and if the circumstances warrant it, also Statutory Sick Pay, where any of the reporting procedures outlined in the Supporting Attendance Policy have not been met, unreasonable refusal to engage in

we put our **customers first** - we are **positive** about **working with others** - we **value** our **employees**

Occupational Health processes, or in cases of misconduct where the individual is found not to have genuinely been sick. Additionally, sick pay may not be paid if the absence is attributable to deliberate conduct prejudicial to recovery or the employee's own misconduct. It may also be withheld or reclaimed if the absence is due to participation in professional sport or due to an injury whilst working in their own time for private gain. Appeal against suspension or reclamation of sick pay would be to the manager more senior than the manager who made the decision to suspend pay and should be in line with the process for appeals against dismissal.

Where the absence is due to a third party (eg car accident) and a personal injury payout is made, the employee will be required to repay the contractual sick pay which had been paid to them in respect of this absence.

Where there is medical evidence that an employee is no longer well enough to fulfil the requirements of their job and all suitable alternative employment opportunities have been exhausted, the council reserves the right to terminate employment before the expiry of contractual sick pay (as described in paragraph 8.12), in accordance with the procedure for dealing with ill health.

An employee returning to work on a phased return will continue to receive occupational and/ statutory sick pay until they can work their full contractual hours. If their entitlement to occupational sick pay ceases they will only receive payment for the hours worked and any entitlement to SSP.

Where an employee has several periods of sickness absence, the sick pay entitlement is calculated by deducting the total periods of paid absence in the 12 months immediately preceding the first day of the absence from the employee's overall entitlement.

Contractual sick pay will not be paid for cosmetic surgery unless it is deemed necessary on medical grounds by Occupational Health or a doctor, or otherwise colleagues are permitted to request annual or unpaid leave. Sickness absence due to gender reassignment procedures are not considered to be cosmetic surgery and will attract normal contractual sick pay and will be managed under this policy.

### **Part 3 – Short Term Sickness Absence**

It is accepted that everyone may experience sickness from time to time. This section of the policy sets out how short term sickness absence (ie any absence of less than 28 days) will be managed. The emphasis of the process will be on identifying issues early and supporting employees via return to work conversations, but where attendance issues do not resolve, this policy sets out how they will be managed.

The council will support employees to return to work when they are well enough to do so and managers will hold return to work conversations with returnees to establish how they are feeling now and whether there is any need for further support and action.

Consult Section 5 of the Absence Management Guide for information on return to work conversations.

Should absence relate to stress, anxiety and/or depression, this will trigger an automatic referral to Occupational Health from Day 1 of the absence. Managers should get HR advice in order to progress this.

#### ***Trigger points***

Where an individual's absence level meets one of the following trigger points, the Manager will arrange an Initial Sickness Absence Meeting to review the absence and support with the employee:

- Three or more instances of sickness absence in any 12 month rolling period
- Ten or more days' sickness absence within any 12-month rolling period.
- Any other recurring recognisable patterns, such as frequent absenteeism on a particular day of the week e.g., Monday and Friday absences, absence preceding or following a Bank Holiday or on a day where a request for annual leave has not been authorised, or following a shift on secondary employment.

The trigger points support consistency but are for guidance only and a meeting should be organised wherever there are genuine concerns about an employee's absence levels. If the Manager is unsure they should seek advice from HR prior to initiating the Initial Sickness Absence Meeting.

#### ***Formal Short Term Sickness Process***

The council will allow employees to be accompanied at meetings by a trade union representative, or a colleague throughout the formal Short Term Sickness Process.

The Short Term Sickness Process will consist of an Initial Sickness Absence Meeting and will progress to a Second Sickness Absence Meeting and then a Short Term Sickness Case Review Meeting if needed. It may be that as part of the meeting, the manager decides to extend a review period and therefore it may be that there may be two or more meetings of the same type of meeting held at different times. The intention of the policy is consider the absence with all of the information available and to support the employee to improve attendance to the point where it is no longer an issue for the organisation; therefore an option at all three of these meetings will be that no further action is required if it is deemed that attendance has reached required levels.

