

**BRISTOL CITY COUNCIL
HUMAN RESOURCES COMMITTEE**

27 NOVEMBER 2008

Title: Managing Attendance Policy and Procedure

Ward: City Wide

Report of: Head of HR

Officer presenting report: Jill Mikkelson / Robert Britton

Contact telephone number: (0117) 92 22669

1. Report Summary

The managing attendance policy has been revised to a framework style to assist managers by clarifying the procedure and signposting to appropriate sources of information.

2. Recommendation

That members adopt the revised policy.

3. Policy

3.1 The key changes are as follows:

- the procedures for managing short-term and long-term sickness absence have been separated out. There is a 3-stage process for short-term absence which gives warnings to employees whose absence level is unacceptable. Ultimately, an employee can be dismissed for unacceptable absence levels.
- The trigger points for short term absence have been amended to ensure management action is prompted at the appropriate stage
- There is a separate procedure for dealing with long term sickness absence. Managers must consult with employees on long term sickness absence to discuss the reasons for

absence, identify if any support or reasonable adjustments are required and arrange for up to date medical advice.

- revised statutory ill health retirement provisions now apply under the LGPS
- where Occupational Health recommend that medical redeployment is appropriate, the employee will have access to corporate redeployment for an eight week period.
- greater clarity regarding the responsibilities of senior managers
- the role of occupational health has been spelt out more clearly, and more information is included regarding case conferences and counselling
- medical redeployment has been aligned with the revised New Opportunities Procedure, approved by the HR Committee in September 2008
- e-links have been incorporated into the framework style policy which provide a cross-reference to other relevant HR policies and procedures.

3.2 The above policy changes respond to concerns expressed by the Resources Scrutiny Commission, and separately by the Audit commission, that the Council needs to reduce its level of sickness absence.

4. Consultation

(a) Internal

Consultation meetings were held with Trade Unions on 14 & 22 October 2008 and again on Friday 21st November 2008. A consultation meeting has been arranged with the corporate safety representatives for 13 November 2008. The revised policy has also been approved by WDMG on 20 October and scheduled for SLT on 11 November 2008. The managing attendance policy has been circulated to the SOGs for comments. If necessary, their views will be reported verbally to committee.

A range of questions have been received from the EMB. These questions, together with the response from HR, is attached as Appendix C.

(b) External

N/A

5. Background and Assessment

- 5.1 As part of HR's review of key policies and procedures, the managing attendance policy has been converted to a "framework style" to assist managers in understanding its key elements.
- 5.2 From 1996 to 2006 the Council's sickness absence average improved, with the number of days sick per employee having been reduced from 19.5 days pa to the current average of 10.57 days pa (as at 30 September 2008).
- 5.3 During the last 18 months however, the level of sickness absence has shown a marginal increase. The framework style of policy, along with appropriate training, is intended to provide a better framework for managers to address sickness absence.

6. Other Options Considered

- 6.1 To leave the policy as it was would not provide a basis for managing sickness absence more effectively. Some employers use the disciplinary policy to deal with sickness absence. Bristol city council does not consider that this is necessary, but it is important that there is an improved process and clearer outcomes in dealing with unsatisfactory sickness absence levels.
- 6.2 This report and the attached policy also respond to the following advice to directors and managers, given by the Chief Executive:-

"In particular, you are asked to:

- Ensure that return to work discussion take place with employees following each period of sickness absence;
- Review sickness absence levels against monthly 'trigger point' reports. Discuss with your HR Adviser to consider whether or not formal action should be taken in accordance with the options set out in the Managing Attendance Policy;
- Consider requesting a 'case conference' with the

Occupational Health Service in instances where an employee has been referred to them.”

- 6.3 The revised policy separates short term and long term absence, as it is considered that these warrant separate consideration. The inclusion of the 3 stage process was considered for long term absence, but has been discontinued.

7. Risk Assessment

Ineffective management of sickness absence impedes service delivery, has a negative impact upon the remaining workforce and does not provide value for money for council tax payers.

8. Equalities Impact Assessment

All managers receive training on the policy and if it is implemented properly there should be a neutral impact. Please see the equalities impact assessment (reviewed with the trade unions) at Appendix B.

9. Legal and Resource Implications

Legal:

The Policy reflects what is expected of a large employer under current employment legislation.

In the context of ‘long term absence’ it is important to emphasise the need to keep in regular contact, use occupational health, conduct return to work interviews, develop a return to work programme, and dismiss fairly (if appropriate after a proper investigation).

In the context of ‘short term absences’ it is important to identify the need for the employee to be advised of the level of attendance he/she is expected to attain, the period within which this is to be achieved and that dismissal may follow where there is insufficient improvement.

(Advice provided by Husinara Islam, Senior Practitioner Solicitor)

Financial:

(a) Revenue

There are no financial implications arising from this report the

purpose of which is to adopt existing policies into a simplified framework style.

(Advice from Stephen Skinner, Head of Finance, CSS and Chief Executive Depts.)

(b) Capital N/A
(Advice from designated Finance Officer)

Land: N/A

Personnel:

As set out in paragraph 3 above.

Appendices:

- A Managing attendance policy and procedure
- B Equalities Impact Assessment
- C Questions from the GMB/HR's response

LOCAL GOVERNMENT (ACCESS TO INFORMATION) ACT 1985
Background Papers: None

Managing Attendance Policy & Procedure

This document gives the framework for the procedure and is linked to Frequently Asked Questions (FAQs) on managing attendance, which you can find on The Source. [LINK](#)

Managers MUST refer to the relevant sections in the FAQs when dealing with attendance issues as they contain details of best practice, legislative requirements and suggestions from experienced officers.

There is also an e-guide on the intranet (CSS/CX e guide to managing attendance), which gives practical advice on managing staff when implementing this procedure and also has ideas on handling sensitive situations. [LINK](#)

Employees have representation rights at various points in the procedure and may wish to contact their trade union for advice.

