



**SCOTTISH**  
**FIRE AND RESCUE SERVICE**  
Working together for a safer Scotland

**Report to:** THE BOARD OF THE SCOTTISH FIRE AND RESCUE SERVICE  
**Report Number:** B/POD/05-15  
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**Subject:** MANAGING ATTENDANCE POLICY

## **1 PURPOSE**

1.1 The purpose of this report is to seek approval from the Board for the Scottish Fire and Rescue (SFRS) Managing Attendance Policy. A copy of the Policy is included with the paper.

## **2 RECOMMENDATIONS**

2.1 Members are asked to approve the following recommendations:

a) That the Board approve the SFRS Managing Attendance Policy.

## **3 BACKGROUND**

3.1 Sickness absence can put additional pressure on colleagues who have to cover workload which subsequently has the potential to cause low morale and reduce the efficiency of an organisation. In addition, absence from work puts financial pressure on an organisation. As a result of sickness absence, approximately 75,000 working days were lost in the first year of the SFRS's existence, resulting in a cost of approximately £7 million per annum in lost productivity.

3.2 The SFRS is committed to promoting a healthy working environment and to supporting its staff in maximising attendance and minimising ill health, which subsequently helps to support the benefits of Reform and increase the effectiveness of the organisation.

## **4 POLICY DEVELOPMENT**

4.1 The initial draft of the Managing Attendance Policy was developed in April 2014 and issued for consultation to various internal stakeholders, as detailed within section

7.3, in May / June 2014. Following this, various improvements were made to the structure and tone of the draft policy.

- 4.2 Due to the number of significant changes that had been made, the second draft of the policy was then reissued to Trade Unions and People and Organisational Development colleagues in October 2014 and they were presented with a further opportunity to provide comment on the policy. This draft was positively received but the minor comments and feedback submitted during the consultation phase were used to develop the final draft.
- 4.3 The final draft of the Managing Attendance Policy was endorsed by both the Strategic Leadership Team and the Staffing Group in January 2015.
- 4.4 Trade Unions were given one further opportunity to comment on the final draft of the policy in February 2015. Minimal feedback was received at this point, resulting in only minor alternations being required.
- 4.5 An accompanying Managing Attendance Handbook has been developed to be used in conjunction with the policy and will provide more practical guidance on how to implement the policy.

An initial consultation with the stakeholders detailed in 8.3 was carried out between December 2014 and January 2015, after which further development work was carried out. Following this, Trade Unions were then provided with one final opportunity to provide comment on the final draft on the Managing Attendance Handbook in early March 2015.

The final draft is currently being developed and will be ready by mid-April 2015.

## **5 POLICY IMPLEMENTATION PLAN**

- 5.1 The policy and handbook will be issued by the end of April 2015 and, following a familiarisation period during which managers will receive appropriate training, the policy will 'Go Live' on 1 August 2015.
- 5.2 In order to drive down absence rates and deliver the target set by the Scottish Government in relation to absence, the Area HR team currently carry out regular absence case review meetings within their Areas of responsibility. During these meetings, they focus on absence cases and provide advice to progress each absence case in line with the relevant managing attendance policy within each antecedent Service.

Regular reviews of the absence rates are carried out and form part of the Key Performance Indicators (KPIs) within the POD Directorate which are reported on a quarterly basis. Regular analysis allows an opportunity to identify any trends that may require additional action to resolve.

Examples of good practice are shared with Senior Managers (DACOs, LSOs / AMs and Heads of Function) during Senior Leadership Team meetings in order to encourage continued effective management of absence cases, examples of which include; early referrals to Occupational Health, regular contact meetings with employees and effective management of redeployment registers.

Following the introduction of the SFRS Managing Attendance Policy, the actions detailed above will continue.

In addition, the Scotland-wide implementation of the HR/Payroll system will enhance the ability to provide detailed reports and it is proposed that league tables will be produced to compare absence rates within each Area and to identify any 'hotspots' which can then be addressed.

To further enhance the implementation of the policy, and in accordance with the Working Together Framework, Areas will be encouraged to invite Trade Unions to participate in any Managing Attendance Training.

5.3 A communications strategy will be drawn up prior to the issuing of the Managing Attendance policy in April 2015. It is intended that this will involve a news piece in the e-Zine, an intranet article and a Manager's briefing document. Following the initial issuing of communications, reminders and follow-up communication pieces will be used during the familiarisation period in order to maximise awareness of the policy and handbook.

5.4 Further work is being carried out to establish an appropriate IT system to support managers effectively implement the Managing Attendance Policy, as follows:

- Alerting managers when an employee reaches an absence trigger,
- Providing a means by which to electronically record any meetings they may have with their employees in relation to absence,
- Allowing access to an employee's attendance history, assisting to more easily identify any emerging patterns.

This analysis will include considerations of the new HR/Payroll system (iTrent) and an IT system which could be easily extended across SFRS. Further updates in relation to this work will be provided to the Strategic Leadership Team.

