



MERSEYSIDE WASTE DISPOSAL AUTHORITY

# **SICKNESS ABSENCE POLICY AND PROCEDURES**

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## **POLICY**

The Authority aims to secure the attendance of all employees throughout the working week. However, it recognises that a certain level of absence may be necessary due to sickness. It is the Authority's policy to offer security of employment during such periods, subject to operational requirements. The provisions of the Sickness Scheme as detailed within The National Agreements on Pay and Conditions of Service shall apply to all employees of the Authority who are absent from duty owing to illness.

Whilst recognising that some absence is outside its control, the Authority believes that levels of absence may be reduced when a positive overall approach to improving working conditions and increasing staff motivation is adopted. With this in mind the Authority will ensure that:-

- good physical working conditions are provided
- health and safety standards are rigorously maintained
- new starters, particularly young people, receive appropriate training and are encouraged to learn good attendance habits
- working systems; job design; training, development and career progression arrangements; welfare provision and communications systems are regularly monitored with a view to improvement
- managers and supervisors receive appropriate training and are encouraged to take an interest in the health and welfare of their staff
- there are procedures in place to ensure that staff with reasonable and legitimate reasons for needing to be absent from work are treated on a fair and consistent basis.

## **Aims**

- To ensure that employees receive fair and consistent treatment in relation to sickness absence

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- To ensure that staff with health problems receive full and appropriate support
- To provide a framework within which corrective action may be taken where levels of absence reduce an employee's ability to perform his or her duties adequately
- To provide a framework within which action may be taken to deter abuse of the sickness provisions

### **Scope**

The Sickness Absence Policy and Procedures apply to all employees of the Authority.

Throughout, reference is made to Directors and Section Managers as the persons responsible for monitoring absence and conducting interviews (short of final interviews leading directly to dismissal).

Where the absence in question is that of a Director, the same procedures will apply with responsibility for implementation being exercised directly by the Chief Executive.

Where the absence in question is that of the Chief Executive, the same procedures will apply with the implementation being exercised directly by the Monitoring Officer

### **Impact of The Equality Act 2010.**

The Authority is an Equal Opportunities Employer and as such treats people equally.

However, treating disabled people equally may not always avoid a breach of The Equality Act 2010. The Authority now has a positive duty to make “reasonable adjustments” where any aspect of working arrangements place a person who meets the definition of disabled under the Act at a substantial disadvantage.

In the context of sickness absence management the Authority will therefore distinguish between general sickness absence and disability related sickness absence and will make “reasonable adjustments” under the Act to accommodate disability related sickness levels. It will also make “reasonable adjustments” under the Act to a disabled person’s post and working arrangements to enable him or her to return to work following a period of disability related sickness absence.

Where general sickness absence, unrelated to the individual’s disability, affects a disabled employee, it does not fall under the scope of Equality Act 2010 and will

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therefore be handled in accordance with the Authority's Sickness Absence Policy and Procedures.

### **Relationship with the Disciplinary Procedure**

The Sickness Absence Policy and Procedures focus on welfare and capability. However, if evidence emerges to suggest that sickness is not genuine, or if an employee consistently fails to notify and certify ill health absence properly, the Authority's Disciplinary Procedure will be invoked.

Employees should note that the National Agreement on Pay and Conditions of Service allows for suspension of sick pay if an employee abuses the sickness scheme, and that there is no need for the Disciplinary Procedure to be invoked in every case where sick pay is suspended under this provision.

### **Training**

The Chief Executive will ensure that Section Managers, The Monitoring Officer and the Assistant Corporate Services Manager are provided with sufficient resources and training to respond to, or refer, appropriately issues raised by the Sickness Absence Policy and Procedures. Whenever possible training will take place prior to implementation.

### **Review**

The Authority's Sickness Absence Policy and Procedures will be kept under review by the Assistant Corporate Services Manager to ensure that they are appropriate, effective and consistent with employment law.

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## **SICKNESS NOTIFICATION AND CERTIFICATION PROCEDURE**

Employees who are away from work due to sickness or accident must comply with the following Sickness Notification and Certification Procedure.

### **Sickness Notification**

- A. Employees must report sickness/injury to their Section Manager (or Assistant Manager) by 10am on the first day of absence
- B. Section Managers must report their own sickness/injury to their relevant Director.
- C. Directors should report their sickness/injury to the Chief Executive .
- D. The Chief Executive must report sickness/injury to a Director, who must then notify the Assistant Corporate Services Manager
- E. In the absence of any of the above, sickness/injury must be reported to the Assistant Corporate Services Manager

Where the employee's state of health allows it, telephone contact should be made by the employee personally. If an employee does not have a telephone, he/she should discuss with his/her Section Manager alternative arrangements for notifying sickness, before the case arises.