Author: Employee Relations

Version:

Date created: October 2008

HISTORY OF POLICY CHANGES

Date	Page	Details of change

Managing Attendance Policy and Procedure

1. Preamble

Bristol City Council is committed to ensuring a safe working environment and promoting the well-being of its staff.

The Council aims to encourage all employees to maximise their attendance. Frequent and persistent absence from work can affect service delivery and place an additional burden of work on colleagues.

This Policy and Procedure applies to all City Council employees except those in locally managed schools.

2. Other sources of information

[LINK TO MANAGING ATTENDANCE FAQs](#)

[LINK TO GUIDE TO DEALING WITH SENSITIVE ISSUES](#)

3. Sick pay entitlement

Employees will receive occupational sick pay under the NJC sickness scheme, JNC sickness scheme, the Teacher's Burgundy Book (for centrally employed teachers) or other national agreements, providing they comply with the council's procedure.

[LINK TO NJC TERMS AND CONDITIONS](#)

[LINK TO PROCEDURE WHEN SICK](#)

[LINK TO BURGUNDY BOOK](#)

4. Managers' responsibilities

Managers are accountable for how they manage the sickness absence of their staff. Managing sickness absence forms part of the People Management Competence under the Bristol Manager scheme.

Managers must:

- (i) pro-actively manage attendance and promote the well-being of their staff, including undertaking risk assessments, and identifying any underlying causes if there are high absence rates within the workgroup
- (ii) monitor/manage all sickness absence effectively
- (iii) seek specialist advice as appropriate from HR and / or Occupational Health & Counselling Services, sharing OHCS referrals and responses with the employee. Managers may also seek specialist advice from external agencies [LINK TO LIST OF AGENCIES](#)

- (iv) ensure records of discussions, meetings, copies of self/medical certificates and any medical advice (eg from Occupational Health) are kept confidential and only shared with Line Managers as appropriate.
- (v) ensure employees are given 5 days notice of formal meetings and given the right to be represented/accompanied.
- (vi) obtain medical advice about an employee's ability to undertake their job and hold case conferences with Occupational Health. This should be undertaken as part of the council's duty of care towards its employees.

Managers may use their discretion when dealing with sickness absence cases but must be able to explain the rationale for their decisions.

5. Employees' responsibilities

Employees must:

i) Follow reporting procedures when sick

You must contact your manager/nominated person as soon as possible (or follow other appointed procedure), preferably within one hour of your normal work time, unless there are exceptional reasons why you can't. If you don't, your manager will ascertain why you were absent. If the explanation is not satisfactory your absence will be treated as unauthorised, and disciplinary action may be taken and pay may be withheld.

Let your manager/nominated person know the reasons for your absence, when you think you will be able to return to work, agree how and when you will keep them updated on your progress and give a contact number so that you can be reached if you do not contact them.

ii) Provide self/ medical certificates as required

You must complete a self certificate for absences of seven calendar days or less, or provide a medical certificate for absences of more than seven days. Failure to do so will be investigated and may lead to disciplinary action.

iii) Attend Occupational Health (OHCS) appointments as required

The Council will refer employees to OHCS where it is considered necessary to do so in the interests of the employee and the Council. Failure by an employee to attend OHCS when advised to do so will be investigated and may lead to disciplinary action.

[LINK TO SECTION ON ROLE OF OCCUPATIONAL HEALTH](#)

iv) Co-operate with actions to help you maximise your attendance

Unacceptable levels of sickness absence may lead to formal action being taken, up to and including dismissal.

Please note that if your absence is wholly or in part related to personal issues, your manager may seek ways to support you eg seeking advice on measures that can be taken on a temporary basis to help you, invoking other council policies etc..

6. Role of Occupational Health (OHCS)

Occupational Health provide an objective medical opinion, regarding an employees fitness for work and likely future attendance, to managers. However, the final decision on how to proceed will be made by the manager.

Occupational Health can also help to identify whether any adjustments are required to enable an employee to do their job in line with the Disability Discrimination Act 2005. Further specialist advice may also be sought e.g. Job Centre Plus.

Counselling provided by Bristol City Council is a short term intervention aimed at supporting the employee in the workplace and usually consists of up to six sessions. It is not compulsory and the counselling remains confidential between the employee and the counsellor.

Case conferences may be called when a manager feels it would be useful to gain advice from OHCS and HR on how to proceed in managing a case.

7. Short term sickness absence

Short term sickness is defined as absence from half a day to four weeks and the city council's trigger points for taking action in relation to short-term absence are as follows:

- 6 working days absence within the previous 3 months
- 3 separate incidents of absence within the previous 3 months
- 12 days within the previous 12 months
- 6 separate incidents within the previous 12 months

Trigger points will be adjusted for sickness absence related to pregnancy. They may be adjusted for disabled employees, and it may only be necessary to vary them on a temporary basis. Please seek advice from HR.

When the employee makes contact to report that they are sick and unable to attend work, you should:

- identify the reason for absence (if the reason is muscular/skeletal or relates to stress contact HR immediately) [LINK TO SECTION ON OCCUPATIONAL HEALTH](#)
- identify when they are likely to return to work
- confirm contact details and update arrangements
- arrange for medical certificates to be received confidentially
- ensure the absence is recorded on the appropriate form.

A return to work discussion must take place upon the return of the employee and you should complete the return to work pro-forma with the employee and give them a copy.

[LINK TO RTW PRO FORMA](#)
[LINK TO RTW SECTION IN FAQs](#)

You should also ensure that the employee either completes a self certificate or provides a medical certificate.