## **6 FINANCIAL IMPLICATIONS**

6.1 As sick pay is linked to existing terms and conditions, which are not subject to change at this point (Sick pay is out of scope in terms of the current collective bargaining exercise currently being carried out for Support Staff), no additional financial implications have been identified beyond existing budgets.

## **7. EMPLOYEE IMPLICATIONS**

- 7.1 The harmonised policy will ensure that the principles of the Managing Attendance Policy are applied to all employees across the SFRS who have periods of sickness absence, thus ensuring consistency of approach and access to support. The Managing Attendance Policy is applicable to all SFRS employees.
- 7.2 As a result of the promotion of the new Managing Attendance Policy, employees should become more familiar with their roles and responsibilities in relation to Managing Attendance.

## **8 EQUALITY IMPACT ASSESSMENT AND CONSULTATION**

- 8.1 An Equality Impact Assessment (EIA) was completed and considered as part of the development of the Managing Attendance Policy and the accompanying Handbook, and is attached with this paper.
- 8.2 The EIA notes that the policy and handbook encourages managers to use their discretion in handling unsatisfactory attendance that may be due to reasons other than sickness e.g. caring responsibilities, and encourages managers to ensure that employees who may be experiencing difficulties relating to such factors are instead encouraged to use the family friendly policies available e.g. flexible working, special leave, parental leave etc.
- In addition, the EIA notes that guidance is contained within both the policy and the handbook in relation to the Equality Act 2010, e.g. reasonable adjustments, disability leave and disability related sickness. It notes the process that must be followed when dealing with issues of capability in order to ensure that various options are considered prior to any decisions on terminating employment due to capability being reached.
- 8.3 The Managing Attendance Policy was developed in consultation with the Staffing Group, Strategic Leadership Team, SFRS Managers, Trade Unions and POD Directorate staff. It is submitted to the Board with the full endorsement of the Strategic Leadership Team and the Staffing Group.

## **9 CORE BRIEF**

The Director of People and Organisational Development presented a paper outlining the development of the SFRS Managing Attendance Policy, along with the final draft of the policy for Board approval.

The paper outlined the pressure that sickness absence can place on an organisation and its employees, the number of working days lost in the first years of the SFRS's existence and the resultant cost in lost productivity. The paper provided information about the steps that would be taken to implement the policy and the actions the HR Department currently take to target sick absence. It also provides information about additional steps will be taken once the SFRS Managing Attendance Policy becomes live.

**LINDSAY DOCHERTY  
POD MANAGER – EMPLOYEE RELATIONS AND POLICY DEVELOPMENT  
MARCH 2015**



**SCOTTISH**  
**FIRE AND RESCUE SERVICE**

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# PEOPLE AND ORGANISATIONAL DEVELOPMENT DIRECTORATE

## MANAGING ATTENDANCE POLICY

### All Staff

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Date of Equality Impact Assessment	TBC
Date of Impact Assessment (commenced)	
Date of Impact Assessment (concluded)	
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## **CONTENTS PAGE**

### **INTRODUCTION**

- Purpose
- Application

### **ROLES AND RESPONSIBILITIES**

- Employee Responsibilities
- Managers Responsibilities

### **DEFINITION OF ABSENCE AND SUPPORT MECHANISMS FOR EMPLOYEES**

- Short Term
- Long Term
- Support mechanisms

### **NOTIFICATION AND CERTIFICATION REQUIREMENTS**

- Stage 1
- Stage 2
- Stage 3
- Stage 4
- Non-compliance
- Availability during sickness absence
- Secondary Employment

### **INCOMPLETE SHIFTS DUE TO SICKNESS ABSENCE**

### **CONTACT WITH EMPLOYEES**

### **SICKNESS, ANNUAL LEAVE and PUBLIC HOLIDAYS**

- Sickness during leave
- Uniformed employees
- Support Staff
- Requests for annual leave/extended absences from home – all staff

## **ATTENDANCE TRIGGERS**

### **SHORT TERM INTERMITTENT ABSENCE**

### **RETURN TO WORK MEETINGS**

### **ATTENDANCE SUPPORT MEETINGS**

### **WORK RELATED STRESS**

### **MANAGEMENT OF LONG TERM ABSENCE**

### **RETURN TO WORK FOLLOWING LONG TERM SICKNESS ABSENCE**

### **ALTERNATIVE DUTIES**

### **SICKNESS ABSENCE RECORDS**

### **REFERRAL TO HEALTH AND WELLBEING**

- Physiotherapy
- Counselling
- Self-referral

### **RETIREMENT DUE TO ILL HEALTH**

### **REDEPLOYMENT**

### **EMPLOYEES WHO BECOME DISABLED**

### **TERMINATION OF EMPLOYMENT DUE TO CAPABILITY**

- Assessing suitability for progression to capability process
- The appeals procedure for termination of employment due to capability

### **THE APPEALS PROCEDURE FOR TERMINATION OF EMPLOYMENT DUE TO CAPABILITY**

**SICK PAY ENTITLEMENTS**

**THIRD PARTY DAMAGES**

**CONTACT WITH INFECTIOUS DISEASES**

**DATA PROTECTION ACT 1998 – SENSITIVE PERSONAL HEALTH DATA**

**POLICY REVIEW**

**CONSULTATION**

Final Draft

## 1. INTRODUCTION

The Scottish Fire and Rescue Service (SFRS) are committed to promoting a healthy working environment and to supporting staff in maximising attendance and minimising ill health. It is recognised that most employees are able to attend work on a regular basis but may occasionally experience illness which will require managerial support.

