

Managing Attendance Procedure

Policy and Strategy Committee

24 January 2012

Purpose of report

- 1 This report seeks approval to implement a New Managing Attendance Procedure to replace the current Procedure for Managing Sickness Absence.

Main report

- 2 The Council's local agreement on the Procedure for Managing Sickness Absence was approved in October 1998. It covered all staff including teachers.
- 3 In support of attempts to reduce the Council's absence rate to 4% or lower it was considered appropriate to review the Managing Sickness Absence Procedure. It was determined that the existing procedure should be replaced with a more modern and efficient procedural model.
- 4 A new Managing Attendance Procedure has been developed, shaped by line manager focus groups and trade union consultation. A copy is attached as Appendix 1. An associated Management Toolkit which provides guidance on the operation of the new Procedure has also been developed and will be issued with the Procedure.
- 5 Consultation with the Trade Unions Side (including teachers) seeking to reach agreement on a new Managing Attendance Procedure effectively concluded when the trade union side finally confirmed that it could not agree to the terms of the new procedure. Their main issue was the tightening of the trigger levels at which the formal stages operate. As a consequence four months notice was served in October 2011 which will bring the existing local agreement to an end on 30 January 2012.
- 6 A protocol to move staff already in the existing procedure into the new procedure has been developed. It will be used to provide a seamless transition between the old and new processes.
- 7 Training on the new procedure has been developed and will be mandatory for HR staff and Managers.
- 8 For reasons of procedural continuity, the implementation date for the new Procedure will be 30 January 2012, the date the notice period served on the old procedure ends.

Financial Implications

9 There are no financial implications arising from this report.

Equalities Impact

10 An equalities impact assessment has been undertaken. The following recommendations from this assessment have been incorporated into the implementation arrangements:

- ill-health Redeployment will be sought in appropriate circumstances
- the Council will make reasonable adjustments where deemed necessary in accordance with the Equality Act;
- increased and more stringent equalities' monitoring will be required in respect of groups where there is the potential for adverse impacts eg disabled employees, female employees;
- service areas have a responsibility to implement this procedure to ensure that sickness absence does not lead to inadequate levels of service delivery to the community; and
- training for line managers in the operation of the procedure, including duties under the Equalities Act and the operation of Contribution Based Pay, will be provided.

Environmental Impact

11 None.

Recommendations

13 The Committee is recommended to:

- a) note that notice has been served to end the Procedure for Managing Sickness Absence on 30 January 2012, and
- b) approve the new Managing Attendance Procedure for use from the 30 January 2012

Alastair Maclean
Director of Corporate Governance

Appendices 1. Managing Attendance Procedure

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Wards affected

Single Outcome Agreement

Background Papers

MANAGING ATTENDANCE PROCEDURE (covering all employees)

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MANAGING ATTENDANCE PROCEDURE (covering all employees)

1. INTRODUCTION

- 1.1 The Council recognises that high attendance levels are a vital factor in providing cost-effective and efficient Council Services. The CMT has introduced a Council wide sickness absence target level therefore the effective management of sickness absence must be a high priority for all managers.
- 1.2 To promote continuous improvement in the area of sickness absence, Services will continuously monitor their performance against the Council wide sickness absence targets. Services may set more stringent targets, in consultation with HR, where the levels already achieved are lower than the Council wide sickness absence target level.
- 1.3 This procedure is designed to help line managers monitor, control and improve attendance levels and to reduce the adverse impact of sickness absence on service delivery. In conjunction with other supportive policies and procedures, this procedure also provides employees with appropriate support to improve their attendance where necessary.
- 1.4 The procedure provides a process for Managing Attendance which may result in action being taken up to and including dismissal on capability grounds.
- 1.5 All sickness absence will be dealt with using this procedure.
- 1.6 A Senior Manager in each Service and/or service division will oversee the operation of the procedure.
- 1.7 Line managers will ensure that employees are made aware of the Procedure and that their attendance will be monitored against the standards set by the Council. In addition, they will also be responsible for operating the procedural arrangements for their employees.
- 1.8 Medical information relating to cases will be kept confidential. This will also be the case where any third party intervention operates eg Day One Nurse Led Reporting.