Each situation will differ and therefore this policy is not prescriptive on the time period. However, there should be a minimum period of one calendar month between each formal stage of the Absence Management procedures and in most cases of short-term absence it is likely that the target will be set for a three-month period, to enable the Manager to assess the situation fully. In all cases, HR will provide advice regarding the review period. If absence levels are significantly higher than agreed for targets after a month, it may be

we put our **customers first** - we are **positive** about **working with others** - we **value** our **employees**

appropriate to progress to the next meeting before the review period has elapsed. This should always be discussed with HR.

The employee will formally be invited in writing to each of the meetings to ensure that they are aware of the purpose of the meeting and the possible outcomes. Template letters are available in the Supporting Attendance Toolkit.

The Initial and Second Sickness Absence Meetings can be chaired by the relevant Operational Manager (or equivalent), supported by HR. If the Operational Manager is not the manager who has been holding return to work conversations, then that manager may also attend the formal meetings in order to provide context and information openly regarding discussions and actions to date.

At each meeting the agenda will include

- discussing with the employee the absence record,
- exploring the reasons for absence,
- having regard for protected characteristics in the Equality Act,
- identifying areas for support,
- reviewing/updating any risk assessments and any adjustments,
- setting targets for improvement (and at the Second Sickness Absence meeting, advise if a final formal advice will be given.
- clarifying what further action may be taken if improvement targets are not met.

At the Second Sickness Absence Meeting if absence levels have not met expected targets, a final formal advice in respect of absence will normally be given. Only at the Short Term Sickness Case Review Meeting will termination of the employee's contract due to capability be formally considered.

If, following the end of the review period there has been no absence, the manager may confirm the end of the process with the employee and send them a letter to confirm this.

A template letter is available within the Supporting Attendance Toolkit.

More detail on holding Short Term Sickness formal meetings is in the Supporting Attendance Guide.

The Short Term Sickness Case Review Meeting should be chaired by a manager who is more senior than the manager who oversaw the Initial and Second Sickness Absence Meetings (usually a Head of Service or equivalent) supported by an alternative member of HR wherever possible. A short report regarding the absence to date should be put together by the employee's Operational Manager (or equivalent) for all parties to consider and this should be distributed with the letter of invitation to the Short Term Sickness Case Review Meeting. A possible outcome of the Short Term Sickness Case Review Meeting is termination of the employee's contract due to capability – ill health.

Template letters and reports are available in the Absence Management Toolkit.

Meeting outlines and more detail on the procedure for managing short term sickness are in the Supporting Attendance Guide.

we put our **customers first** - we are **positive** about **working with others** - we **value** our **employees**

## Part 4 – Long Term Sickness Absence

Absences over 28 days' duration are considered long-term. The absence may be planned in cases of surgery or may be unexpected. HR support should be gained from day 28 if an HR advisor is not already supporting the case.

The Manager should maintain contact with the employee either by telephone or by meeting with the employee on a regular basis at their home or neutral place to keep up to date with progress, identify areas for support and determine whether any other actions should be taken. A member of HR may also attend the meeting if appropriate. Although not a formal meeting the council will allow a colleague or trade union representative to attend these meetings if the employee wishes to provide additional support.

If acceptable to both parties contact may be made outside of the employee's working hours, but it is expected that during the employee's normal working hours they will be available to attend appointments at the council's request (ie with their manager, or Occupational Health).

If it is anticipated at the start of the absence that it may continue for more than the 28 day trigger point, HR should seek advice from Occupational Health, in accordance with the process for referral. This is a guide only and depending on the circumstances an Occupational Health referral may be earlier or later than this trigger. The purpose of gaining Occupational Health advice will be to support the organisation and the employee in understanding the likely duration of the absence, whether the illness is a disability protected by the Equality Act and whether any steps can be taken to help the employee to return to work. Occupational health advice may be sought at any time, but will usually be sought to support a return to work after a period of long term sickness.

Depending upon the advice received from Occupational Health, one or more of the following actions may be taken:

- A review period should be set, with further advice obtained from Occupational Health.
- Reasonable adjustments such as changes to the workload, work practices or work pattern may be identified, implemented and reviewed.
- Whether it is likely the ill health retirement might be an appropriate option
- Redeployment options may be pursued
- Consideration may be given to a temporary or permanent change of contract if the individual needs can be accommodated.

Any actions being contemplated will be discussed and agreement sought with the employee and their representative, if applicable, before any formal decisions are made.