Sickness absence can put additional pressure on colleagues who have to cover workload which subsequently has the potential to cause low morale and reduce the efficiency of a business. In addition, absence from work puts financial pressure on an organisation. As a result of absence, approximately 75,000 working days were lost in the first year of the SFRS's existence, resulting in a cost of approximately £7 million per annum in lost productivity. At a time of reducing budgets and increased scrutiny on how public money is spent, SFRS recognise that supporting staff to maximise their attendance and minimise ill health are key principles in supporting the benefits of Reform.

### 1.1 Objectives

In order to support these principles, the main objectives of the Managing Attendance Policy are to:-

- Maximise attendance at work;
- Ensure timely intervention to provide appropriate support to those who are absent through illness or injury before considering the capability process;
- Minimise the disruption to service delivery caused by sickness absence.

## 1.2 Application

- (a) This policy applies to ALL SFRS employees.
- (b) Where a provision applies to either support staff or uniformed staff only, this will be clearly identified.
- (c) Training will be provided to all relevant managers involved in the policy both when a new manager takes up the post and where changes are made to the procedure. Each SDA is encouraged invite their local Trade Union (TU) representative/s to attend joint training events where appropriate.
- (d) Advice and assistance is available from the HR/OD section and Health and Wellbeing team (formerly known as Occupational Health).
- (e) Consultation and discussion with Trade Union representatives at all relevant stages as defined in this procedure.
- (f) A ~~Managers~~ Managing Attendance Handbook on Managing Attendance (referred to in this policy as the 'Managers Managing Attendance Handbook') accompanies this policy. The ~~Managers~~ Managing Attendance Handbook provides further practical examples of the application of the policy and contains templates of the letters and forms referred to throughout the policy.

## 1.3 Fit for Work Service

In January 2015, the Department for Work & Pensions introduced a new service known as 'Fit for Work Service' (FfWS) aimed primarily at Small to Medium Sized Enterprises (SMEs) to help them manage sickness absence in the workplace and provide employers, employees and their G.P.s with access to health related advice. Further information on what this service offers and the ways in which it complements the occupational health provision currently offered within SFRS is detailed in the Managing Attendance Handbook.

## 2. **ROLES AND RESPONSIBILITIES**

### 2.1 Employee Responsibilities

The employee has responsibility for immediately notifying the manager of an absence in accordance with paragraph 4 below. Initial contact must be made by employees themselves and by telephone (text message and e-mail contact is not

permitted), unless due to the nature of the illness they are unable to do so). In exceptional circumstances the employee can ask someone to do this on their behalf.

Employees **must** attend medical assessments / appointments and sickness absence meetings arranged by SFRS if required. Failure to attend meetings to discuss periods of absence (unless medical professional(s) have advised that illness / incapacity prevents attendance) or failure to attend Health and Wellbeing appointments without prior notification of non-attendance may result in the employee's entitlement to occupational sick pay being withdrawn and may be progressed via the SFRS disciplinary process. Employees attending appointments with a Health and Wellbeing professional will be asked to sign a consent form at the commencement of their consultation, agreeing to the consultation and also allowing any subsequent medical reports to be released to the employee's line manager and any other senior manager with responsibility for managing the absence case, HR Advisor and relevant members of the Staffing Group of the SFRS Board. **Please note that medical information will only be required to be released to members of the Staffing Group in situations where they are chairing any appeal against dismissal to allow them to consider all information available to determine an outcome.** Confidentiality of medical information must be ensured by any manager dealing with an absence case who has access to any medical information for an employee. If consent is not given, decisions will be made in the absence of medical information. In addition, it is the responsibility of the employee to continue to submit Statements of 'Fitness for Work' notes as and when required.

## 2.2 Manager Responsibilities

The success of any Managing Attendance Policy lies primarily with the managers responsible for monitoring and managing the attendance within their department. It is the manager's responsibility to ensure that their employees are fully aware of what is expected of them and that they adhere to all reporting / certification requirements. They must also ensure that employees are referred to a Health and Wellbeing professional as and when required and that support mechanisms for employees are regularly reviewed and that confidentiality is maintained at all points of the managing attendance process.