[LINK TO SELF CERTIFICATE](#)
[LINK TO MEDICAL CERTIFICATE](#)

In exceptional circumstances eg car accident, the need to hold a Stage 1 meeting could be set aside following a discussion of the circumstances at the return to work discussion. Front line supervisors/managers are strongly advised to consult their line manager if they do not wish to convene a Stage 1 meeting and may wish to take HR advice before setting this meeting aside.

(a) Stage 1

If a trigger point is reached you must hold a Stage 1 formal review of attendance.

Employees will be entitled to be represented by their trade union representative or by a work colleague.

All actions throughout this procedure should be clearly documented with reasons for taking/not taking action, which can include:

- referral to Occupational health for an assessment or counselling and/or
- Stage 1 warning which will last for 6 months.

As part of a Stage 1 warning, employees will be advised that if an unsatisfactory level of sickness absence continues during the following 6 months, further action will be considered.

[LINK TO STAGE 1 PRO FORMA](#)
[LINK TO LETTER](#)
[LINK TO STAGE 1 SECTION IN FAQs](#)

(b) Stage 2

If following a Stage 1 warning, attendance levels remain unsatisfactory, you must hold a Stage 2 formal review of attendance. Employees will be entitled to be represented by their trade union representative or by a work colleague. Action can include:

- referral to Occupational Health or Counselling
- Stage 2 warning which will last for 12 months.

As part of a Stage 2 warning, employees will be advised that if an unsatisfactory level of sickness absence continues during the following 12 months, further action will be considered, which may include dismissal.

[LINK TO STAGE 2 PRO FORMA](#)

[LINK TO LETTER](#)

[LINK TO STAGE 2 SECTION IN FAQs](#)

(c) Stage 3 Dismissal

If attendance levels are deemed to be unacceptable following a Stage 2 warning a Stage 3 meeting should be convened by a more senior manager in conjunction with HR. Employees will be entitled to be represented by their trade union representative or by a work colleague. At this point dismissal will be considered. This meeting will consider:

- the attendance record of the employee to date
- any up to date advice from Occupational Health and/or independent medical advice
- any information the employee submits.

If there is no identifiable medical reason for absence, the reason for dismissal under this stage of this procedure will be for 'some other substantial reason'. Where there is an underlying medical condition, dismissal will normally be for reasons of medical incapability.

[LINK TO DISMISSAL IN FAQs](#)

(d) Appeal

Appeals must be lodged within 5 days of receipt of written notification of the decision.

An appeal against a Level 1 and Level 2 sanction will be heard by a more senior manager. A more senior level of management will also hear Stage 3 appeals against dismissal where the employee has less than one year's service.

The Employee Appeals Committee will hear all other Stage 3 appeals against dismissal.

8. Long term sickness absence

This is defined as absence of more than four consecutive weeks. At an early stage of absence the manager should meet with the employee to:

- discuss the reason for absence
- identify whether there is any support or reasonable adjustments that can be made to enable the employee to return to work
- ensure that there is up to date medical evidence where appropriate from OHCS
- arrange subsequent meetings to regularly review the employees progress
- advise the employee that outcomes of the meeting will be confirmed in writing

The manager must advise the employee in writing as soon as they have established that formal action including dismissal have become a possibility.

[LINK TO LETTER](#)

Employees will be entitled to be represented by their trade union representative or by a work colleague.

Returning to work after long term sickness

When returning to work after long term sickness absence, the manager will formally meet with the employee to consider the following (if not already undertaken):

[LINK TO LETTER](#)

whether to instigate a return to work on appropriate duties in their current (or other suitable) position for an agreed period of up to 6 weeks

whether to return to work on a phased basis (e.g. part time, reduced hours or home working) for an agreed period of up to 6 weeks

what support and/or reasonable adjustments may be appropriate taking into account occupational health advice undertake a risk assessment

If the manager considers that the the overall attendance record of the employee is unsatisfactory taking all circumstances into account, they should advise the employee that unless there is an immediate and sustained improvement in attendance levels, their continued employment will be formally reviewed. [LINK TO LETTER](#)

Medical Redeployment and/or Ill Health Early Retirement

If long term sickness results in a recommendation from Occupational Health that medical redeployment or ill health retirement is appropriate, please refer to guidance below before instigating a meeting to consider termination of employment

(a) Medical Redeployment

This applies when Occupational Health formally confirm that the employee is, or soon will be, medically unfit to return to their substantive post within a reasonable timescale but may be well enough to undertake alternative/less onerous duties and responsibilities.

At this stage the manager will meet with the employee to discuss OHCS advice and arrange for the employee to have access to redeployment during an eight week period, within which the employee will be given priority consideration for Corporate Redeployment (LINK to NOPS).

Any alternative post must be confirmed by Occupational Health as suitable and they must also confirm that it is anticipated future attendance will be satisfactory. If the trial period is unsuccessful the employee will return to the substantive directorate (LINK NOPS).

The manager will schedule an appointment with Occupational Health for a final assessment, in case the employee does not secure suitable alternative employment during this period. At the end of the eight week period, following receipt of OHCS advice, the manager will arrange a formal hearing to consider termination of employment on grounds of medical capability (see below).

(b) Ill-Health Retirement

This applies where the employee is a member of the Local Government Pension Scheme and Occupational Health confirm that the employee is, or soon will be medically unfit to undertake their post or any other suitable post available.

If the Occupational Health Physician recommends that the employee may be well enough to undertake alternative/less onerous duties and responsibilities, the employee will enter Medical Redeployment (as per (a) above), except where OHCS recommend that redeployment is not applicable due to the medical condition of the employee. The manager will then proceed straight to a meeting to consider termination of employment.

If redeployment is unsuccessful, the manager will arrange a hearing to consider termination of employment on grounds of Ill Health Retirement (see below). In the absence of an Ill Health Retirement recommendation from OHCS, termination will be on grounds of medical capability.

Please note:

There are three possible tiers of pension - see Appendix B for information. Further advice is available from the City Council's Pensions Officer.