- 1.9 An employee will have the right to be represented by a Trade Union representative or a work colleague at any formal stage meeting convened under this procedure.
- 1.10 This procedure conforms fully with the requirements set out in the Equality Act.

2. NOTIFICATION AND CERTIFICATION

Notification

- 2.1 Local arrangements to make contact to notify sickness absence should be confirmed and communicated to all employees.
- 2.2 An employee should telephone their line manager or alternative designated contact (eg Day 1 Nurse Led Reporting Line) on the first day of absence in accordance with local reporting arrangements and provide the following information;

- the reason for absence
- an anticipated return to work date
- any work commitments that may need to be rearranged or re-allocated

Exceptionally, if an employee cannot make personal contact, they must ensure that notification is made on their behalf in line with the appropriate contact arrangements.

- 2.3 E-mails or text messages **are not accepted** as an appropriate method of notification.
- 2.4 Failure to notify the designated contact without good reason will lead to the absence being deemed unauthorised and will result in the withholding of sickness absence payments and possibly disciplinary action. If a satisfactory explanation is provided after investigation of the circumstances, payment will be re-instated.
- 2.5 If a manager has not heard from an employee on the first day of absence, within the timescales indicated in reporting arrangements, they should try to establish contact later on the first day and also on successive days, in an attempt to determine the reason for the absence.
- 2.6 The employee must update their line manager on their absence on the fourth and seventh day of absence and weekly thereafter. Failure to do so will again result in the withholding of sickness absence payments. If a satisfactory explanation is provided after investigation of the circumstances, payment will be re-instated.

- 2.7 Normal contact reasonably made with employees in accordance with the provisions of this procedure will not constitute harassment.

Certification

- 2.8 For an absence of **seven calendar days or less**, the employee must submit a self-certificate form to their line manager on the day they return to work unless a Medical Practitioner has issued a Fit Note from day one that covers the absence
- 2.9 For an absence continuing for **more than seven calendar days** in addition to completing a self-certificate form, the employee must consult a doctor and obtain a Fit Note. The certificate must be forwarded immediately to the line manager. If the absence is likely to continue beyond the date shown on the medical certificate the employee should consult their Medical Practitioner again and submit additional medical certificates to cover the period of their absence.
- 2.10 If the employee's health improves, they will be expected to return to work at the end of the period and under any specific workplace/working time adjustments/restrictions specified in the most current Fit Note. In the case of an employee with a disability, any reasonable adjustments which are deemed necessary will be made.

Unauthorised Absence

- 2.11 When an employee's absence is not supported by appropriate documentation or where the correct notification procedure has not been followed, this will be regarded as unauthorised absence and sickness absence payments withheld. If a satisfactory explanation is provided after investigation of the circumstances, payment will be re-instated.
- 2.12 However, if, after investigation and consideration of the circumstances and any explanation given, the absence remains unauthorised, pay will not be re-instated and the matter will be dealt with under the Council's disciplinary arrangements. This will not prevent the absence itself being dealt with under the provisions of this procedure.

Suspension of Sickness Payments

- 2.13 Sickness payments and the right to self-certify will be suspended where an employee abuses the provisions of this procedure. Examples of abuse will be:-
- sickness due or attributable to deliberate conduct prejudicial to recovery
 - the employee's own misconduct or neglect
 - active participation in professional sport
 - injury while working in the employee's own time on their own account for private gain or for another employer

- fraudulent claims for sickness payments (which are likely to constitute gross misconduct and lead to dismissal).

2.14 Where such an abuse constitutes misconduct it will be dealt with under the provisions of the Council's disciplinary arrangements. This will not prevent the absence itself being dealt with under the provisions of this procedure.

