



MANAGING ATTENDANCE POLICY & PROCEDURE

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The audience of this document are made aware that a physical copy may not be the latest available version. The latest version, which supersedes all previous versions, is available on The Source at <http://intranet.bcc.lan/redirect?oid=Article-id-1943014>. Those to whom this policy applies are responsible for familiarising themselves periodically with the latest version and for complying with Policy requirements at all times.

History of most recent Policy Changes – **Must be completed**

Date	Page	Change	Origin of Change (e.g. TU request, change in legislation etc)
12 October 2012	14	Section 13: Added wording to recognise the fact that absences associated with a miscarriage are classed as pregnancy related.	This is in accordance with the Equality Act and EHRC guidance.
23 February 2012	13	Change to sentence in S11 "Impairment Related Sick Leave" from "When dealing with the sickness absence of disabled employees it is <i>essential</i> that managers..." to "...it is <i>advisable</i> that managers..."	
2 December 2011	10	Added paragraph: "Medical redeployees in permanent jobs will not be offered FTCs."	Clarification required.

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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.

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.

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

1. Preamble

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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

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Please refer to the:

[Managing Attendance Guidance and FAQs.](#)

[Fit Notes FAQs](#)

Guide to Dealing with Sensitive Issues

3. Sick Pay Entitlement

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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.

4. Managers Responsibilities

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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.
- (iv) Ensure records of discussions, meetings, copies of self certificates / fit notes and any medical advice (e.g. 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 utilising advice provided by GP's in employees 'fit notes' and holding case conferences with Occupational Health where appropriate. 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

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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 certificates / fit notes as required

You must complete a self-certificate for absences of seven calendar days or less, or provide a fit note 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.

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 e.g. 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 and Counselling Service

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Occupational Health provides an objective medical opinion, regarding an employee's 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 Equality Act 2010. 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.

Management may request a meeting with OHCS and HR to obtain specialist advice on how to proceed in managing a case.

7. Short Term Sickness Absence

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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 OH immediately)
- Identify when they are likely to return to work taking into consideration advice provided by GP's on employee's fit notes
- 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, taking into account the advice provided on the fit note. You should complete the return to work pro-forma with the employee and give them a copy.

You should also ensure that the employee either completes a self-certificate or provides a fit note.

In exceptional circumstances e.g. 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.

Please refer to the [Managing Attendance Information Page](#) for further guidance and letter templates regarding a Stage 1 formal review of attendance

(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.

Please refer to the [Managing Attendance Information Page](#) for further guidance and letter templates regarding a Stage 2 formal review of attendance

(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.

(d) Appeal

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

A more senior manager will hear an appeal against a Level 1 and Level 2 sanction. 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 Absence

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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 taking into consideration advice provided by GP's on employees fit notes
- 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 has become a possibility.

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

9. 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):

- 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. Where the GP recommends a phased return of longer than 6 weeks, advice should be sought from Occupational Health
- What support and/or reasonable adjustments may be appropriate taking into account the advice from the GP and/or occupational health
- Undertake a risk assessment

If the manager considers that 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.

10. Medical Redeployment and/or Ill Health Retirement

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If long-term sickness results in a recommendation from Occupational Health that medical redeployment or ill health retirement are 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 enter the redeployment scheme when given 12 weeks notice of termination. Please see redeployment scheme for full details. Medical redeployees in permanent jobs will not be offered FTCs.

Occupational Health must confirm any alternative post as suitable and they must also confirm that it is anticipated future attendance will be satisfactory. If the trial period is unsuccessful employees will return to the redeployment scheme for the remainder of their notice period, if their notice period has yet to expire. Where the period of notice has already expired, employment will be terminated immediately. Notice periods will not be extended.

If appropriate, the manager will schedule an appointment with Occupational Health for a final assessment if the employee does not secure suitable alternative employment during this period. At the end of the notice period, following receipt of OHCS advice if this has been sought, the manager will meet formally with the employee to confirm that circumstances have not changed regarding termination of employment on grounds of medical capability.

(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 [Section 15](#) 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).

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

At the point that it becomes necessary to formally consider termination of employment (e.g. 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.

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 year's 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.

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.

11. Managing the Attendance of Disabled Employees [Back to contents](#)

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 Equality Act 2010 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 Equality Act 2010.

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.

Paid Time Off to Attend Hospital Appointments

Paid time this off to attend hospital appointments in connection with their disability should be given unless deemed unreasonable, taking into account the needs of the service.

“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.

Impairment Related Sick Leave

Managers of disabled employees who meet the Equality Act 2010 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 advisable 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 as well as considering any recommendations made by the employee's GP
- 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 Equality Act 2010 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.

12. Health Initiatives

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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 STS Human Resources

13. Legislation relating to pregnant women

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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 (this includes sickness absence as a result of a miscarriage) will be recorded in the normal manner but are disregarded for the purpose of determining whether a warning should be issued. Return to work discussions will be held as usual.

14. Absence due to accident or injury at work

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Managers must undertake a return to work discussion with the employee this may include discussing GP recommendations in the employee's fit note. 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.

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

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

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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 individual's medical condition.

The pension scheme provisions

Individuals 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 were 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 were 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.