Corporate redeployment must have been undertaken prior to an application for ill health retirement, except where Occupational Health confirm that redeployment wouldn't be applicable due to the medical condition of the employee.

Different arrangements exist for centrally employed teachers and Ill-health retirement is dealt with via the Teachers Pension Agency (TPA).

[LINK TO IHR LETTER](#)

[LINK TO TPA](#)

(c) Meeting to consider termination of employment following long term absence

At the point that it becomes necessary to formally consider termination of employment (eg following OH advice and/or continuation of absence which impacts on service delivery) the manager will write again to the employee inviting them to a meeting.

The meeting will be conducted in accordance with the preparation and procedure for dismissal following long term sickness absence and held by a more senior manager and a HR representative. This includes an employee's right to be represented at this meeting.

[LINK TO LETTER](#)

[LINK TO PREPARATION & PROCEDURE FOR DISMISSAL HEARING](#)

At the meeting the manager will:

- review the employee's sickness absence record to date and/or
- review the employee's progress in medical redeployment (if this was applicable)
- consider any up to date advice from Occupational Health and/or any independent medical advice
- consider any information the employee submits
- review reasonable adjustments and support

The manager will then determine what action to take:

- dismissal for medical capability
- ill health retirement
- dismissal for 'some other substantial reason' (where there is no identifiable medical reason for absence)

(d) Appeal

Employees have the right of appeal against their dismissal.

Appeals must be lodged within 5 days of receipt of written notification of the decision.

A more senior level of management will hear the dismissal appeal where an employee has less than one years service.

The Employee Appeals Committee will hear appeals against dismissal only where the employee has more than one years service as well as first or second tier employee appeals.

[LINK TO SECTION ON DISMISSAL](#)

Employees have the right of appeal against the employer's decision to award a particular tier of pension under the Local Government Pension Scheme (LGPS). First and second tiers wishing to dispute the decision should write to the Head of HR in the first instance; other employees should write to the Pensions Officer, Human Resources.

[LINK TO LETTER](#)

9. Managing the attendance of disabled employees

The council will take reasonable steps to assist disabled employees, and expect support and co-operation from all staff with efforts to maximise their attendance.

Definition of disabled

The Disability Discrimination Act 1995 definition of disabled is “a physical or mental impairment, which has a substantial and long term adverse effect upon their ability to carry out normal day to day activities”. For the purposes of the Act the illness or condition is considered long term if it has lasted, or could last 12 months.

The definition of disability applies from the time of diagnosis for those employees with the progressive conditions of HIV, multiple sclerosis and cancer. Employees with a mental illness are also protected even if their illness is not clinically recognised.

Occupational Health will be able to advise whether the employee is/may be covered by the DDA.

Reasonable adjustments

Under the Act, employers have a legal duty to make “reasonable adjustments” where working arrangements place a disabled person at a substantial disadvantage from those that are not disabled.

[LINK TO FAQs REASONABLE ADJUSTMENTS](#)

Paid Time Off to Attend Hospital Appointments

Paid time off to attend hospital appointments in connection with their disability should be given unless deemed unreasonable, taking into account the needs of the service. [LINK TO FAQs FOR MORE INFORMATION.](#)

“Reasonable” and “unreasonable” cannot be defined. Employees and managers should co-operate in making arrangements that allow the employee sufficient time off for their needs whilst minimising disruption to the service.

Impairment Related Leave (IRL)

Impairment related leave is separate from sickness absence and is included in the guidelines for information. [LINK TO FAQs: IRL](#)

Impairment Related Sick Leave

Managers of disabled employees who meet the DDA definition should record all sickness, including absences relating to their impairment. Sickness related to their impairment will be recorded as such. The same certificating processes and return to work discussions apply.

Occupational Health can be asked for advice and guidance. All Occupational Health referral forms and OH responses must be shared with the employee.

When dealing with the sickness absence of disabled employees it is essential that managers:

- seek advice from HR and request a management case conference with occupational health
- consult with the employee at an early stage
- seek advice from occupational health regarding any appropriate reasonable adjustments to assist the employee and reduce the prospects of ongoing patterns of absence
- take advice from external agencies for specific specialist advice
- undertake all reasonable adjustments
- allow a reasonable monitoring period following the implementation of any reasonable adjustments
- record impairment related leave and impairment related sick leave separately from non-disability related absences

- consider the extent to which it is possible to make a reasonable adjustment to the trigger points. occupational health can be asked for advice on relaxing trigger points: give them information about the condition, and the impact on service delivery. It may be that trigger points need only be relaxed for a limited period. You may find it useful to seek advice from HR
- record objective reasons why formal action under the Managing Attendance Policy is necessary, if the level of absence (including disability related absences) is considered unacceptable
- consult with occupational health regarding the option of medical redeployment prior to dismissal.

Dismissal

Under the Disability Discrimination Act dismissal, compulsory ill health retirement, of a disabled person for a reason relating to their disability would need to be justified and the reason for it would have to be one which could not be removed by any reasonable adjustment. Managers should work closely with occupational health and HR if a dismissal is possible as the procedure must be carried out properly.

[LINK TO SECTION IN FAQs ON DISABLED EMPLOYEES](#)

10. Health Initiatives

The Council encourages employees to contribute to their own wellbeing by:-

- seeking a voluntary health check via occupational health, at periods of 3 years or more
- joining the Council's corporate health scheme, which provides some health care benefits

Further information is available from HR Advice & Support.

11. Legislation relating to pregnant women

Women have the right not to be subjected to unfair treatment at work because of pregnancy or childbirth, or for exercising the right to take maternity leave.

All pregnancy related absences will be recorded in the normal manner but are disregarded the purpose of determining whether a warning should be issued. Return to work discussions will be held as usual.