### **3. DEFINITION OF ABSENCE and SUPPORT MECHANISMS FOR EMPLOYEES**

For the purpose of this policy it is useful to define what is meant by both short term and long term absence:-

#### **3.1 Short Term**

A short term absence is defined as any single period of absence up to a maximum of 28 days.

#### **3.2 Long Term**

Long Term sickness absence is defined as a period of absence lasting longer than 28 days.

#### **3.3 Advice and Support Mechanisms**

It is recognised that employees may require support and assistance during an absence and the following sources of assistance may prove helpful:

- The employee's Line Manager
- Human Resources
- Trade Union Representative
- Health and Wellbeing section
- Physiotherapy Service
- Employee Assistance Programme (EAP) for counselling services
- Referral to Health and Wellbeing Practitioner/Occupational Health Physician
- Flexible Working
- Alternative Duties
- Phased Return to Work
- Redeployment (temporary/permanent)
- Rehabilitation services e.g. (Jubilee House/ Harcomb House)
- Family Support Trust/Fire Fighter's Charity

## 4. NOTIFICATION AND CERTIFICATION REQUIREMENTS

### 4.1 Stage 1

In recognition of being employed within an emergency service any employee unable to come to work must notify their line manager in all but exceptional circumstances, at least one hour or as soon as reasonably practicable prior to the commencement of their shift.

#### *NOTE:*

Uniformed employees who have reported for work and subsequently book off sick during the course of that duty, must, if not reporting for work the following day, advise their Line Manager of their 'remaining on sick leave' or 'booking on to rota' prior to the commencement of the duty scheduled for that day.

### 4.2 Stage 2

Should an absence persist for more than three days (including Saturdays, Sundays and Public Holidays), the employee must contact the manager again on the fourth day of absence prior to the commencement of duty and indicate whether or not the absence is likely to continue beyond the seventh day.

### 4.3 Stage 3

Where the absence is for seven days or less, the employee shall on return to work complete a self-certificate form.

### 4.4 Stage 4

Where the absence extends beyond seven days the employee will submit a 'Statement of Fitness for Work Note' from a GP or a hospital certificate to cover the period of absence beyond the first seven days. Where the GP has advised that the employee is 'not fit for work', the information on the fit note should be reviewed to determine the likely length of the employees absence. Subsequent fit notes should be continuous and consecutive to ensure there are no gaps for the purposes of paying Statutory Sick Pay (SSP), where appropriate. In these circumstances

employees are required to maintain contact with their Manager or any manager acting on their behalf on a weekly (or other agreeable time period between both parties) basis to provide an update on the situation for the duration of the illness.

Where the GP advises that the employee 'may be fit for work' consideration will be given to the specific advice provided by the GP to determine if a return to meaningful work can be accommodated. This will be discussed with the employee and further advice sought from the Health and Wellbeing section if necessary.

Existing arrangements for the submission of Fit Notes will remain until a revised process is implemented following the introduction of a single HR/Payroll system across Scotland.

#### 4.5 Non-Compliance

Where an employee repeatedly fails to comply with the notification and certification procedures or does not attend medical appointments arranged by the Health and Wellbeing section and any other general requirements of the Managing Attendance policy, entitlement to occupational sick pay and/or SSP may cease and disciplinary action may be taken as appropriate.

#### 4.6 Availability during sickness absence

Individuals on sick leave must notify their line manager of periods when they will be unavailable for contact visits, medical referrals etc. and if they are planning to take leave away from home. Please refer to section 7.

#### 4.7 Secondary Employment

Employees who are deemed medically fit to work in a part time capacity with another employer while they are absent from SFRS because of illness or injury must report this to their line manager at the initial absence notification stage, giving details of the duties and responsibilities they require to carry out. This will allow their line manager to seek further advice in relation to whether this additional work will have a detrimental effect on the employee's ability to return to work. This also applies during any period of medical suspension, alternative duties, phased return to work or modified duties which have been arranged by management to assist an

employee to return to substantive duties following a period of injury or illness. These discussions should take place during an Attendance Support Meeting in order to allow a trade union representative or work colleague to attend if required.

## **5. INCOMPLETE SHIFTS DUE TO SICKNESS ABSENCE**

5.1 Where an employee is unable to complete a shift because of illness the following will apply;

- a) In circumstances where an employee is unable to complete their full working shift / day due to sickness absence, this will be counted as a half days absence so long as they have completed half of their normal working hours for that shift / day.
- b) Any such absences including a half shift / day will be included in the absence criteria requiring an employee to attend an Attendance Support Meeting.

## **6. CONTACT WITH EMPLOYEES**

6.1 It is important to maintain regular contact with employees who are on sickness absence as this allows a continuing update of the employee's progress and an assessment of work related issues such as temporary cover or re-organisation of work.

6.2 The Line Manager may make arrangements to visit an employee at regular intervals to provide support. This in turn should assist with the employee's rehabilitation in order to ensure a smooth return to work at the end of the absence.