3. PROCEDURAL RECORDING AND MONITORING

3.1 A Senior Manager in each Service area will oversee the operation of the procedure, and work with line managers to continuously improve attendance levels.

3.2 **All sickness absences must be recorded by line managers on the Council's computerised HR system (MyPeople) on the first day of absence or as soon as possible thereafter.**

This information is used to :-

- ensure timely notification of changes in sick pay level (ie a reduction to half pay or to zero pay)
- produce corporate and departmental absence reports
- produce reports of formal action taken
- monitor the effectiveness of the Council's Managing Attendance arrangements

3.3 Each line manager is required to monitor attendance levels within their team and apply the formal stages of this procedure in line with sections 5 and 6 below.

3.4 An early decision must be made on whether the issue is one of frequent short-term or long-term absence or if a recognisable pattern of absence has emerged. In reaching a decision, the nature of the absence and the employee's current medical circumstances should be taken into account when determining a way forward eg disability, planned recuperation/rehabilitation following hospitalisation.

3.5 Line managers must keep records of actions taken and when they were taken. (See the Management Toolkit for guidance where staff are assessed as a part of the Council's Contribution Based Pay arrangements).

4. WELL- BEING AND PREVENTATIVE ACTION

4.1 The Council, through its well-being strategy, is actively seeking to encourage employees to adopt and pursue healthy lifestyle options which can contribute to a positive work-life balance and lead to lower employee sickness absence levels.

4.2 In furtherance of its well-being strategy, the Council offers supportive measures such as a confidential employee counselling service, physiotherapy and subscribes to other employee focussed initiatives such as “see-me” and Investors in People.

4.3 Effective monitoring of sickness absence can identify issues which, if tackled early, can impact positively on absence level, eg sickness absence related to stress or musculo-skeletal problems.

4.4 This monitoring can also incorporate the use of Health and Safety statistics to identify areas where early intervention and preventative action can reduce the adverse impact of workplace accidents and injuries and lost time.

4.5 **Terminal illness**

Where an illness or medical condition is terminal (ie where the prognosis is clear and the individual will not recover) the formal stages of this procedure will not operate and any medical referral will only be to assist in the employee’s wellbeing.

5. **TRIGGER POINTS**

5.1 Sickness absence will be considered as problematic and having an adverse impact on individual and /or team performance and service delivery where any of the following trigger points are reached:

- a) three instances of sickness absence within a 12 month rolling period;
- b) 6 days of sickness absence within a 12-month rolling period;
- c) four weeks of continuous sickness absence (long-term)
- d) other recurring or recognisable patterns such as sickness absence which occurs
 - on a Friday and/or a Monday
 - before or after public holidays or periods of annual leave
 - before, during or after school holidays
 - in regular patterns of sickness absence in a year or in successive years ie specific recurring dates when sickness absence occurs

Line Management Review

5.2 Progression to into the formal stages of the procedure will not be automatic when a trigger point is reached but will be the subject of a review.

5.3 The review will take place where the trigger level is reached and the absence relates to a “**one off**” situation (which could involve one or more periods of absence) eg.

- a surgical intervention or
- a management enforced absence relating to a contagious or other infection or notifiable disease*,

or where up to that point the employee has had an exemplary attendance record.

In the circumstances described above the formal stages of the procedure will not normally apply.

* a notifiable disease is any disease that is required by law to be reported to government authorities.
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6. MANAGEMENT ACTION

6.1 Other than where the provisions of paragraph 5.3 above apply or where an illness is terminal, a line manager **must** use the formal stages of this procedure when an employee’s absence level or pattern reaches a trigger point. It may be that a combination of long and short-term absence occurs. For the purposes of this procedure, after a stage 1 warning is issued **any** further periods of sickness absence will normally result in further, formal action.

6.2 Where taking action has led to the issuing of a staged warning, **any** subsequent sickness absence which does not meet improvement targets will result in a progression to the next procedural stage. This means that additional long or short-term absence or a continuation of recognisable sickness absence patterns will mean progression to the next stage if improvement targets are not met.