[LINK TO FAQs RE PREGNANCY](#)

12. Absence due to accident or injury at work

Managers must undertake a return to work discussion with the employee. Where information has been gathered as a result of an investigation into the

accident (or is being gathered), it will be unnecessary to duplicate this at the interview.

Pay during absence resulting from a work-related injury/disease is treated separately from an employee's sick pay and entitlements and should be recorded separately.

The nature of the injury or the duration of the resulting absence may mean that the procedure for long-term absence should be applied.

[LINK TO SECTION "LONG TERM ABSENCE"](#)

In these circumstances BCC, in partnership with trade unions, recommend that their members should be accompanied by a senior trade union representative.

Appendix A - The three tiers of ill-health retirement pensions in the Local Government Pension Scheme (LGPS)

Introduction

The Local Government Pension Scheme Regulations 2007 make provision for an ill-health retirement pension where a LGPS member is judged permanently incapable of their current local government employment. There are 3 different tiers of ill-health retirement and the particular tier which applies is determined by the nature of the individuals medical condition.

The pension scheme provisions

Individuals are can only qualify for IHR benefits if they have at least 3 months of continuous contributory membership to the LGPS, or if they have transferred other pension benefits over to this scheme.

The 3 tiers of ill-health retirement are defined as:-

	Those eligible	Terms	Review
1 st tier	Those permanently incapable of their current local government employment, where there is no reasonable prospect of them obtaining gainful employment before normal retirement age.	100% enhancement to accrued retirement benefits	No
2 nd Tier	Permanently incapable of their current employment. Will not be capable of "gainful employment" within 3 years, but are likely to be able to obtain such work before normal retirement age.	25% enhancement to accrued retirement benefits	No
3 rd Tier	Permanently incapable of their current employment, but likely to be able to obtain gainful employment within the next 3 years.	Accrued retirement benefits at the point of leaving paid for a maximum of 3 years . Payments stopped when gainful employment is obtained, or possibly on review of medical condition.	Yes, after 18 months, by Bristol City Council.

Definitions

The LGPS regulations define **permanently incapable** as - the member will, more likely than not, be incapable until, at the earliest, their 65th birthday.

Gainful employment is defined as paid employment for not less than 30 hours in each week for a period of not less than 12 months.

The review process for tier 3 (defined by the pensions regulations)

People are required to inform Bristol City Council if they obtain “Gainful employment” after being awarded third tier IHR benefits. Payments would be stopped if gainful employment was obtained.

If payments are continuing after 18 months Bristol City Council needs to obtain another medical certificate from a qualified physician. This review of the medical condition could result in tier 2 benefits being awarded if the assessment of their medical condition now places them in this category. Alternatively the pension benefits could be discontinued if the individual was capable of gainful employment at the time of the review, or remain in payment at the same level if the person still meets the definition for the 3rd tier of pension benefits.

However, no arrears would be paid if the level of benefits is increased at the time of this medical review.

Additional provisions

Additional provisions apply to those who were: over age 45 on the 1st of April 2008; were members of the scheme before this date; and who fall into the first or second tier outlined above. These individuals will receive the level of pension benefits calculated under the 1997 Local Government Pension Scheme regulations in the event that this would provide higher pension benefits than the current pension scheme provisions.

The Avon Pension Fund will inform all Bristol City Council employees of the amount of ill-health retirement pension benefits they are due, after they have been retired on ill-health grounds.

Equality Impact Assessment (EqIA)
Stage 1: Initial Screening Form for New/Revised HR Policies or Functions

A: Summary Details

Directorate: CSS

Section: Employee Relations

Person responsible for the assessment: Annie Harris

Contact details: 0117 922 2856

Name of Policy to be assessed: Managing Attendance

Is this a new or revised policy: Revised

Date policy scheduled for Overview and Scrutiny/Cabinet/LAB:

B: Preparation

It is important to consider all available information that could help determine whether the policy could have any potential adverse impact. Please attach examples of available monitoring information, research and consultation reports.

1. Do you have monitoring data available on the number of people (from different target groups) who are using or are potentially impacted upon by your policy? *Please specify what monitoring information you have available (your monitoring information should be compared to the current available census data to see whether a proportionate number of people are taking up your service).*

2. If monitoring has NOT been undertaken, will it be done in the future or do you have access to relevant monitoring data for this area? If not, specify the arrangement you intend to make; if not please give a reason for your decision.
3. Please list any consultations that you may have had and/or local/national consultations, research or practical guidance that will assist you in completing this EqlA

C: Your Policy or Function

1. What is the main purpose of the policy or function?

The policy is the framework within which sickness absence is managed.

- 2 Are there any other objectives of the policy or function, if so what are they?

It describes the stages of the procedure and gives managers advice on managing specific situations e.g. Long-term sickness absence, failure to provide appropriate certificates etc.

- 3 Do any written procedures exist to enable delivery of this policy or function?

Yes. In addition to the policy and procedure, extensive guidelines are available in question and answer format to enable managers to maximise attendance and deal with sickness absence in accordance with Council policy.

- 4 Are there elements of common practice in the service area or function that are not clearly defined within the written procedures?

- 5 Who are the main stakeholders of the policy?

Directly - managers and employees. Indirectly - service users and Bristol residents (high rates of absence can impact on service delivery and are costly)

6 Is the policy associated with any other Council policy (s)?

Work-life balance policy is referred to as the provisions may help employees maximise their attendance.

7 Are there any areas of the service that are governed by discretionary powers? If so, is there clear guidance as to how to exercise these?

Managers have discretion at various stages of the procedure following consultation with HR.

8 Is the responsibility for the proposed policy or function shared with another department or authority or organisation? If so, what responsibility, and which bodies?

All managers and employees must comply with the managing attendance policy.