6.3 The Line Manager will contact the employee beforehand to advise them of their wish to meet with them. The Line Manager should always use the standard letter contained within the Managing Attendance Handbook for this purpose. The employee will also be expected to attend the meeting at their normal work location unless they indicate that this is an issue and asked to meet for example, in their own home, the nearest Fire Station, Headquarters etc. The employee will be given the opportunity to have someone with them e.g. a work colleague or a Trade Union representative during all Attendance Support Meetings. The line manager should

seek advice from a HR Advisor in advance of the meeting if HR support is likely to be required.

- 6.4 It is recognised that long periods of sick absence from work have the potential to increase stress and anxiety levels of an individual. Simple adjustments or modified duties can enable employees to return to work safely before symptoms completely disappear. The Line Manager, in conjunction with HR/OD should discuss and explore this option involving the individual and in consultation with the Health and Wellbeing section.
- 6.5 Employees are encouraged to discuss their medical situation with their manager to ensure they have all the information required in order to evaluate any support mechanisms that may already be in place or identify the need for support to be arranged.

## **7. SICKNESS AND LEAVE ENTITLEMENT**

- 7.1 Employees should be aware that periods of sickness absence may affect their contractual leave entitlement. Following periods of extended absence, leave entitlement will be adjusted on an individual case by case basis as appropriate. Statutory leave entitlement will not be affected.
- 7.2 An individual who becomes ill or is injured at the beginning of, or during a period of leave may be entitled to claim this back if they were ill or incapacitated provided that they:
- Inform their line manager of their illness or injury promptly, in line with normal sickness reporting procedures;
  - Provide a Fit Note, or other formal medical certification, covering the full period of their illness or incapacity.

7.3 Following a period of long term sickness absence an employee may request to take any outstanding annual leave and should endeavour to take this in the same year in which it was accrued. This will be facilitated by the SFRS as far as possible. However where the outstanding leave cannot be taken, the SFRS shall allow the employee to carry forward statutory leave into the next holiday year. Please note that this statutory leave (up to 28 days) **must** be taken up to fifteen months from the end of the leave year in which it is accrued.

#### 7.4 Requests for annual leave during sickness absence

7.4.1 It is recognised that taking time away from home during a period of sick leave can be recuperative and may support recovery. However it is expected that, during periods of sickness, employees do not undertake activities that are likely to aggravate their condition or prolong their absence from work.

7.4.2 During periods of sickness absence, employees are required to inform their line manager prior to taking leave and to provide alternative contact details as appropriate.

7.4.3 Employees may request to take any accrued statutory annual leave entitlement while absent from work due to sickness.

7.4.4 Where management has concerns about the proposed nature of holiday activities, the employee can be referred to the Health and Wellbeing section for further information on the impact the proposed activity may have on the employee's condition and recovery.

7.4.5 Employees taking leave away from home during periods of sickness absence are required to provide Fit Notes covering the full period that they are away.

7.4.6 Where it is necessary for the effective delivery of the service, SFRS reserves the right to invoke statutory notice in accordance with the Working Time Regulations to employees returning to work in respect of when annual leave will be taken. Notice may be given to employees as follows:-

- On the conclusion of sick leave – where due to the exigencies of the service it is deemed appropriate that employees take the balance of any accrued leave outstanding prior to their return to work;
- To ensure effective service delivery;
- During a notice period prior to termination of employment.

## 8. ABSENCE TRIGGERS

8.1 To ensure support can be provided at the earliest opportunity, the absence triggers identified below are particularly relevant when dealing with short term intermittent absence. Absence triggers are monitored over a 12 month rolling period.

Attendance support meetings are organised when the following absence triggers are reached:

### **6 Month Rolling Period**

- 3 separate instances or
- a total absence of 6 working days or over in any six month period;

### **12 Month Rolling Period**

- 5 separate instances or
- a total absence of 8 working days or over in any twelve month period;

8.2 Where an employee reports a service injury, as defined within the Health & Safety Guidance Note; “Classification for Service Accident / Injuries and RIDDOR”, the manager must make an immediate referral to the Health and Wellbeing section even where it does not result in an absence from duty. Absences will only be recorded as a service injury following an appropriate investigation and consideration of all the individual circumstances. Where there is a divergence of opinion between the Service’s Medical Advisor and a uniformed employee’s treating medical practitioner over either the employee’s fitness for duty, or for the purpose of calculating sick pay entitlement, the question of whether an illness or injury has arisen out of authorised duty, an independent medical opinion should be sought to resolve the matter, as per part B within the Scheme of Conditions of Service, 6<sup>th</sup> edition.

8.3 If an employee's sickness absence is due to a pregnancy related illness the absence should not be included in the absence criteria outlined in section 8.1. Advice should be obtained from HR Advisor in these circumstances.

8.4 Managers should be aware that they are entitled to raise and discuss concerns about attendance with employees at any stage if it is deemed reasonable and appropriate, e.g. any recurring, recognisable patterns, such as frequent absenteeism on a Friday or a Monday, before or after public holidays or during school holidays.