6.3 Stage 1 and 2 monitoring periods are 12 months but line managers need to assess if progression to the next stage is required at an earlier point in the monitoring period due to a significant adverse impact on Service delivery ie there is **no requirement** to wait for the monitoring period to end if action is required earlier.

Occupational Health advice

6.4 It is recognised that an early referral can have a positive effect on absences related to stress, mental illness and muscular skeletal conditions. In stress cases a referral should be made immediately to ensure the earliest possible intervention. Absences due to musculo-skeletal or mental health should be the subject of a referral prior to a trigger being reached.

- 6.5 Where an employee has reached a trigger point, the Line Manager will seek appropriate medical advice from the Council's Occupational Health provider and taking account of the advice received, decide on a course of action in accordance with the procedure.
- 6.6 An employee will be required to participate in a medical assessment by the Council's Occupational Health provider. In these circumstances the employee will be advised of the reason(s) for seeking medical advice, his/her rights under Access to Medical Reports legislation and given a copy of the referral form prior to the occupational health appointment.
- 6.7 In any Occupational Health referral, advice should be sought to determine if the circumstances of the case require consideration of any reasonable adjustments provided for in the Equality Act and what they might be.

7. Staged approach

- 7.1 There are 3 formal stages to managing absence cases:

Stage 1 Warning: if no improvement or sustained return to work, move to

Stage 2 Warning: if no improvement or sustained return to work, move to

Stage 3: Final Review and potential dismissal on the grounds of capability due to ill-health

Stage 1

- 7.2 In cases where an employee reaches a trigger point, the line manager will review the absence record and seek appropriate medical advice, both to comply with this procedure and to identify what additional support / measures can be provided to improve the employees attendance and wellbeing.
- 7.3 The line manager will arrange a Stage 1 meeting giving seven calendar days' notice. Along with the invitation to the meeting, written details of the sickness absence record and any other relevant information, eg any current occupational health report, should be provided and the employee informed of the right to be represented by a trade union representative or work colleague.
- 7.4 The meeting should normally take place in the workplace. If it is mutually agreed, the meeting may be held at the employee's home or at another location.
- 7.5 The purpose of a stage 1 meeting between the line manager and the employee is to:-

- a) explore reasons for absence and consider any mitigating factors;
- b) discuss the absence record and any adverse operational impact;
- c) consider further Occupational Health advice and identify what could reasonably be done to facilitate an improvement in attendance or an early return to work;

7.6 During the meeting line managers should

- assess the overall situation to determine if there are any mitigating factors (including any medical condition; disability; absence as a result of stress in the workplace),
- consider the availability of funding for adjustments or adaptations that could allow the employee to maintain regular attendance and the impact of the absence on service delivery.

At the conclusion of the meeting the following will apply -:

- a) where there are no mitigating factors which would prevent it, a Stage 1 warning for unsatisfactory attendance will be issued and a formal monitoring period put in place, this will normally be for a period of 12 months;
- b) an improvement target is defined;
- c) any reasonable adjustments such as changes to workload, work practices are identified and implemented if required (including any requirements supporting a phased return).
- d) outline any impact that this stage1 warning may have on the employees future pay step

7.7 The outcome of the meeting will be confirmed in writing to the employee and any representative attending the meeting within 7 calendar days. A copy must be sent to the HR and Payroll Service Centre to be placed in the employee's personal file. The outcome of this meeting must also be recorded electronically on myPeople.

7.8 Where the employee achieves an acceptable level of attendance following the monitoring period set at stage 1, the manager will confirm that in writing and normal monitoring arrangements will apply thereafter.

7.9 Where an acceptable level of attendance or a return to work is not achieved or maintained during the stage 1 warning period the line manager will activate stage 2 of the process.

7.10 For long-term absence cases, stage 2 will normally be activated if a return to work is not achieved within 6 months of the first day of

absence **or earlier** if the absence is having a significant adverse impact on service delivery.