An employee returning to work on an agreed period of phased return will be paid normal pay for the hours that they actually work; and statutory and/or occupational sick pay will be payable for the remaining contracted hours. The total amount paid cannot exceed normal pay. Arrangements for a phased return to work and payment during the phased return will be kept under regular review in consultation with the employee, their representative where agreed, HR and with advice from Occupational Health.

Each case of absence will be looked at individually, but as a general guide, a phased return should not normally exceed four to six weeks (depending on the nature of the illness and the role). If it becomes apparent that more than this is required then the Manager should discuss the situation with HR, who will support the seeking of advice from Occupational Health; one option may be managing the absence through the capability procedure. The phased return is with a view to returning to full hours and duties and so should not be prolonged more than necessary as the purpose is to support the employee back to work.

we put our **customers first** - we are **positive** about **working with others** - we **value** our **employees**

An employee has the option of taking any accrued annual leave following the four-week phased return period if they should wish to continue working on reduced hours and/or changed working pattern.

If, having returned from a period of long term sickness, an employee's absence hits a trigger in the 12 months following their return (including where the employee commences another period of long term absence), the Short Term Sickness Process will commence at the Second Sickness Absence Meeting rather than at the Initial stage.

If after all alternative options have been considered and no solution found, then it may be necessary to consider the employee's continuing employment.

If all alternative options have been considered and no solution found, the employee will be invited to a formal Long Term Sickness Case Review Meeting. The timing of this meeting will depend upon the advice from Occupational Health about the likelihood of a return to work in the reasonably foreseeable future and the circumstances of the case itself, but the council would usually arrange a formal Long Term Sickness Review Meeting to align with nil pay, or where Occupational Health have advised that they are unlikely to be able to return to work in a reasonable timeframe. Where there is medical evidence that an employee is no longer well enough to fulfil the requirements of their job and all suitable alternative employment opportunities have been exhausted, the council reserves the right to terminate employment before the expiry of contractual sick pay at a formal Long Term Sickness Review Meeting.

The chair at the Case Review Hearing will be an Operations Manager or more senior (whoever is more senior to the manager who has been managing the employee's absence to date). They will be accompanied by a Representative from HR.

An employee may be represented by a trade union representative or accompanied by a colleague.

The employee will be given at least 7 consecutive calendar days written notice of the intention to hold a Case Review Hearing and they will also receive a report, written by their manager detailing the current situation and absence history for consideration at the formal Long Term Sickness Review Meeting.

A letter confirming the outcome of the formal Long Term Sickness Review Meeting will be sent to the employee within 7 calendar days of the meeting (unless otherwise agreed between the parties).

If a decision is made to terminate the employee's contract on the grounds of capability – ill health at the formal Long Term Sickness Review Meeting then the right of appeal will also apply. Appeals must be submitted within 14 calendar days of the date of the letter confirming the outcome of the Long Term Sickness Review Meeting.

Template letters and reports are available in the Absence Management Toolkit.

Meeting outlines and more detail on the procedure for managing long term sickness are in the Absence Management Guide.

### **Critical or Terminal Illness**

In sad circumstances where an employee is diagnosed with a critical or terminal illness a sensitive approach will be taken at all times and the long-term absence procedure will be applied.

The council offers an independent counselling service should an employee feel that they need additional assistance during a critical or terminal illness. Information about counselling and how to access it is available on the [Wellbeing Zone of the intranet](#).

we put our **customers first** - we are **positive** about **working with others** - we **value** our **employees**

If an employee wishes and is able to carry on working during their treatment, then reasonable adjustments such as flexible working options should be explored and accommodate where it is practically possible.

The employees pay and benefits will be maintained in line with the Supporting Attendance policy and entitlements under their contract of employment.

Should an employee be unable to return to work a case review hearing may be held and consideration to allowing a family member to attend would be given. Support from Occupational Health, HR, the employee's doctor and/or Manager may indicate the option to consider ill health retirement.

### **Enhanced Sickness Absence Pay**

In limited circumstances, where eligible employees are due to reduce to half or nil pay sick pay, the Corporate Leadership Team may authorise an extension to the contractual sick pay entitlements. Eligibility for applications for this enhancement is limited to situations set out in Appendix 3. Authorisation is at the Corporate Leadership Team's discretion and is not a contractual entitlement.

### **Mutually Agreed Termination of Contract**

On occasion it may be recognised by all parties that a return to employment will not be possible or the employee does not have the ability to sustain an acceptable level of attendance. In these circumstances it is possible to come to a mutual agreement whereby an employee's employment with the council is ended without the need for the formal process.