8.5 Attendance Support Meetings can be combined with return to work interviews where an employee agrees to this in advance. In such circumstances, the employee must be provided with an invite letter to the Attendance Support Meeting providing the employee with time to arrange to be accompanied by a colleague or Trade Union representative, if they wish.

## **9. SHORT TERM INTERMITTENT ABSENCE**

9.1 A short term absence can be defined as any single period of absence up to a maximum of 28 days.

9.2 If an employee fails to achieve the targets for improvement given to them as part of their attendance support meetings and short term persistent absence remains a continuing feature of the employee's attendance record and a management concern, the capability process may be considered. Please refer to paragraph 21.

## **10. RETURN TO WORK MEETINGS**

10.1 When an employee returns to work following a period of either short or long term sickness absence, the manager will conduct a Return to Work Meeting. Ideally the return to work interview should take place at the start of the employees shift or as soon as possible on the day they return to work. It is expected that all return to work meetings will be conducted face-to-face and not via telephone. During the meeting managers will welcome the employee back at work and enquire as to the

employee's current state of health. They should also explore the reasons for the employees absence, support mechanisms the employee may require and review the employees overall attendance record to ascertain whether they meet an absence trigger and what steps need to be taken. Further information on what should be discussed at a Return to Work meeting is contained within the Managing Attendance Handbook.

## **11. ATTENDANCE SUPPORT MEETINGS**

- 11.1 Attendance Support Meetings provide a structured approach for managing long and short term absence issues, in addition to the routine support provided by line managers, for example through regular absence contact and return to work interviews. Attendance Support Meetings are in place to ensure line managers provide all possible support and advice to resolve attendance issues and, in the case where long or short term absence is causing a repeated concern, to ensure this is provided before the capability process is considered.
- 11.2 The success of Attendance Support Meetings relies on a manager's ability to exercise common sense and judgement when supporting employees through the managing attendance process. The manager's knowledge of the employee and the relevant personal circumstances will assist in determining the content and tone of the discussion. This meeting should also help to identify if there are any work related issues or any personal / domestic problems which may be contributing to the employee's absence.
- 11.3 Employees must receive written notification of the requirement to attend an Attendance Support Meeting and of their right to be accompanied. A checklist is available for those managers who require further guidance on the issues that should be discussed during the meeting. Copies of the checklist and all the letters used within the Managing Attendance process are contained within the Managing Attendance Handbook.
- 11.4 Following the meeting, the manager should write to the employee confirming the content of the discussion and the outcomes e.g. targets and timescales for improvement and any support mechanisms that require to be arranged.

- 11.5 If no or only limited improvement has been achieved or where no return to work is achieved, the reasons for this will be explored further. Employees may be advised that their level of absence is causing concern and be dealt with under the capability procedure and could ultimately lead to their employment being terminated on the grounds of capability as detailed in paragraph 21.
- 11.6 Advice should be sought from HR Advisors in the management of all absence cases progressing via the capability procedure. However, SFRS is committed to assisting employees to make a recovery to good health and achieve a return to work. Therefore termination of employment is a last resort and this decision will only be taken after all support mechanisms, reasonable adjustments and redeployment has been considered.

## **12. WORK RELATED STRESS**

- 12.1 In cases where an employee cites work related stress as a perceived source and causal factor of their absence, SFRS supports an automatic referral to the Health and Wellbeing section. SFRS has a duty of care to support employees and to ensure early and appropriate support to employees who feel they are suffering from work-related stress, they will be asked to complete the “Workplace Stress Questionnaire” contained within the Managing Attendance Handbook and to discuss this with their line manager (or, where the employee would prefer, another appropriate Manager) in the first instance.

## **13. MANAGEMENT OF LONG TERM ABSENCE**

- 13.1 Long-term sickness absence is defined as a period of absence lasting longer than 28 calendar days.
- 13.2 In cases of long term absence it is particularly important that line managers maintain regular contact with the absent employee and make appropriate use of referrals to the Health and Wellbeing section.

- 13.3 In addition to the normal line manager contact and advice from the Health and Wellbeing section outlined within this policy, Attendance Support Meetings should be used to provide a structured mechanism for managing and supporting staff in relation to long term absences.
- 13.4 After the initial Attendance Support Meeting, further support meetings should be held dependant on the individual circumstances. As a guide it will generally be appropriate to hold a further Attendance Support Meeting after no less than one month, and no more than three months, of long term absence. This is a guide and the frequency of Attendance Support Meetings can vary depending on the circumstances of the case.
- 13.5 SFRS needs to balance the needs of the employee with the need to maintain an efficient service. Prolonged absences, particularly in the light of a history of previous illness, may in certain circumstances, cause such severe difficulties that a decision has to be made on whether or not the employee's contract of employment can continue.
- 13.6 Each case is individual and all circumstances must be considered including:-
- Expected duration of the absence
  - Prognosis for the return to work
  - Medical opinion from the Health and Wellbeing section
  - Personal circumstances
  - Attendance history
  - The intentions of the employee
  - Whether the employee has a recognised disability
  - Impact on service delivery
  - Specialist medical information which may be available
  - Consideration of ill health retirement.