Stage 2

- 7.11 The line manager will arrange a stage 2 meeting, giving 7 calendar days notice, where:
- the required level of improvement in attendance has not been achieved or maintained during the monitoring of the stage 1 warning period ie additional periods of short-term or a new period of long-term-term absence occurs during the monitoring period, or
 - there has not been a return to work.
- 7.12 At this meeting, the line manager will confirm the issues discussed at previous meetings and :-
- a) discuss any updated Occupational Health report obtained prior to the meeting;
 - b) In cases of continuous long-term absence, consider whether the employee may be eligible for ill-health retirement;
 - c) identify any support already provided and what further support may be appropriate including consideration of reasonable adjustments;
 - d) discuss whether redeployment on medical grounds might allow the employee to reach an acceptable level of attendance or a return to work;
 - e) refer to a previous warning issued at Stage 1 that is still “live”;
 - f) where there are no mitigating factors which would prevent it, issue a Stage 2 warning for continued unsatisfactory attendance and set a further formal monitoring period, this will normally be a further period of 12 months;
 - g) advise that attendance/absence will continue to be closely monitored;
 - h) set a target for improvement;
 - i) highlight the action that may be taken if the required improvement or a return to work is not achieved (including the possibility of dismissal).

j) outline any impact that this stage 2 warning may have on the employees future pay step

7.13 The outcome of the meeting will be confirmed in writing to the employee and her/his representative within 7 calendar days and a copy will be sent to the HR and Payroll Service Centre to be placed in the employee's personal file.

7.14 Where the employee achieves an acceptable level of attendance following the review period set at Stage 2, the manager will confirm that in writing and normal monitoring arrangements will apply thereafter.

7.15 Where steps taken at stages 1 and 2 have not been successful in improving attendance levels, the line manager should consider:

- if the monitoring period should be extended by a relatively short period to allow an employee who has just fallen short of meeting their defined targets to succeed;
- if an aspect of their job has an adverse effect on an employee and if redeployment is a possibility that might enable them to make a return to work or reach an acceptable attendance level;
- referring the case to a senior manager for a Stage 3 meeting.

Meeting attendance targets through significantly improved attendance as a result of a successful redeployment will mean a return to normal monitoring.

Stage 3

7.16 Progression to Stage 3 need not be delayed until the end of the 12 month monitoring period, or any extension to it, where the absence is creating severe adverse operational difficulties.

7.17 For long-term absence cases, Stage 3 will normally be activated if a return to work is not achieved or likely to be achieved within 12 months of the commencement of the absence or earlier if the absence is having an unsustainable impact on service delivery.

7.18 As a Stage 3 meeting can result in dismissal, an up-to-date Occupational Health report must be available before a Stage 3 meeting is convened. That report should include advice on reasonable adjustments or if redeployment could be considered. In appropriate cases, the referral should request information as to whether early retirement on the basis of permanent incapacity is a possibility.

7.19 When that report is received, a Stage 3 meeting will be arranged to

consider, in the light of the occupational health advice, whether there are any further actions that the Council can take to assist the employee to continue in employment or whether employment should be terminated due to the employee's lack of capability due to ill-health.

- 7.20 The Head of Service (or nominated senior officer) will normally chair the meeting. An advisor from HR may attend on request.
- 7.21 The employee will be given at least 7 days' written notice of the intention to hold a Stage 3 meeting which will outline the grounds for convening the meeting and that one possible outcome may be dismissal by reason of lack of capability due to ill-health.
- 7.22 If for any reason the employee cannot attend the meeting, one further date will be set and the employee informed that non-attendance will result in a decision being taken in their absence on the basis of the information available and that it could result in dismissal.

Alternatively, the employee can be advised that a Trade Union representative or work colleague can attend the meeting on their behalf.