Where the employee shares the manager's view that all alternative options have been explored, the line manager, a HR representative, the employee and their trade union representative/supporting colleague should meet to discuss cessation of employment. The decision to terminate employment will then be confirmed in writing to the employee. The employee will still automatically be given the right of appeal against the final decision.

The employee will be given notice by the council that their employment is to be ended. Notice will be based on the contractual notice the council is required to give the employee. Any notice pay due will be paid in lieu.

Although a meeting to mutually agree a termination of contract may be held with a less senior manager, any decision to terminate employment through mutual agreement must be approved by the relevant senior manager (at least Operational Manager level or equivalent) prior to the decision being agreed by all parties.

## **Part 5 - Right of Appeal Against Final Formal Advice and Dismissal**

Where decisions are made to terminate employment on the grounds of ill health, or where a final formal advice is given, the employee has the right of appeal.

In order to exercise this right, the employee must write to the HR & OD Manager within 14 consecutive calendar days of receipt of the written notice of termination of employment or final formal advice. In their letter, the employee must state their grounds of appeal.

Appeals made by Chief Officers will be made in writing to the Monitoring Officer for the Appeal to be considered by the Employee Appeals Committee.

The council will arrange for the appeal to be held as soon as possible following receipt of the employee's letter of appeal.

A trade union representative or other colleague may accompany the employee at the appeal hearing.

The Appeal Panel will not be made up with any manager involved in any previous investigation or decision.

A representative from HR will support and advise the Appeal Hearing and, where appropriate, will be a different HR representative than previously involved. Where it is not practicable to have an alternative HR representative, they will advise on process and provide technical advice to the Chair.

During the appeal hearing, both the council and the employee will have the opportunity to state their case and provide any documentary evidence.

The Chair of the Appeal Hearing will communicate their decision in writing, within 7 consecutive calendar days of holding the appeal.

The decision of the Chair (or Employee Appeals Committee in the case of a Chief Officer) is final.

## Part 6 – Appendices

### Appendix 1

#### Summary of Responsibilities

Managers are expected to:

- Support their employee's health, safety and well-being
- Have due regard for the Equality Act and provisions
- Apply a fair, consistent and supportive approach to all employees at all times
- Ensure that absence is promptly recorded on the HR System and reported in line with the Supporting Attendance Policy.
- Ensure that medical certificates are obtained where required.
- Ensure that where an employee believes that the reason for their absence is as a result of an accident or incident at work (including work related stress), an IR1 Accident/Incident Report form is completed and submitted to the Environmental Health team with copies to the appropriate officers as indicated on the form. Appendix 4 contains more information.
- Ensure that absence records are maintained in a confidential manner.
- Ensure that information regarding an employee's sickness is treated in line with the General Data Protection Regulation and the Council's Data Protection policy.
- Maintain regular contact with employee's during periods of absence. This may be by letter, telephone or a personal home or face to face visit.
- Monitor sickness absence levels and take action as necessary, when trigger points are reached, or when absence levels raise concern, in line with this policy and in a consistent and fair manner.
- Conduct return to work interviews when the employee returns after each and every period of absence even if the reason is the same. Complete return to work interview form and submit to HR.
- Set realistic improvement targets and regularly review progress of staff towards individual targets.
- Liaise with HR, the Health and Safety Adviser and their own line manager as appropriate for advice or guidance on specific issues.
- Accept, review and query where appropriate, advice from the Occupational Health service or other specialists and ensure that such advice is acted upon in a timely manner.

Employees are expected to:

- Do everything possible to maintain their health and well-being to support their ability to work
- Attend work unless unfit to do so.
- Raise concerns with their manager or HR if they believe that their job is making them ill or contributing to illness.
- Report sickness absences promptly, in accordance with the sickness absence procedure.
- Ensure that the appropriate certifications are completed, in accordance with the procedure.
- Initiate and maintain contact with their manager during periods of sickness.
- Communicate effectively with their manager about their sickness absence, or with their next level manager or member of HR, if they feel unable to discuss their sickness with their own manager.
- Co-operate fully with the Occupational Health service and any other organisations that provides support to the council and its employees.
- Ensure that medical advice and treatment, where appropriate, is received and acted upon as quickly as possible to facilitate a return to work.
- Not abuse the sickness absence procedures or sick pay scheme.