Employees should explain the nature of the absence and if possible give some indication of its likely duration.

If the absence is due to an accident or injury at work, this must be stated. (NB. Industrial injuries must also be documented in accordance with the Authority's Accident Reporting Procedure).

If the absence lasts for longer than 3 days, employees should contact their Director, Section Manager (or Deputy) on the fourth day of absence to inform him/her of their state of health.

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**Telephone Numbers for Sickness Notification**

**Switchboard - (0151) 255 1444**

**Director Operations – Ext. 2573**

**Director Strategy and Development – Ext. 2563**

**Director of Finance**

**Corporate Services Manager - Ext. 2523**

**Assistant Corporate Services Manager - Ext. 2539**

**Contracts Manager - Ext. 2534 or 2533**

**Assistant Contracts Manager - Ext. 2522**

**Waste Facilities Manager- Ext. 2529**

**Assistant Waste Facilities Manager - Ext. 2579**

**Waste Strategy Manager – Ext.2570**

**Assistant Waste Strategy Manager – Ext. 2523**

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## **Sickness Certification**

### **Documentation**

1. If the absence lasts for 3 days or less, the employee must self certify it by completing the Authority's Sickness Declaration Form (Blue Form) immediately upon return to work
2. If the absence lasts for longer than 3 days, the employee will be sent a Sickness Declaration Form which must be completed and returned immediately
3. As soon as the absence exceeds 7 days, in addition to the Sickness Declaration Form the employee must submit a doctor's certificate
4. Thereafter, a doctor's certificate (Fit Note) must be submitted as soon as each successive certificate expires.

Sickness Declaration Forms may be obtained from the Corporate Services Section. Completed Sickness Declaration Forms and doctor's certificates should be returned to the Assistant Corporate Services Manager.

It is the responsibility of Section Managers/Directors to notify the Assistant Corporate Services Manager on the first day of absence that an employee is sick and again when an absence has exceeded 3 days. The Corporate Services Section will forward Sickness Declaration Forms to employees whose absence has been notified as longer than 3 days.

Where a fee is paid to a doctor for providing a medical certificate, the Authority will refund the cost, subject to the employee producing a receipt.

### **Return to Work Documentation and Reporting Procedure**

. In absences where a doctor's certificate covers a period exceeding fourteen days or where more than one statement is necessary, the employee must, before returning to work, submit to the Authority a final doctor's statement certifying fitness to resume duties.

Employees must report to their direct Line Manager immediately upon resumption of duty. . In accordance with the Sickness Absence Monitoring Procedure the Line Manager will carry out a return to work interview on the first day of the employees return from sickness absence (unless there are exceptional reasons why one cannot be completed upon return.

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In respect of the Chief Executive, the Monitoring Officer will be responsible for undertaking the return to work interview.

All completed documentation in relation to return to work interviews must be given to the Assistant Corporate Services Manager.

### **Failure to Comply with the Sickness Notification and Certification Procedure**

The notification and certification of sickness is the responsibility of the individual employee. Failure to comply with procedure may render the employee liable to loss of pay in accordance with the regulations of the Statutory Sick Pay (SSP) and Occupational Sick Pay (OSP) schemes and may also result in disciplinary action being taken.

## **SICKNESS PAYMENTS**

### **Sickness Scheme**

In accordance with The National Agreement on Pay and of Conditions of Service , the scale and calculation of sickness allowances is as follows:-

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 years of service:-	5 months' full pay and 5 months' half pay
After 5 years service:-	6 months' full pay and 6 months' half pay

### **Extension of Sick Pay**

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In exceptional cases the Authority may give favourable consideration to an extension of sick pay, beyond the provisions of the National Agreement.

### **Refund of Sickness Payments**

The Finance Director in consultation with the Chief Executive is authorised to determine the application of the provisions of the Local Conditions of Service (Section 9 Para. 4) in relation to the refund of sickness payments where an employee is absent from work as a result of an accident involving a third party.

### **Statutory Sick Pay**

For Statutory Sick Pay (SSP) purposes a day of incapacity for work may be any day of the year including rest days, free days, Saturdays, Sundays and Bank Holidays. The Authority's qualifying days for SSP are Sunday to Saturday. It is therefore essential that the correct dates of any incapacity for work are recorded on all sickness documentation.