- 7.23 At the meeting the line manager will present a report on the employee's attendance record and on the content of the previous meetings held, including any measures taken to assist the employee to improve their attendance record or return to work, such as reasonable adjustments to help overcome a disability or consideration of a redeployment opportunity .
- 7.24 The employee and/or the representative will be given an opportunity to provide a full response and to put forward any suggestions as an alternative to dismissal. Any options identified as an alternative to dismissal will be discussed and may require further consideration.
- 7.25 When reaching a decision about whether or not to terminate employment, the Head of Service (or nominated senior officer) will consider issues such as:
- the employee's absence record and its impact on other employees and service delivery
 - financial implications of continuing sickness absence
 - submissions made by the employee and/or their representative
 - where appropriate what actions have been taken or adjustments made to attempt to enable the employee to continue in employment
 - the medical advice received including consideration of "ill-health retirement"

This list is not exhaustive and the weight attached to each will depend upon the circumstances of the case, balancing the needs of the Council and the employee.

Meeting Outcomes

7.26 Action short of dismissal

Where it is decided that further action short of dismissal is appropriate (such as extending Stage 2 monitoring on an exceptional basis), this will be set out in a letter and the employee's situation will continue to be monitored with a further stage 3 meeting convened, if necessary, at a future time. It is not anticipated that regular extensions will apply. The letter confirming the decision will normally be issued within 7 calendar days of the meeting.

7.27 Ill-Health Retiral (Termination of employment on grounds of capability due to permanent ill-health)

Where the Council's Occupational Health provider considers that the employee is permanently unfit to carry out the duties of her/his post or a comparable post, a senior manager will meet with the employee to inform her/him of this decision. Where no suitable alternative employment can be found from a trawl of Council-wide vacancies, in conjunction with any training or retraining which would facilitate alternative employment, the employee will be informed that:

- (a) for staff covered by the provisions of the Local Government Pension Scheme, her/his services will be terminated on grounds of capability due to permanent ill-health with Tier 1 or Tier 2 benefits; or
- (b) the early retirement on ill-health grounds provisions of the Scottish Teachers' Superannuation Scheme will be followed where the employee is a teacher with Tier 1 or Tier 2 benefits applying as appropriate;
- (c) Staff who are not members of the pension Schemes and therefore cannot access the Schemes' provisions will be dismissed on the grounds of capability due to ill health

7.28 Where an employee provides written evidence that her/his GP or specialist disagrees with the Occupational Health decision, Line Management will review the case and, if necessary, a further, independent, medical opinion obtained which will be used to reach a final decision.

Dismissal

7.29 At a stage 3 meeting where it is decided that no other options, including redeployment, can be pursued which will improve attendance or facilitate a sustained return to work, the employee will be informed that she/he is to be dismissed on grounds of capability due to ill-health. This letter will normally be issued within 7 calendar days of the meeting. The letter will indicate that there is a right of appeal against the decision

7.30 Dismissal – Teachers

As teachers have a national condition of service which means that dismissal cannot be actioned until they have “expired their half pay period”, a check must be done to ensure that this criterion has been met before a teacher is dismissed for an unacceptable level of sickness absence.

8. RECURRING ABSENCE

8.1 Where satisfactory attendance is achieved for a full year following the issuing of a staged warning the employee will return to normal monitoring and the trigger points in section 5 will apply.