To support this policy, the following services are available to managers and employees:

we put our **customers first** - we are **positive** about **working with others** - we **value** our **employees**

- HR – to provide support and guidance to managers and employees in dealing with sickness absence and ill health and in the use of the council’s related policies and procedures. The section also acts as a referral to the other services.
- Occupational Health services – to provide advice and guidance on the impact of ill health on work and any steps the council and/or employee should take.
- Counselling service – to provide a confidential service for employees to discuss problems related to either work or personal circumstances, where they are affecting an employee’s performance at work. The details are on the intranet or from HR.
- Trade Unions – work with their members and the management of the council on sickness absence issues.

we put our **customers first** - we are **positive** about **working with others** - we **value** our **employees**

## Terminology used in this Policy

### Manager

Wherever the word “Manager” is used, this refers to the line manager. However, where managers are assigned a specific responsibility in this policy, this is to underline to the employee the concern of the council and the importance it places on reducing absence.

### Human Resources (HR)

Will support the safe and fair management of the absence process

### Occupational Health (“OH”)

To provide professional medical advice to managers and employees and ensure the fairness of the Access to Medical records

### Personal File

Where reference is made to the employee’s personal file, this is the personal file held within HR.

### Fit Note

Medical Certificate to be submitted after 7 continuous days’ absence.

At the end of a period of absence, the employees’ fit note may state that they are ‘fit to work’. The fit note is intended to encourage a supportive dialogue between the employer, employee and doctor. The doctor is able to state that the person “may be fit for some work now”, with their reasons and advice of a general nature. The doctor is able to advise that the employee may benefit from:

- phased return
- altered hours
- amended duties
- workplace adaptations

In such cases, consideration should be given as to what duties the employee is able to do. If there are no suitable alternative duties, the employee will continue to be considered unfit for work and there will be a requirement for a new fit note to be issued. The fit note defaults to a sick note.

### Protected Characteristic

we put our **customers first** - we are **positive** about **working with others** - we **value** our **employees**

In accordance with the Equality Act 2010, the protected characteristics are age, disability, gender reassignment, marriage/civil partnership, pregnancy/maternity, religion/belief, race, sex, sexual orientation

**Colleague**

When referring to a colleague who can attend formal meetings, this means an employee of the council

## Appendix 3

### Enhancement of contractual half or full pay sick pay

The council sick pay scheme is generous and allows for up to 6 months full pay and 6 months half pay, dependent on service. This level of contractual sick pay supports council employees with periods of ill health whilst also being responsible with our financial resources. Clarity and transparency around contractual sick pay is important to ensure equity of entitlement, avoid disappointment and to ensure that everyone feels they are treated fairly. Clarity also allows employees who are absent from work to plan for the change in their finances and to be clear in their expectations when other aspects of their life may be uncertain.

Nevertheless there may be extra - ordinary occasions where the council considers it appropriate to apply an exception to the contractual entitlements and enhance half or nil pay sick pay to full pay. Any enhancements must follow the following principles:

- The option to apply for enhancement of sick pay is available to all employees of the council who are entitled to contractual sick pay and will be notified to everyone approaching either half or nil pay by HR.
- Applications for enhancement must be made by the member of staff off sick or their next of kin if the member of staff is incapacitated.
- All eligible applications will be considered and responded to, regardless of the reason for absence.

#### Eligibility to apply for an enhancement to sick pay

- The application must be made under one of the following categories
  - Where investigation demonstrates that the only reason for continuing absence is that the council have not within a reasonable timeframe put in place reasonable adjustments recommended by Occupational Health which would allow a full return to work
  - Where the council has received medical advice that the employee's illness is terminal and the employee (or their next of kin) have demonstrated that a drop in pay would cause financial hardship.
- The member of staff must be eligible for contractual sick pay
- The member of staff must be due to move to half pay or nil pay sick pay
- The member of staff must confirm that they are not eligible to receive moneys equivalent to, or greater than the salary reduction from sickness, life or other insurances in respect of their sickness/absence from work.