D: The Impact

Assess the potential impact that the policy could have on each of the target groups. The potential impact could be negative, positive or neutral. If you have assessed negative potential impact for any of the target groups you will need to also assess whether that negative potential impact is high, medium or low – see glossary in the attached guidance notes for definitions.

1. with his was

a) Identify the potential impact of the policy on men and women:

Gender	Positive	Negative (please specify if High, Medium or Low)	Neutral	Reason
Women			Neutral	All managers receive training on the policies and if they are implemented properly there should be a neutral impact.
Men			Neutral	

b) Identify the potential impact of the policy on different race groups:

Race	Positive	Negative (please specify if High, Medium or Low)	Neutral	Reason
Asian (including Bangladeshi, Pakistani, Indian, Chinese, Vietnamese, Other Asian Background – please or in small specify _____)			neutral	All managers receive training on the policies and if they are implemented properly there should be a neutral impact.
Black (including Caribbean, Somali, Other African, Other black background – please specify _____)			neutral	
White (including English, Scottish, Welsh, Irish, Other white background – please specify _____)			neutral	
Mixed Dual heritage (White and Black Caribbean, White and Black African, White and Asian, Other mixed background - please specify _____)			neutral	
Other (please specify)			neutral	

c) Identify the potential impact of the policy on disabled people:

Disability	Positive	Negative (please specify if High, Medium or Low)	Neutral	Reason
		Could be any of these according to specifics of the case		Employee fails to inform manager of disability; manager fails to make timely reasonable adjustments

d) Identify the potential impact of the policy on different age groups:

Age Group (specify, for example younger, older etc)	Positive	Negative (please specify if High, Medium or Low)	Neutral	Reason
		Could be any of these according to specifics of the case		Employee fails to inform manager of emerging impairment or new condition

2. Could you minimise or remove any negative potential impact that is of medium or low significance? Explain How.

Disability: Encourage employees to declare their disability; train managers in disability awareness.

Age: Encourage employees to declare any emerging impairment.

Race:

Gender:

Sexual Orientation:

Religious/Faith groups:

3. If there is no evidence that the policy promotes equal opportunity– could it be adapted so it does? How?

The policy is neutral. If the application of the policy fails to comply with the duties, the impact could be variable.

Please ensure that all actions identified are included in the attached action plan and in your service plan.

Please sign and date this form, keep one copy and send one to Equalities Team.

Signed
Lead Officer
Date

Signed
Departmental Equalities Contact
Date

Full Equality Impact Assessment

This toolkit has been developed to use as a guide when conducting a Full Equalities Impact Assessment (EqIA) on a policy, service or function. It includes questions that need to be answered by the person/team conducting the EqIA, plus questions that could be asked of key stakeholders during consultation phases. It is intended that this is used as a working document throughout the EqIA process: the final written report of the EqIA should follow the same format and cover each of the sections within it.

It is important to consider all available information that could help determine both whether the policy could have any potential adverse impact and whether it meets the particular needs of different equalities groups. Please attach examples of any monitoring information, research and consultation reports that you have used to assess the potential impact upon the six equalities strands.

NB - Only fill in the sections that are relevant

Title of service, function or policy being assessed	Managing attendance policy
Name of directorate and service	CSS - Employee Relations
Name and role of officers completing the assessment	Annie Harris
Contact telephone number	0117 922 2856
Date assessment completed	September 2008

1. Identify the aims of the policy/service/function and how it is implemented.			
	Key questions	Answers / Notes	Actions required
1.1	Is this a new a new policy / function or service or a review of an existing one?	Policy has been reformatted in line with the decision to move to “framework policies”	All employees and managers to be informed of changes
1.2	What is the aim, objective or purpose of the policy/service/function?	The policy and procedure guides managers in managing attendance consistently, fairly and in line with any relevant legislation	
1.3	Whose needs is it designed to meet? who are the main stakeholders?	The policy supports the authority in maximising attendance and reducing sickness absence. Managers and employees are the main stakeholders, and a reduction in sickness absence will enhance service delivery	
1.4	Who defines or defined the policy/function? How much room for manoeuvre is there?	Senior management, policy approved by elected members, consulted with trade unions and self organised groups	
1.5	Who implements the policy function? Is it possible for bias/prejudice to creep into the process?	All managers have responsibility for managing attendance. It is possible for bias or prejudice to creep into the process.	Managers to be trained in implementation of the policy. To be aware of the possibility of bias or prejudice and to be trained in equalities issues.
1.6	Are there any areas of the policy or function that are governed by discretionary powers or judgement? If so is there clear guidance on how to exercise these?	Managers have some discretion regarding action at each stage of the procedure, following consultation with HR. They are encouraged to treat some groups favourably under relevant legislation.	Managers to be made aware of the areas where they have discretion.
1.7	What factors or forces are at play that could contribute or detract from the outcomes	Managers may not be fully conversant with the policy or procedure or confident	Managers to be trained in implementation of the policy.

	identified earlier in 1.2?	in its implementation. Managers may allow bias or prejudice to sway their decisions.is worth	Managers to be trained in equalities issues. Implementation of policy to be monitored regularly by senior managers. Audited by Internal Audit.
1.8	How do these outcomes meet or hinder other policies, values or objectives of the public authority (this question will not always apply)	Sickness absence is costly and impacts upon service delivery. It affects absentees' colleagues.	A reduction in sickness absence across the authority improves service delivery and reduces cost.
1.9	How does the local authority interface with other bodies in relation to the implementation of this policy function? (this question will not always apply)	Partnership organisations are required to use Bristol City Council policies when managing BCC employees.	Managers in partnership organisations be informed of BCC policies.
1.10	Consider if any of the six equalities strands have particular needs relevant to the policy.	Disabled employees and pregnant women may require reasonable adjustments to be made to the workplace and policy.	Managers to be trained in managing the attendance of disabled employees and pregnant women and their responsibilities under the relevant legislation.
1.11	Taking the six strands of equalities, is there anything in the policy that could discriminate or disadvantage any groups of people?		