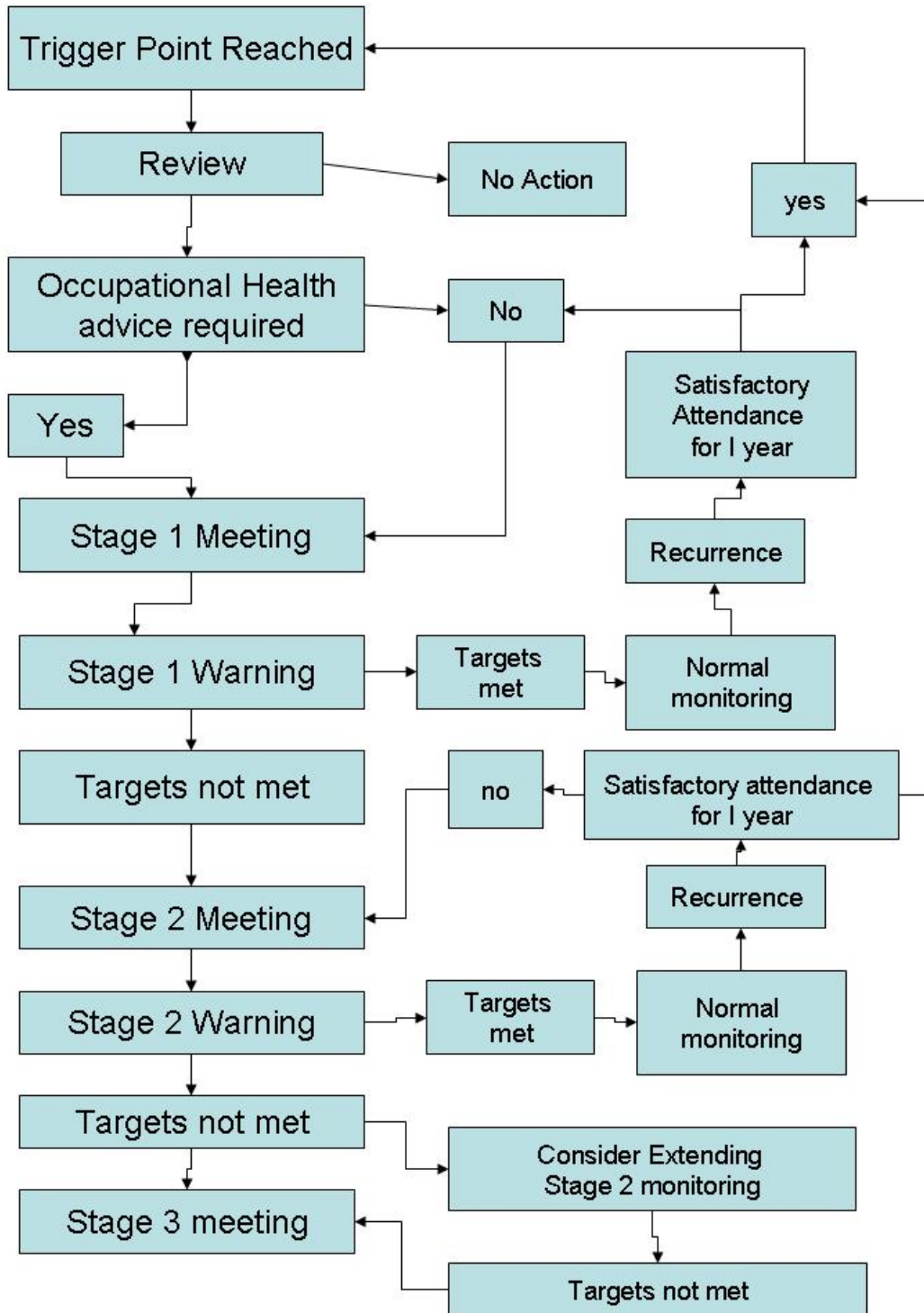
8.2 It is recognised that cases may arise where, following such a period of satisfactory attendance of less than a full year, the employee’s absence level returns to a level which gives cause for concern. In such cases it may be appropriate to seek further Occupational Health advice.

8.3 Following receipt of this advice, the line manager will review the employee’s general attendance record and will normally hold a further staged meeting returning to the last stage previously reached in the procedure. Thereafter, subsequent stages of the procedure may be followed if necessary.