#### Sick Pay Enhancement Process

1. All employees approaching a drop in contractual sick pay will receive a letter informing them of the reduction, and including information on this policy.
2. All applications received will be reviewed by HR and any additional information will be requested from the employee and/or from other sources as necessary.
3. The complete application and any supporting documents will be reviewed by the Corporate Leadership Team with the assistance of the HR & OD Manager, or a member of the HR & OD Team.
4. The Corporate Leadership Team will make a final decision on whether the application is eligible and whether is agreed. If not they will confirm why the application is not eligible.
5. There is no right of appeal against this decision.
6. The HR & OD Team will relay the decision of CLT to the employee, and to payroll if necessary.

we put our **customers first** - we are **positive** about **working with others** - we **value** our **employees**

### **Limits to enhancements**

Payments may not exceed average pay in the 12 months previous to the start of sick leave.

### Application for enhancement of contractual sick pay

Before completing this application, please ensure you have read the accompanying policy to understand the eligible reasons for applying for enhanced sick pay. If you intend to make an application please do so in a timely way and recognize that the council may need to investigate further before enhancements could be applied to your pay and therefore it is advisable to give as much information and time to consider it as possible.

<b>Name</b>	
<b>Start of absence</b>	
<b>Date due to move to half pay / nil pay (delete as appropriate):</b>	

- Please cross this box to confirm that you are not eligible to receive moneys equivalent to, or greater than the salary reduction, from private health insurance, life insurance or other insurances in respect of this sickness/absence from work

**Please indicate below which category you wish to make an application under**

<input type="checkbox"/>	Category 1: The only reason for continuing absence is that the council have not within a reasonable timeframe put in place reasonable adjustments recommended by Occupational Health which would allow a full return to work (please attach any supporting documentation)
<input type="checkbox"/>	Category 2: I have received medical advice that my condition is terminal and I believe the reduction in contractual pay will result in financial hardship (please attach any supporting documentation)

**For how long are you requesting an enhancement to your contractual sick pay?**

Please provide supporting information here to explain the reason for the application and any points you believe will be important to the decision making. You should attach any documents in support of your application (eg this might include medical letters, documents evidencing the circumstances you refer to, relevant letters from your manager etc). As part of the process you may be asked for further information to enable consistent decision making to take place.

Please return this document, along with any supporting documents to [humanresources@teWKesbury.gov.uk](mailto:humanresources@teWKesbury.gov.uk)

**HR notes**

		Yes	No
1	Is the applicant eligible for contractual sick pay and due to move to half or nil pay?	<input type="checkbox"/>	<input type="checkbox"/>
2	According to the information provided, the applicant will not be due to receive moneys equivalent to, or greater than the salary reduction, from private health insurance, life insurance or other insurances in respect of this sickness/absence from work	<input type="checkbox"/>	<input type="checkbox"/>
If the response to either 1 or 2 is 'No' then the application cannot be recommended for approval and this will be communicated to the employee via HR and will not be submitted to CLT			

we put our **customers first** - we are **positive** about **working with others** - we **value** our **employees**

	<b>Is the application potentially eligible under Category 1 or 2 and has supporting information been appended (if not, then this needs to be fed back to the employee)</b>	<input type="checkbox"/>	<input type="checkbox"/>
	<b>Is the HR recommendation that the application is eligible for consideration?</b>	<input type="checkbox"/>	<input type="checkbox"/>

**Corporate Leadership Team – Supporting Decision Table**

<b>Application under Category 1 (the employee could not return to work because the council has not made adjustments)</b>	<b>Yes</b>	<b>No</b>	<b>Application under Category 2 (the employee’s illness is terminal and reduction in pay would cause hardship)</b>	<b>Yes</b>	<b>No</b>
Received OH report / fit note with date clearly stating the required adjustments	<input type="checkbox"/>	<input type="checkbox"/>	Received medical advice regarding a terminal diagnosis.	<input type="checkbox"/>	<input type="checkbox"/>
Received statement from the manager/HR regarding the adjustments and dates / reasons they have not been made.	<input type="checkbox"/>	<input type="checkbox"/>	Received sufficient assurance from the employee that the drop in pay would cause hardship	<input type="checkbox"/>	<input type="checkbox"/>
Is it the view of the Corporate Leadership Team that reasonable adjustments were not put in place within a reasonable timeframe which may have enabled the employee to return to work?	<input type="checkbox"/>	<input type="checkbox"/>	Is it the view of the Corporate Leadership Team that it would be reasonable in all of the circumstances for an extension to be paid?	<input type="checkbox"/>	<input type="checkbox"/>