Any notification of entitlement to State Sickness Benefits received by an employee must be forwarded to the Assistant Corporate Services Manager without delay.

## **SICKNESS ABSENCE MONITORING PROCEDURE**

### **Monitoring of Sickness Absence**

Attendance records maintained by the Corporate Services Section will be used to produce a monthly monitoring report of sickness absence which has been identified as a key performance indicator.

Each Director, Manager and Assistant Manager has access to the Authority's Sickness Absence Database. The database should be used to identify and monitor employees attendance.

The database provides up to date statistics for each employee and should be used to identify any potential sickness trends or 'flash points'.

Areas of concern ('flash points') have been identified as :-

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- Any three periods of sickness absence in a six month period
- A total of ten days sickness absence in a 12 month period.

Directors, Section Managers and Assistant Managers must ensure that individuals receive equitable treatment taking into account all the available facts and the operational impact of their absences. Further information and/or advice may be sought from the Assistant Corporate Services Manager.

### **Return to Work Interviews**

Most employees will at some time experience minor illnesses resulting in short-term absence from work.

Whenever an employee returns to work after ill-health absence, whether short-term or long-term, he or she must report immediately to the Line Manager in accordance with the Return to Work Reporting Procedure.

The Line Manager should enquire informally, in private, about the individual's state of health, check that the Sickness Notification and Certification Procedure has been completed and update the employee on any developments which have occurred in the workplace.

This return to work interview affords the Line Manager the opportunity to raise any concerns about apparent shortcomings in the individual's attendance record, and to identify, by using the relevant information derived from the Sickness Absence Database, any potential 'flash points', and reinforce the importance the Authority attaches to high attendance.

A return to work sheet must be completed and signed by both the employee and Line Manager as a record of the return to work interview. Any potential concerns and remedies identified must also be recorded on the sheet.

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## **CAPABILITY PROCEDURE - GENERAL ISSUES**

### **Definition of Capability**

In the context of the Sickness Absence Policy and Procedures, capability refers to an individual's ability to perform to the agreed standard in terms of attendance at work. Where an employee is apparently unable to meet those agreed standards because of ill health, the Authority's Capability Procedure will be invoked.

### **Right to Representation**

All employees are entitled to be accompanied and represented by a Trade Union representative or by a work colleague at any **formal stage** of the Capability Procedure and shall have their attention drawn to that fact.

Employees are entitled to consult with their Trade Union representative or work colleague, in private, at any stage of the proceedings.

At the informal stage of the Capability Procedure, employees may choose to be supported by a work colleague (who may be a Trade Union representative), in which case the Assistant Corporate Services Manager will also attend to monitor the interview. Employees will be given at least one day's verbal notice of an informal interview to enable any such arrangements to be made.

### **Medical Referrals**

Under the provisions of The National Agreement on Pay and Conditions of Service, the Authority may at any time, require an employee to submit to a medical examination by its Medical Advisor, subject to the provisions of the Access to Medical Reports Act 1988, where applicable. Any expenses incurred in conjunction with such an examination will be met by the Authority.

In the event of a medical referral, the Assistant Corporate Services Manager will forward a letter to the Medical Advisor including the following details:-

- the reason for referral
- relevant details of the employee's sickness absence record
- a copy of the employee's job description, if appropriate

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- the nature of the advice sought
- any other relevant information which has arisen in the course of the sickness absence monitoring procedure

Following a medical referral the employee will have the right to appeal against the Medical Advisor's findings. If the employee wishes to exercise this right he or she must do so by writing to the Chief Executive within 7 working days of being notified of the findings and of the right of appeal by the Assistant Corporate Services Manager.

In the case of the Chief Executive the right to appeal against the Medical Advisor's findings should be made, in writing to the Appeals Committee.

Where it is necessary to obtain a second medical opinion, it will be provided by an independent medical referee (National Agreement Part 3, Para. 4.2). The independent medical referee will be nominated and paid for by the Authority.

If an employee refuses to attend an examination by the Authority's Medical Advisor, he or she will be advised in writing that management has no alternative but to make decisions based on the information available without the benefit of medical advice, and that management may pursue the issue of non co-operation through the Disciplinary Procedure. The employee will be given a period within which to reconsider.