2. Consideration of available data, research and information

	Key questions	Answers / Notes	Actions required
2.1	What do you already know about who uses and delivers this service or policy?	All managers use this policy to manage absence	
2.2	What quantitative data do you already have? (e.g census data, employee data, customer profile data etc)		
2.3	What qualitative data do you already have? (e.g		

	results of customer satisfaction surveys, results of previous consultations, staff survey findings etc).		
2.4	What additional information is needed to ensure that all equality groups' needs are taken into account? Do you need to collect more data, carry out consultation at this stage?	The particular needs of disabled employees need to be taken into account.	The chair of the DEG has been consulted on the relevant parts of the policy and her comments and views have been taken into account
2.5	How are you going to go about getting the extra information that is required?		

3. Formal consultation (include within this section any consultation you are planning along with the results of any consultation you undertake)

	Key questions	Answers/notes	Actions required
3.1	Who do you need to consult with?	HR Committee; Trade unions; SOGs; employees	Ensure consultation arrangements are followed
3.2	What method / form of consultation can be used?	Individual meetings; team meetings; Formal forums	ditto
3.3	What consultation was actually carried out as part of this EqIA and with which groups?	TU Side Secretary and Chair of DEG have been consulted individually and have contributed to the policy and procedure	
3.4	What were the main issues arising from the consultation?	Fairness and logic of procedures	

Recording the consultation

You must ensure that you record all the main areas of concern raised by equality and customer groups during consultations and how you will address these concerns. You may wish to consider using a template such as the one below:

Group	Date, Venue and number of people	Area of concern from Group	How will this be addressed and
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consulted	attending consultation		fed back to the group?
DEG	Meeting with Chair of DEG 14 Jan 08	Comments made and issues discussed	Comments and views incorporated

Please attach the results of your consultations here:

Group consulted	Date, Venue and number of people attending consultation	Area of concern from Group	How will this be addressed and fed back to the group?
BME, WIN and GLTB	E-mailed for their views	No replies received	

4. Assessment of impact

	Based upon any data you have analysed, or the results of consultation or research, use the spaces below to list how the policy will or does actually work in practice for each equalities group. Identify any differential impact and consider whether the policy/function meets any particular needs of each of the six equalities groups. Also include any examples of how the policy or service helps to promote race, disability and gender equality.	
		Impact or potential impact (negative, positive or neutral)
4.1	Gender – identify the impact/potential impact of the policy on women, men and transgender people	Pregnant women have protection under the legislation and policy. Pregnancy related sickness absence will be recorded separately.
4.2	Disability - identify the impact/potential impact of the policy on disabled people (ensure consideration of a range of impairments including visual and hearing impairments,	Disabled employees may require reasonable adjustments to the workplace. Trigger points may be adjusted.

	mobility impairments, learning disability etc)	
4.3	Age – identify the impact/potential impact of the policy on different age groups	Older employees may have emerging impairments and require reasonable adjustments including adjusted trigger points.
4.4	Race – identify the impact/potential impact of the policy on different black and minority ethnic groups	
4.5	Sexual orientation - identify the impact/potential impact of the policy on lesbians, gay men, bisexual and heterosexual people	
4.6	Religion/belief – identify the impact/potential impact of the policy on people of different religious/faith groups and also upon those with no religion.	
4.7	Have you identified any areas in which the policy/service or function is indirectly or directly discriminatory? If you answer yes to this please refer to legal services on whether this is justifiable within legislation.	No. However, there are employees and circumstances that may require differential treatment e.g. Disabled employees, pregnant women. This different treatment is required under the law.
4.8	If you have identified any adverse impact(s) can it be avoided, can we make changes, can we lessen it etc? (NB: If you have identified a differential or adverse impact that amounts to unlawful discrimination, then you are duty bound to act to ensure that the Council acts lawfully by changing the policy or proposal in question).	
4.9	Are there additional measures that could be adopted to further equality of opportunity in the context of this policy/service/function and to meet the particular needs of equalities groups that you have identified?	Refresher training for managers on equalities groups.

5.	Internal processes for the organisation – to be explored at the end of the mentoring process.
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Making a decision in the light of data, alternatives and consultations			
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	Key questions	Answers/notes	Actions required
5.1	How will the organisation's decision making process be used to take this forward?		

Monitoring for adverse impact in the future			
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	Key questions	Answers/notes	Actions required
5.2	What have we found out in completing this EqIA? What can we learn for the future?		
5.3	Who will carry out monitoring?	Departmental management team, HR, Internal Audit	
5.4	What needs to be monitored?	That the provisions of the policy are followed. Fairness in implementation of policy	
5.5	What method(s) of monitoring will be used?	Statistical returns regarding management decisions, sanctions issued	

5.6	How will the monitoring information be published?	Quarterly reports	
Publication of results of the equality impact assessment			
	Key questions	Answers/notes	Actions required
5.7	Who will take responsibility for writing up the EqIA report?		
5.8	How will the results of the EqIA be published?		
5.9	Who will take responsibility for this?		

6. Equality Impact Assessment Improvement Plan

Please list actions that you plan to take as a result of this assessment (continue on separate sheets as necessary). These actions need to be built into the service planning framework and targets should be measurable, achievable, realistic and time bound.

Title of service/function or policy being assessed:
Name and role of officers completing assessment:
Date assessment completed:

Issues identified	Actions required	Progress milestones	Officer	By when
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			responsible	

Once you have completed this form, keep a copy of the form as a record of the processes you have been through in carrying out the EqIA

Please sign and date this form, keep one copy and send one to the Corporate Equalities Team.