## **14. RETURN TO WORK FOLLOWING LONG TERM SICKNESS ABSENCE**

- 14.1 Prior to returning to work following a period of long term sickness absence, managers should ensure that the employee's GP has confirmed they are fit to

return. In certain circumstances, it may also be helpful to seek advice from the Health and Wellbeing section in confirming an employee's fitness to return to duty.

- 14.2 The manager must meet with the employee to formulate a plan for the employee returning to work. For example, managers should consider a phased return to work, adjustments to working arrangements / hours and, dependent on the length of time the employee has been absent, redeployment / re-training. Managers should take every reasonable step to support an employee in their recovery and their return to work. Where necessary, arrangements should also be made for functional assessment tests such as hearing tests and refresher drills to be carried out for uniformed employees.

## 15. ALTERNATIVE DUTIES

- 15.1 As per paragraph 1, the purpose of this policy is to maximise attendance at work and ensure appropriate support is provided to those who are absent through illness or injury before considering the capability process.
- 15.2 SFRS recognises that it may support an employee to have a period of time where they carry out different duties to those of their substantive post, or have other modifications put in place e.g. different working hours / shift pattern, thus allowing them to maintain their attendance at work when they might otherwise be absent because they would be unable to fulfil their substantive post. Such alterations can boost an employee's confidence (especially where they have been away from their workplace for a long period of time) and help ease them back into their normal day to day working environment. Examples of such circumstances in which this may be considered include waiting to undergo surgery or recovering from a long term illness.
- 15.3 In all cases, this is considered as a support mechanism that will result in the employee returning to their substantive post, and should therefore **not** be considered as a long-term solution. Similarly, duties of this nature should be meaningful and justifiable.
- 15.4 In considering whether alternative duties could be accommodated, management should seek advice from the Health and Wellbeing section, who will have the most

up to date medical information for the employee, in addition to seeking advice from HR/OD. Thereafter, they should meet with the employee to discuss and agree what these duties will be and how long they may be required for. The Managing Attendance Handbook provides further detail and guidance about alternative duties and reasonable timescales that should be considered.

- 15.5 From the commencement of alternative duties, employees must be made aware of the nature of the alternative duties / modifications, the duration this will be expected to be required for and of the fact the expectation is that they should be in a position to return to their substantive post within a determined period. Written confirmation of this discussion will be sent to the employee. An example letter is contained within the Managing Attendance Handbook.
- 15.6 In order to support the arrangements and the eventual goal of returning to their substantive post, regular discussions should take place between the employee and the manager during which the employee's progress should be discussed.

## **16. SICKNESS ABSENCE RECORDS**

- 16.1 Individual sickness absence records will be recorded for each employee and will include details of absences, whether the reason is work-related, an off-duty accident or illness and whether the absences are, self-certified or medically certified.
- 16.2 Access to sickness absence records will be treated in strict confidence and will be restricted to the HR/OD Department and the relevant manager carrying out any stage of this policy. Any unjustified disclosure may be subject to investigation and possible disciplinary action.
- 16.3 Sickness Absence records (excluding medical reports from the Health and Wellbeing section) will be used for statistics, sickness absence management, health, safety and welfare monitoring and Health and Wellbeing referrals. It will also be used for monitoring on the basis of protected characteristic(s) to allow the SFRS to analyse any trends and take action where necessary. Periods of sickness absence such as pregnancy and disability related absence should not be taken into

account when making a decision about an individual's employment, for example, for promotion, redundancy etc.

## **17. REFERRAL TO HEALTH AND WELLBEING**

17.1 The Health and Wellbeing section is an advisory service that supports the promotion of a healthy workforce and assists the SFRS in maximising attendance and reducing ill health by providing advice on potential interventions and support measures.

17.2 Although the primary care provider for an employee is their GP, the Health and Wellbeing section may liaise with other health specialists, including GPs / Consultants (subject to appropriate consent from the individual concerned), in order to gather as much information as possible in providing their medical advice.

17.3 The purpose of a management referral to the Health and Wellbeing section is to try to establish:-

- The underlying cause of and likely duration of the absence.
- Whether there are likely to be any limitations upon the individual's ability to return to their existing role and if these are temporary / permanent.
- Whether there is anything that can be done to assist the individual's recovery and return to work.
- Whether the absence is attributable to a disability as defined by the Equality Act 2010.
- Following discussions with the employee and advice from Health and Wellbeing section regarding their absence, whether grounds exist to terminate/retire the employee's employment on the grounds of Ill Health Retiral or capability.