### **Redeployment on Medical Grounds**

Under Section 9 of the Local Conditions of Service, the Chief Executive in consultation with the Chairman of the Authority may arrange to redeploy, to other suitable vacancies or to supernumerary duties, employees who, on medical grounds, are not undertaking the particular duties of their post.

Where redeployment is a possibility the employee will be involved in the discussions at all stages and has the right to be accompanied and represented by his or her Trade Union representative or by a work colleague of his or her choice.

### **Cautions**

Under the Capability Procedure, where circumstances warrant it, an employee may be formally cautioned that his or her level of sickness absence cannot be tolerated and that failure to improve could eventually result in dismissal.

- A verbal caution will remain live for six months. If no further formal action is found to be necessary within that period, it will be expunged from the employee's record

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- A first written caution will remain live for one year. If no further formal action is found to be necessary within that period, it will be expunged from the employee's record
- A final written caution will remain live for two years. However, if no further formal action is found to be necessary within the first 12 month period it will be reduced to a first written caution. Thereafter, if no further formal action is found to be necessary within the second 12 month period, the caution will be expunged from the employee's record
- If an employee fails to demonstrate the required improvement in attendance during the life of a final written caution he or she may be dismissed on grounds of incapability due to sickness.

No formal action, other than a verbal caution, will be taken against an elected Trade Union representative until the full circumstances of the case have been reported to a full-time official of the union concerned.

### **Rights of Appeal**

Employees have the right to appeal against the issue of a caution and against dismissal. Appeals must be made in writing to the Chief Executive within 7 working days of receipt of the caution or notification of termination of employment.

Appeals against cautions issued by Section Managers will be heard by the relevant Director, who will confirm his or her decision in writing to the appellant within seven working days. Appeals against cautions issued by the Director/s will be heard by the Chief Executive.

Appeals against cautions issued by the Chief Executive or against dismissal will be heard by the Authority's Appeals Committee in accordance with the Appeals Procedure (Local Conditions of Service Section 12).

Appeals from the Chief Executive against cautions issued will be heard by the Authority's Appeals Committee

## **CAPABILITY PROCEDURE**

### **PERSISTENT SHORT-TERM SICKNESS ABSENCE**

#### **INFORMAL INTERVIEW**

If an employee's record of persistent short-term sickness absence gives a Line Manager cause for concern, he or she will interview the employee informally, in private.

In the case of the Chief Executive, the interview will be undertaken by the Monitoring Officer.

Although this is an informal interview, the employee may prefer to be supported by a work colleague (who may be a Trade Union representative), in which case the Assistant Corporate Services Manager will also attend. At least one day's verbal notice of the interview will be given to enable any arrangements to be made.

The informal interview is not about challenging the reasons for sickness absence. It is a counselling process which will focus on the employee's health and welfare in an attempt to determine whether the Authority may help the employee to improve attendance. However, the employee should also be made aware that there are guidelines to the amount of lost time the Authority can sustain.

The purpose of the informal interview is to:-

- discuss the frequency and reason for the sickness absences, highlight any pattern of absence and/or flash points and ensure that the employee is aware why the absence record is giving cause for concern
- establish, in so far as this is possible, whether there is an underlying medical problem, and if so advise the employee to seek proper medical attention. This may involve referring the individual to the Authority's Medical Advisor
- consider any work-related problems which the employee might wish to discuss and explore ways of helping the employee resolve them
- consider any personal problems which the employee might wish to discuss and if appropriate explore ways of helping the employee resolve them
- identify and address any health and safety issues which might be involved
- establish the timescale for further review if a welfare or Occupational Health Service referral has been agreed
- inform the employee that persistent short-term absences are unacceptable and may eventually put continued employment at risk

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- agree a reasonable time period over which the employee's attendance can be assessed (a minimum period of three months) and that full attendance is expected within that period

Any underlying medical, welfare or work-related issue raised must be dealt with immediately. This will influence the extent to which final two points above are appropriate.

The Line Manager will issue the employee with a letter confirming that the informal counselling interview has taken place and the action to be taken, if applicable. It will specify what will happen if the employee's attendance does not improve. A copy of the letter will be kept on the employee's personal file for information.

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**CAPABILITY PROCEDURE**  
**PERSISTENT SHORT-TERM SICKNESS ABSENCE**

**FIRST FORMAL INTERVIEW**

If the employee's attendance record does not improve after the informal interview, the employee will receive written notice that he or she is required to attend a formal interview to be conducted by the Line Manager, with the Assistant Corporate Services Manager present.