Signed
Lead Officer
Date

Signed
Departmental Equalities Contact
Date

Action Plan

Recommendation	Key activity	Progress milestones	Officer Responsible	Progress

Signed
Lead Officer
Date

Signed
Departmental Equalities Contact
Date

**Issues raised in GMB's response to proposed changes to
Managing Attendance Policy**

Question 1: The overall 'tone' of the revised policy is one of punitive action. The first paragraph is set in an extremely negative manner. The council appear to have taken the stance that ALL absence through ill health is unauthorised and malingering. This appears to fit in with the latest increased punitive sanctions against your employees suffering from major illnesses like cancer, MS and acute depression and upon returning to work with a positive attitude find themselves the subject of formal level 1 and in some instances level 2 and above sickness sanctions. They focus appears to be upon disciplinary action – rather than encouraging staff to return to work.

Response: *The preamble states the facts. The first paragraph talks about the council's commitment to a safe working environment and promoting well-being of staff; the second states the impact of absence on service delivery and colleagues. It's not clear why this is perceived to be negative.*

The revised policy separates out short-term persistent absenteeism and long-term sickness absence. It is not recommended that the latter is dealt with by means of warnings, although employees should be made aware if termination of employment may be considered.

Question 2: Would you please inform me, in writing, how giving someone a formal sanction is going to make them feel confident about coming back to work after undergoing chemotherapy or finding out their manager and HR have had a case conference with Occupational Health to decide whether or not they remain an employee and did not invite them to participate? I would like your response in writing.

Response: *See above regarding formal sanctions.*

Not all case conferences are about termination of employment. They may be held to discuss options for the employee to return to work, possible range of reasonable adjustments, prognosis for the future. It is not always possible for employees to attend these meetings, but the issues discussed with occupational health and HR can be put forward for discussion with the employee.

Question 3 By placing an inordinate emphasis on manager's accountability on how they manage sickness absence may well result in more bullying, intimidation and harassment as unfortunately many manager's will just see this as an 'open cheque book' approach to coercing people to come back before they are fully fit or dismissing them. The GMB would like to know to date how many staff have been dismissed/pushed into ill health retirement without their consent?

Response: *Managing attendance is part of the manager's role and they should be held accountable. Other officers should not be managing their staff on their behalf,*

unless there is a formal arrangement for matrix working. The policy should be implemented fairly and reasonably, with the manager taking specialist advice where necessary.

- *Does GMB have any information on the coercion of staff?*
- *Could GMB say who they consider should manage attendance?*

There have been a small number of appeals against dismissal on the grounds of medical incapability but few if any appeals against ill-health retirement. Therefore it is difficult to support your view that staff could have been “pushed into ill-health retirement without their consent. If you wish ER to produce the appeal statistics, please advise.

Question 4: Managers must:

Case conferences should not be undertaken without the employee present. They are explicitly about them and therefore they have a right to be present and participate (accompanied by their union representative).

Response: *See above.*

Question 5: The GMB would also request that managers must ensure the employee receives a copy of the formal request sent to Occupational Health, their report and any other documentation relating to their referral as again this explicitly about them and therefore they have a right to know why they are being referred to OH by their manager and why **BEFORE** they attend.

Response: *Section 4(iii) clearly states that occupational health referrals and responses should be shared with the employee.*

Question 6: Under employee's responsibility there is no mention about what an individual does if their manager is not available when they phone in sick or the fact that if they are unable to phone themselves then someone is able to do this on their behalf. What happens if they are hospitalised? How I read this now it will result in many employees worried sick about having their sick pay stopped.

Response: *Managers should make contingency arrangements in case they are not available when an employee phones in sick. If it is the case that the manager is away from their desk when the employee phones, the manager can phone them back.*

If an employee is hospitalised (or otherwise unable to make the phone call themselves), someone can ring on their behalf. It is not possible to cover every situation in the policy, and it is expected that common sense will prevail on this point.

Sick pay will not be stopped without the manager ascertaining the reason for non-compliance with the policy. Sick pay will only be stopped if there is not a good reason for non-compliance.

Question 7: What exactly is 'co-operate with actions to help you maximise your attendance' ? Obviously there has always been the opportunity to support an employee who has personal issues but how this is worded it sounds like they will have no choice but to let a manager interfere in their personal lives in order to maintain paid employment – the terminology is absolutely outrageous!

Response: *An example: It may be that managers set up an arrangement to help an employee maximise the attendance e.g. instituting regular working hours rather than flexitime so that employees do not work long hours. It would be expected that employees would co-operate with this.*

Question 8: Appeal Rights – we totally disagree with the removal of employees having the opportunity to have their appeal against an unfair sanction not being heard by the employee appeals committee. The GMB see this as yet another opportunity to undermine our members rights to have their grievance heard by a panel of elected members. What confidence will our members have when the policy is based upon negativity and punitive sanctions promoted by HR and management. They may not have a great deal of faith within the appeals mechanism but at least it appears to have a chance of fairness.

Response: *The appeals rights have not been changed under the new Managing Attendance Policy.*

Question 9: Whilst acknowledging in the revised appeals section it has now increased the timescale for submitting an appeal from 5 days to 10 it does however state any appeal must be made once verbal notification has been given. The GMB is concerned that some of our members may not be fully conversant with the policy and misunderstand the procedure. This process does leave both the manager and the employee open to challenge. The GMB would therefore prefer written notification before the clock starts ticking.

Response: *This point can be considered further.*

Question 10: Reference is made to a number of other documents/policies/ guidance in the revised policy but we do not appear to have been given draft copies of these documents. Before we can give any further comments the GMB would like a full and complete set of documentation relating to the Managing Attendance Policy and Procedure.

Response: *The FAQs will be revised when the final revised policy is adopted. Again, volunteers has been sought from the trade unions to complete these. (These FAQs has been finalised in conjunction with trade union representatives on the last two revisions.)*

Annie Harris
HR Advisor, Employee Relations

November 2008