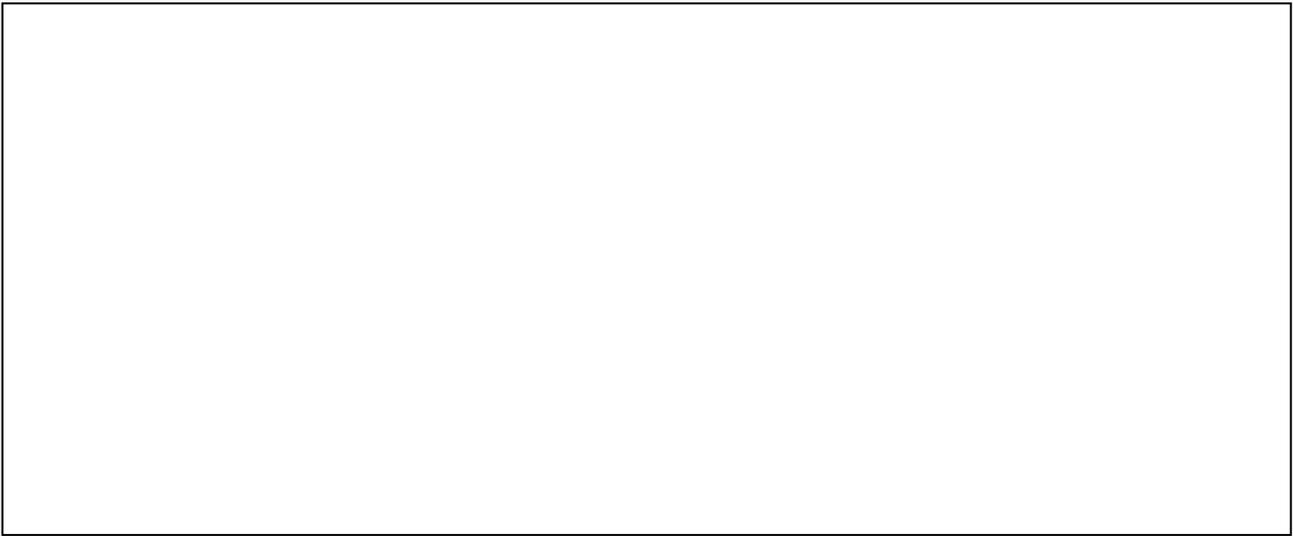
**Date of consideration:**

Decision

<input type="checkbox"/> Enhance half pay to full pay until :
<input type="checkbox"/> Enhance nil pay to full pay until :
<input type="checkbox"/> Application not approved

we put our **customers first** - we are **positive** about **working with others** - we **value** our **employees**

**Rationale for decision**



we put our **customers first** - we are **positive** about **working with others** - we **value** our **employees**

### **Work Related Injury Allowance Process**

Tewkesbury Borough Council is committed to the wellbeing of all its employees and seeks to ensure so far as is reasonably practicable that the risks of being involved in an accident or sustaining an injury at work are minimised.

Where the employee raises the possibility that their sickness absence is due to a work-related injury and requests injury allowance, this process must be followed.

For the purposes of this policy, a work-related injury is where: An employee becomes incapacitated for work by reason of an accident, injury or industrial disease sustained in the course of their duties with Tewkesbury Borough Council (and not being wholly or mainly due or seriously aggravated by the employee's own serious and culpable negligence or misconduct).

Injury Allowances: Where it is determined that an employee has sustained an injury/illness on duty the Council shall pay the employee an injury allowance, which is the equivalent of full pay after any deductions allowable under the sickness scheme (i.e. for SSP/Incapacity Benefit). Entitlements are based on length of service and mirror the sick pay entitlements set out within this policy. Injury Allowance has the practical effect of protecting the employee's contractual sick pay entitlement where they are absent from work following a work-related accident, injury or industrial disease.

Any deductions will cease if the employee becomes subject to a notice period. Payment of the allowance will not impact on normal Occupational Sick Pay entitlements and will not be affected if normal Occupational Sick Pay has been paid in the previous twelve months (ie injury allowance payments will be entirely separate from Occupational Sick Pay payments).

Any acceptance by the Council that the injury is work related does not indicate an acceptance of liability. The Head of Finance & Asset Management will carry out an independent assessment, based on an assessments of the facts, not covered by this appendix.