In the case of the Chief Executive, the Monitoring Officer will produce a report for the Investigating and Disciplinary Committee who will determine what action, if any will be taken in accordance with this stage of the procedure. The Monitoring Officer will also give written notice to the Chief Executive of their requirement to attend the formal interview.

The letter will:-

- advise the employee of the right to be accompanied and represented
- give a detailed account of the employee's sickness record and refer to the outcome of any action following the informal interview
- state that the formal interview has been called under the Capability Procedure in order to fully investigate the facts of the case, set standards and restore the employee to a satisfactory level of attendance in so far as this is possible.

The purpose of the formal interview is to:-

- ensure that the employee understands why his or her sickness absence is under review here
- discuss the frequency and reason for the sickness absences, highlight any pattern of absence and identifying the flash points
- establish, in so far as this is possible, whether there is an underlying medical problem, and if so advise the employee to seek proper medical attention. This may involve referring the individual to the Authority's Medical Advisor
- consider any work-related problems which the employee might wish to discuss and explore ways of helping the employee resolve them
- consider any personal problems which the employee might wish to discuss and if appropriate explore ways of helping the employee resolve them
- identify and address any health and safety issues which might be involved
- highlight the problems caused to the service and to colleagues by poor attendance

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- inform the employee of the standard of attendance expected and that persistent short-term absences are unacceptable and may eventually put continued employment at risk
- set a time period over which the employee's attendance will be reviewed

Any underlying medical, welfare or work-related issue raised must be dealt with immediately. If during the formal interview the employee is referred to the Authority's Medical Advisor or to welfare services, the Line Manager will defer determining a course of action until the outcome of the referral is known.

### **Verbal Caution**

After investigation at the formal interview, where there is no medical referral and where there are no reasonable grounds to suppose that there will be an improvement in attendance in the near future, the Line Manager will caution the employee that his or her level of sickness absence cannot be tolerated and that failure to improve could eventually result in dismissal in accordance with the Authority's Capability Procedure.

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**CAPABILITY PROCEDURE**  
**PERSISTENT SHORT-TERM SICKNESS ABSENCE**

**Follow-Up to First Formal Interview**

The Section Manager will issue the employee with a letter, recording:-

- the fact that the formal interview has taken place
- the date that the verbal caution was given, if applicable
- the fact that the purpose of the caution is to restore the employee to a satisfactory level of attendance in so far as this is possible
- a clear statement to the cautioned employee that failure to improve attendance could eventually result in dismissal
- the fact that the caution will remain live for six months
- any other action determined at the interview: eg. where absences are wholly or largely self-certified the employee may have been instructed to provide a doctor's note (at the Authority's expense) for all subsequent periods of sickness absence, regardless of their duration
- targets for improvement
- review dates within the six month cautionary period
- the next steps to be taken in accordance with the procedure if the employee's attendance fails to improve
- the right of appeal against the caution.

A copy of the letter will be kept on the employee's personal file.

Where there has been no verbal caution the employee will receive a letter confirming the detail of the formal interview, including any further action plan, eg medical or welfare referral. A copy of the letter will be kept on the employee's personal file.

**Referral to Medical Advisor**

Where, following a verbal caution and subsequent review periods within the six month life of the caution, the employee fails to demonstrate the required improvement in attendance levels, the Line Manager will, if he or she has not already done so, refer the employee to the Authority's Medical Advisor:-

1. **Medical Opinion: Further Review Required**

The Medical Advisor may consider that the employee requires treatment or that a review period should be set within which the situation will be monitored before any final

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decision is taken as to the employee's fitness for continued employment. The review period will generally be set by the Medical Advisor.

Any medical arrangements and review dates will be confirmed in writing to the employee.

Any further periods of sickness absence within the review period set by the Medical Advisor will be brought to the Medical Advisor's attention and if appropriate a further examination will be arranged.

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**CAPABILITY PROCEDURE**  
**PERSISTENT SHORT-TERM SICKNESS ABSENCE**

**2. Medical Opinion: Employee Permanently Unfit for Work**

The procedure for termination of service on grounds of permanent ill-health will be followed, unless redeployment is a possibility.

**3. Medical Opinion: Employee Fit For Work**

**Procedure for Handling Doubtful Ill-Health Absences**

If the Medical Adviser can find no reason for the employee's persistent sickness absence and states that the employee is fit for his or her job, the employee will be given written notice that he or she is required to attend a formal interview to be conducted by the Manager in the presence of the Assistant Corporate Services Manager.