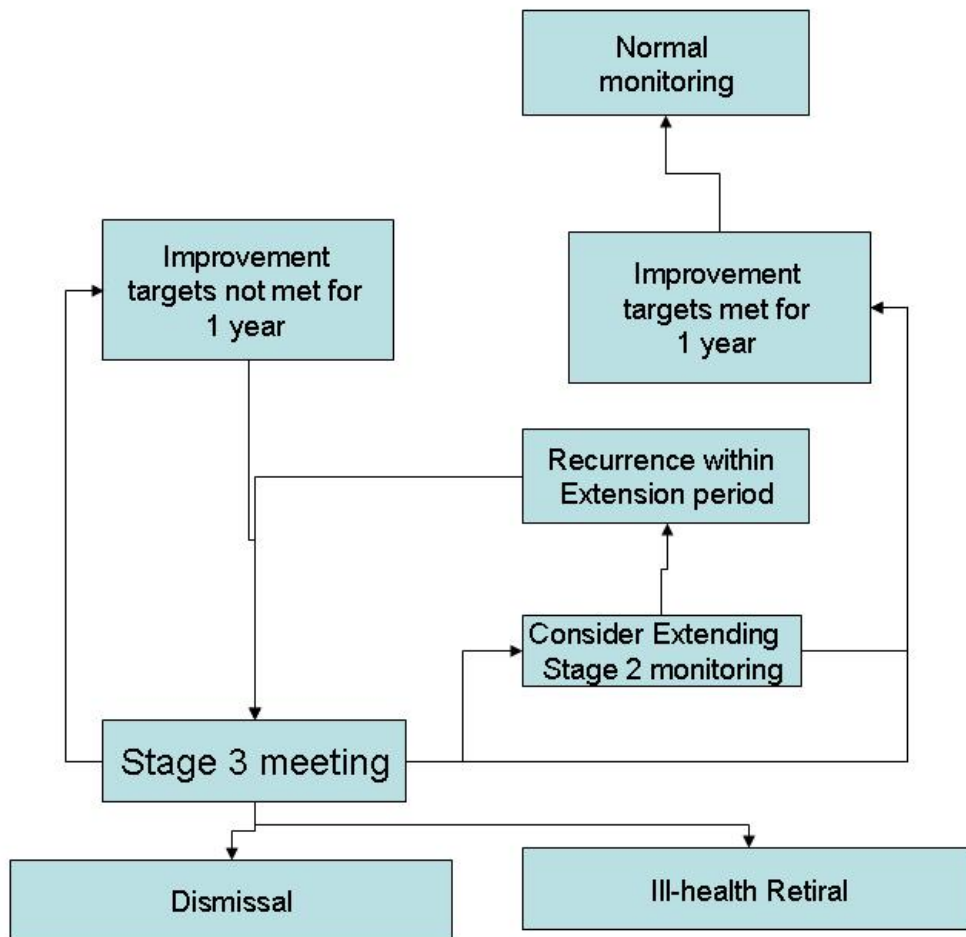
9. REVIEW OF PROCEDURE

9.1 The Procedure will be reviewed as required, in the light of experience or changes to legislation, in consultation with the recognised Trade Unions.

11. MANAGING ATTENDANCE PROCEDURE - FLOWCHARTS



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12 SUMMARY OF PROCEDURAL TIMESCALES

Procedural step	Timescale	Action Point
Trigger reached	During a rolling 12 months	Review – “one off” arrangements considered for mitigation. Otherwise move to Stage 1
Stage 1 Meeting	7 calendar days notice	Stage 1 outcome letter within 7 calendar days
Stage 1 monitoring	12 months*	Any further absence leads to stage 2
Stage 2 Meeting	7 calendar days notice	Stage 2 outcome letter within 7 calendar days
Stage 2 monitoring	12 months*	Any further absence leads to stage 3
Stage 3	7 calendar days notice	<ul style="list-style-type: none"> • Can extend stage two monitoring • Dismiss • Approve ill -health retiral
Stage 3 outcome	Letter of outcome within 7 calendar days	Right of appeal if dismissal

- appropriate action can be taken within the 12 month monitoring period where the absence has a significant adverse impact on service delivery.