#### **Reporting of Injury / Accident / Industrial Disease**

Employees must notify their designated managers of all details of any accident, injury or industrial disease on duty at the earliest possible opportunity but at least within 72 hours. Where an employee is incapacitated and not able to report personally, someone on his or her behalf can notify the employee's manager (e.g. next of kin, colleague, friend or relative). Whoever makes the report, should provide as much information as they possibly can to enable the manager to record all the details of the accident, injury or industrial disease. Delay in reporting the incident without reasonable cause may result in the claim for Injury Allowance to be disqualified.

Where an accident, injury or industrial disease leads to sickness absence, employees must follow the Council's Sickness Absence Reporting Procedures. Employees may be required to participate in any necessary medical examinations as required by the Council.

The employee's manager must ensure that employees complete reports of all accidents, injuries or industrial diseases on the IR1 Accident/Incident Report form. Where an employee is unable to complete the relevant form or requires some assistance, the manager should either complete the relevant form on the employee's behalf, or assist the employee to complete it.

The circumstances on the IR1 form will be investigated as set out in the Accident and Incident Reporting Policy and the IR2 Investigation Report form will be completed as set out in that policy.

HR & OD will collate a pack of information to be assessed by the Head of Finance and Asset Management including

- IR1 form (and any appendices)
- IR2 form (and any appendices including interviews with the employee and any relevant witnesses)
- Occupational Health report (and any other relevant medical reports)
- The employee's job description / person specification
- Any relevant training records
- Any relevant risk assessments or evidence of discussions where risks have been previously raised
- Information about any other relevant IR1 forms raised for this issue
- Any other information relevant to the case

### **Decision Making**

The Head of Finance & Asset Management will assess the pack and make a decision in consultation with the employing Head of Service, taking into account whether the employee's injury claim is wholly work-related and an injury allowance is payable.

The Head of Finance & Asset Management will be supported by the HR & OD team to send written confirmation of the decision to the employee within ten working days of the decision. Where the handling of a claim would be compromised by the need to comply with the timescale and in the event more time is needed, the timescale may be extended. In this case, the employee will be informed in writing and given the reasons for the extension. An employee will not be informed about whether they qualify for an industrial injury allowance until the investigation and assessment has been completed.

Payment of sick pay under the Sickness Payment Scheme, if eligible, will be payable in the interim to ensure uninterrupted salary payments.

### **Injury Allowance**

If it is decided that Injury Allowance is payable, the HR & OD team will ensure that Payroll is informed.

In accordance with the National Joint Council for Local Government Services National Agreement on Pay and Conditions of Service (the Green Book) sickness absence though industrial disease, accident or assault arising out of or in the course of employment is entirely separate. The period of absence in respect of one shall not be offset against the other for the purpose of calculating entitlements under the sickness absence payment scheme.

If it has been determined that the employee is unfit as a result of an injury/illness sustained in the course of his/her duties they will receive the equivalent of full pay after any deductions allowable under the sickness scheme (i.e. in the case of full pay periods sick pay will be an amount which when added to Statutory Sick Pay and Incapacity Benefit receivable will secure the equivalent of normal pay, Local Government Services, National Conditions of Service, the Green Book, part 2, paragraph 10.5). Any deductions will cease if the employee becomes subject to a notice period.

The employing Head of Service keep the case under review, with the support of the HR & OD team and in particular should there be a change in circumstances. The injury allowance is no longer payable if an employee's employment with Tewkesbury Borough Council ceases.

we put our **customers first** - we are **positive** about **working with others** - we **value** our **employees**

## **Appeal**

If an employee is not satisfied with the decision on their entitlement to an injury allowance they may appeal in line with the appeals section of this policy and the appeal will be considered by the Chief Executive, or their nominee. There is no appeal against the amount of payment the employee may be entitled to.

## **Relationship with Managing Sickness Absence**

All periods of sickness absence including work related injuries should be managed in line with the Council's Supporting Attendance Policy and Guidance for Managers. The aim of any sickness absence review discussion will vary to address the requirements of the specific case and should focus on the need to support the employee on achieving a return to work, where possible.

## **Relationship with Disciplinary Policy**

The Council will not tolerate any acts of dishonesty, fraudulent claims, serious/gross negligence, misconduct and/or a serious breach of health and safety rules. These acts will be regarded as acts of gross misconduct and will be considered under the Council's Disciplinary Policy, which may result in the employee's possible dismissal.