In the case of the Chief Executive, the Monitoring Officer will produce a report for the Investigating and Disciplinary Committee who will determine what action in accordance with this stage of the procedure, if any will be taken. The Monitoring Officer will also give written notice to the Chief Executive of their requirement to attend the formal interview.

The letter will:-

- advise the employee of the right to be accompanied and represented at the interview by a Trade Union representative or work colleague
- give a detailed account of the employee's sickness record and any formal action taken to date
- advise the employee that the Medical Advisor has found no reason for the persistent sickness absence and considers the employee to be fit for his or her job
- advise the employee that the purpose of the interview is to give the employee the opportunity to respond to the Medical Advisor's opinion.

Any action plan and review dates arising out of the interview will be confirmed in writing to the employee. Where applicable, the employee should be informed at the interview that if there are any further periods of sickness absence during the review period, the Disciplinary Procedure may be invoked on the basis of abuse of the sickness absence provisions. This will be confirmed in writing.

Before initiating the Disciplinary Procedure, management must be able to show that all avenues have been explored in attempting to determine the reasons for persistent

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sickness absence. Formal disciplinary action will only be initiated when the Section Manager/Monitoring Officer considers that he or she is in possession of all the facts as far as is reasonably practicable and that on the basis of medical opinion there are reasonable grounds to believe that the sickness absence is not genuine.

Any formal disciplinary action taken in relation to abuse of the sickness absence provisions will follow the normal Disciplinary Procedure. Employee rights to Trade Union representation, appeals, duration of warnings etc will be observed.

#### **4. Medical Opinion: Employee Not Permanently Unfit For Work**

If, during the 6 month life of a verbal caution, the employee fails to demonstrate the required improvement in attendance levels and if the Medical Advisor does not consider the employee to be permanently unfit for work, a second formal interview will take place

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**CAPABILITY PROCEDURE**  
**PERSISTENT SHORT-TERM SICKNESS ABSENCE**

**SECOND FORMAL INTERVIEW**

Where it is considered that further formal action is warranted, the employee will receive written notice that he or she is required to attend an interview to be conducted by the Manager, in the presence of the Assistant Corporate Services Manager.

In the case of the Chief Executive, the Monitoring Officer will produce a further report for the Investigating and Disciplinary Committee who will determine what action in accordance with this stage of the procedure, if any will be taken. The Monitoring Officer will also give written notice to the Chief Executive of their requirement to attend the formal interview.

The letter will:-

- advise the employee of the right to be accompanied and represented at the interview by a Trade Union representative or work colleague
- give a detailed account of the employee's sickness record and state that the Medical Advisor does not consider the employee to be permanently unfit for work
- state that the purpose of the interview is to discuss the possibility of taking formal action under the Capability Procedure following a failure to demonstrate the required improvement in attendance during the life of the verbal caution

**First Written Caution**

If the outcome of the second formal interview is that the employee's level of sickness absence warrants a first written caution, the Manager will:

- caution the employee that a further unacceptable level of sickness absence at any time during the 12 month life of the caution might result in the issue of a final written caution, according to the procedure below
- caution the employee that a continued unacceptably high level of sickness absence might lead eventually to dismissal
- state that the purpose of the caution is to restore the employee to a satisfactory level of attendance in so far as this is possible
- advise the employee of his or her right of appeal against the caution.

The employee will be issued with a letter within five working days of the interview confirming the detail of the interview and its outcome. A copy will be kept on the employee's file.

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### **THIRD FORMAL INTERVIEW**

Managers, guided by the Assistant Corporate Services Manager, must determine whether further sickness absence within the life of a first written caution justifies further formal action. Where applicable, the employee will receive written notice that he or she is required to attend an interview to be conducted by the Manager, in the presence of the Assistant Corporate Services Manager.

In the case of the Chief Executive, the Monitoring Officer will produce a further report for the Investigating and Disciplinary Committee who will determine what action in accordance with this stage of the procedure, if any will be taken. The Monitoring Officer will also give written notice to the Chief Executive of their requirement to attend the third formal interview.

The letter will:-

- advise the employee of the right to be accompanied and represented at the interview by a Trade Union representative or work colleague
- detail the employee's sickness record for the period in question and refer to any medical advice taken
- state that the purpose of the interview is to discuss the possibility of taking further formal action under the Capability Procedure following a failure to demonstrate the required improvement in attendance during the life of the first written caution.

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## **CAPABILITY PROCEDURE**

### **PERSISTENT SHORT-TERM SICKNESS ABSENCE**

#### **Final Written Caution**

If the outcome of the third formal interview is that the employee's level of sickness absence warrants a final written caution, the Manager will:

- caution the employee that a continued unacceptable level of sickness absence at any time during the 2 year life of the final written caution will be liable to lead to dismissal on grounds of incapability
- advise the employee that if no further formal action is found to be necessary within 12 months of the final written caution being issued, it will be reduced to a first written caution
- state that the purpose of the caution is to restore the employee to a satisfactory level of attendance in so far as this is possible
- advise the employee of his or her right of appeal against the caution.

In the case of the Chief Executive, the Monitoring Officer will produce a final report for the Investigating and Disciplinary Committee who will determine what action in accordance with this stage of the procedure, if any will be taken. The Monitoring Officer will also give written notice to the Chief Executive of their requirement to attend the formal interview.

The employee will be issued with a letter within five working days of the interview confirming the detail of the interview and its outcome. A copy will be kept on the employee's file.

#### **DISMISSAL FOR INCAPABILITY**

If during the life of a final written caution sickness absence remains at an unacceptable level, the employee will be given written notice that he or she is required to attend a further formal interview to be conducted by the Chief Executive of. The Assistant Corporate Services Manager will also be present at the interview.

In the case of the Chief Executive, the Monitoring Officer will produce a final report for the Investigating and Disciplinary Committee who will determine if dismissal or alternative action is to be taken. The Monitoring Officer will also give written notice to the Chief Executive of their requirement to attend the formal interview.

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The letter will:-

- advise the employee of the right to be accompanied and represented at the interview by a Trade Union representative or work colleague
- give a detailed account of the employee's sickness record and refer to any medical advice taken
- state that the purpose of the interview is to consider the employee's representations in the face of the possibility of dismissal on grounds of incapability following his or her failure to demonstrate the required improvement in attendance during the life of the final written caution.

If, having heard the employee's representations at the interview and taken further medical advice where appropriate, the Chief Executive believes that the persistent sickness absence gives sufficient reason for dismissal, he or she will dismiss the employee for reasons of incapability.

The decision will be confirmed in writing. The letter will include the grounds for dismissal; the appropriate period of notice; the option to take pay in lieu of notice; details of any payment due; and the employee's right of appeal to the Authority against the decision.

The Chief Executive has a right to appeal to the Appeals Committee for any caution short of dismissal and to the full Authority in the case of dismissal. The decision of the Authority shall be final.

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## **CAPABILITY PROCEDURE** **LONG-TERM SICKNESS**

Where an employee has been off sick for over four weeks, subject to the nature of the illness, he or she will be contacted by the Assistant Corporate Services Manager to determine whether there are any immediate work-related health or welfare requirements.

If contact is maintained it is likely to ease the process of adjustment on return to work. The Assistant Corporate Services Manager will keep the employee's manager up to date with the situation, as appropriate.

### **Referral to Medical Advisor**

Where there is any doubt about the nature of an illness or about the prospect of an employee returning to work within a reasonable period, or where there is any doubt about an employee's fitness to resume his or her duties on return to work, the case will be referred to the Authority's Medical Advisor.

In any event, when the point is reached at which the employee's pay is about to be reduced to half under the Sickness Scheme, and where a date for return to work has not yet been determined, the employee will normally be referred to the Authority's Medical Advisor for a medical examination. If the employee's condition precludes this, the employee's case will be referred to the Medical Advisor for a professional opinion. Medical referral may be deferred depending upon the particular circumstances of a case.

### **Welfare Visit**

Before a medical referral, the Assistant Corporate Services Manager will contact the employee and arrange to carry out a welfare visit. Alternatively, communication may be by post or telephone. Each case will be approached sensitively and in the light of its individual circumstances.

The welfare visit is intended to enable the employee to discuss his or her circumstances and to raise any questions or concerns, and to allow the Assistant Corporate Services Manager to explain the reasons for the medical referral and to discuss its potential implications with the employee. The Assistant Corporate Services Manager will also explain the pay implications of continued absence.

#### **1. Medical Opinion: Employee Not Permanently Unfit For Work**

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If the Medical Advisor's opinion is that the employee is not permanently unfit for work, subsequent action will be determined in the light of the Medical Advisor's recommendation. The employee may require further time off, continued treatment, a period of convalescence, further medical review, a return to work on temporary light duties, redeployment, etc.

Throughout the absence, the outcome of any medical consultation will be discussed by the Assistant Corporate Services Manager with the employee, subject always to the nature of the illness and to the wishes of the individual.

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## **CAPABILITY PROCEDURE** **LONG-TERM SICKNESS**

### **Return to Work**

Where an employee returns to work after a period of long-term sickness, he or she will be interviewed by their Manager and his or her sickness absence record will be monitored in line with the normal Sickness Absence Monitoring Procedure).

Should the employee experience a period of related sickness absence within a 12 week period he or she will be referred to the Medical Advisor for a further appointment.

### **Continuing Sickness Absence Where the Employee is Not Permanently Unfit**

If an employee's ill-health persists, but the employee has not been found permanently unfit for work by the Medical Advisor, the key question, as with short-term sickness, is how long in all the circumstances can the Authority reasonably be expected to tolerate the absence.

### **Dismissal on Grounds of Incapability**

Although a decision to dismiss on grounds of incapability would be managerial not medical, no such decision will be made by the Chief Executive without first:-

- advising the employee of the right to be accompanied and represented by a Trade Union representative or work colleague at any discussion or interview (the Assistant Corporate Services Manager will also be present at any discussion or interview)
- taking medical advice and discussing it with the employee concerned
- giving the employee the opportunity to make representations at an interview including presenting his or her own medical advice
- seeking independent medical advice where the opinions of the employee's GP and the Authority's Medical Advisor conflict.

The decision to dismiss an employee who is not permanently unfit may only be taken by the Chief Executive present at the interview.

In reaching the decision to dismiss an employee who has a long-term illness but who has not been found permanently unfit, the Chief Executive will need to weigh up a number of factors as well as consider medical advice on the likely duration of the illness. These factors include the employee's length of service; the extent to which the individual's work is critical; the provision of cover; the possibility of redeployment; etc.

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In the case of the Chief Executive, the Monitoring Officer will produce a report for the Investigating and Disciplinary Committee, which will include all available medical advice. Once a decision to dismiss on grounds of incapability due to long term sickness absence has been reached, the decision will be confirmed in a letter to the employee including the reason for termination of employment; the appropriate period of notice; the option to take pay in lieu of notice; details of any payment due; and the employee's right of appeal to the Appeals Committee against the decision.

In respect of the Chief Executive, appeal against dismissal on the grounds of capability would be to full Authority.

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## **CAPABILITY PROCEDURE** **LONG-TERM SICKNESS**

### **2. Medical Opinion: Employee Permanently Unfit** **Termination of Service on Grounds of Permanent Ill-Health**

Where the Medical Advisor certifies that an employee is permanently unfit to carry out his or her duties it will be necessary to terminate employment, unless redeployment or modification of existing duties present viable alternatives.

The Chief Executive has authority to implement a recommendation by the Authority's Medical Advisor that the service of an employee should be terminated on grounds of permanent ill-health, providing that the appropriate sick leave entitlement and period of notice are afforded to the employee.

In such a case, the Assistant Corporate Services Manager will arrange to see the employee, giving advance notification of the purpose of the interview, including confirmation of the medical advice received. The employee will also be advised of the right to have a Trade Union representative or work colleague present at the interview.

If the employee is too ill to interview, matters will be arranged through a nominated representative, eg a union representative, family member, close friend, etc, or failing this by post.

At the interview the Assistant Corporate Services Manager will:-

- sympathetically inform the employee that termination of employment is proposed and explain the reasons for the decision
- outline pay and pension implications
- give the employee every opportunity to respond
- provide or arrange to provide, in so far as is possible, any advice or assistance requested by the employee.

The Manager and the Chief Executive will be kept up to date with the situation.

Where, following the interview, employment is to be terminated on grounds of permanent ill-health, the decision will be confirmed in writing to the employee. The letter will include the appropriate period of notice; the option to take pay in lieu of notice; and details of any payment due. It will also set out the employee's right to appeal to the Appeals Committee against the decision, including the right to obtain the opinion of an independent medical referee.

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If the Chief Executive is found permanently unfit to carry out his or her duties it will be necessary to terminate employment.

The Investigating and Disciplinary Committee has authority to implement a recommendation by the Authority's Medical Advisor that the service of the Chief Executive should be terminated on grounds of permanent ill-health, providing that the appropriate sick leave entitlement and period of notice are afforded. This would be confirmed in writing and will include the appropriate period of notice; the option to take pay in lieu of notice; and details of any payment due. It will also set out the right to appeal against the decision. The right of appeal would be to the full authority.

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