17.4 Managers should be encouraged to make a referral to Health and Wellbeing when they have a concern about an employee's absence. Over and above this, however, automatic referrals to Health and Wellbeing should be made immediately at the following points:

- Continuous absence for 28 days or more

- Reports of a service related injury, as defined within the Health & Safety Guidance Note; “Classification for Service Accident / Injuries and RIDDOR”.
- Psychological conditions e.g. stress
- Concerns about potential substance / alcohol abuse

17.5 The **Access to Medical Reports Act 1988** gives employees the right to check the accuracy of medical reports prepared by their medical practitioner, in response to a request for medical information from their employer.

17.6 A medical report from the employee’s GP can only be obtained with the employee’s written consent. Employees can withhold their consent if they wish, but if it is refused, the employer will have to make decisions regarding their employment without the benefit of the medical information sought and based only on the information available to them.

17.7 Where it is documented by the Health and Wellbeing section that an employee has caused or substantially aggravated or prolonged any medical condition by neglect or default or has refused or neglected to cooperate fully in any recommended medical treatment that may assist their recovery, SFRS will be entitled to withhold sick pay as deemed appropriate to the circumstances.

17.8 If, in the opinion of the relevant manager acting on medical advice from the Health and Wellbeing section, the absence from duty is by reason of an illness or injury that is wholly attributable to the employee holding any other office or employment for hire or gain, or carrying on a trade or business, or participation in sport as professional or semi-professional he / she shall not receive any pay other than an entitlement to Statutory Sick Pay.

17.9 Physiotherapy

Where a manager considers that an employee could benefit from Physiotherapy, the manager will refer the employee to the Health and Wellbeing section where they will be assessed and referred for Physiotherapy, as appropriate.

#### 17.10 Counselling

SFRS provides an Employee Assistance Programme (EAP) as a support mechanism to all employees. Self or management referrals can be made to the Employee Assistance Programme as appropriate. (Currently, antecedent arrangements are in place within each Service Delivery Area and will continue until employees are advised otherwise). The Health and Wellbeing section can provide further information if required. The Employee Assistance Programme also provides support to employees in relation to post incident welfare.

#### 17.11 Self – Referral

Employees are able to self-refer to the Health and Wellbeing section at any time for practical support and advice from a medical practitioner. This can be done on a confidential basis.

### **18. EMPLOYEES WHO BECOME DISABLED**

- 18.1 There will be occasions when, as a result of an illness or injury, an employee becomes disabled. In such cases SFRS must, wherever possible, facilitate the employee's continuing employment.
- 18.2 The Equality Act 2010 defines disability as a physical or mental impairment that has a substantial and long term adverse effect on someone's ability to carry out normal daily activities. The definition includes people with hidden disabilities (such as diabetes, epilepsy, and mental health issues). An employer is under a legal obligation to make reasonable adjustments to enable a person with a disability to work or continue to work.
- 18.3 In order to ensure that SFRS complies with the requirements of the Equality Act 2010 a meeting will take place between the employee, their representative (a work colleague or Trade Union), the Manager, the Occupational Health Physician and a representative from HR/OD to consider reasonable adjustments for an employee who becomes disabled where this proves necessary and is appropriate to the case.

18.4 Consideration should be given to making reasonable adjustments for the employee to continue in employment. Reasonable adjustments may include:

- Changing the job content to exclude things which may be badly affecting the employee's impairment and causing sickness absences;
- Where possible, the Manager should review periods of sickness absence and identify periods of absence which are attributable due to a disability and consider this in relation to the management of the employee's absence.
- Providing equipment which enables an employee to carry out their job more effectively;
- Altering the workplace;
- Reallocating duties between the disabled employee and their colleagues;
- Altering working hours;
- Transferring the disabled employee to another work area;
- Providing information in alternative formats;
- Redeploying the disabled employee;
- Providing a reader or signer;
- \*Allowing time off for rehabilitation, assessment or treatment;
- Additional training.

\*Disability leave is time off from work for a reason relating to someone's disability. Disability leave can cover a range of disability-related absences from attending clinic appointments or taking time off to come to terms with a new diagnosis or cope with treatment side effects – what is required will vary from person to person.

18.5 Where an employee's medical condition meets the definition of a disability under the Act, the absence triggers detailed in 8.1 will be applied to ensure that any support mechanisms can be identified at an early stage. However consideration will be given to the employee's disability in terms of the application of the managing attendance procedure and consideration given to the reasonable adjustments outlined in paragraph 18.4 above. Where absences occur that are not related to the employee's disability the Managing Attendance procedures will apply in the normal way. Further advice can be obtained from an HR Advisor where necessary.

SFRS must ensure that maximum attendance is maintained in the interest of ensuring effective service delivery to the communities across Scotland. Therefore

to ensure it meets this aim, employees with disabilities who are unable to attend work on a regular basis, will be managed in accordance with the Capability Procedure subject to disability related absence being managed in accordance with the Equality Act.

## **19. REDEPLOYMENT**

- 19.1 Where the Health and Wellbeing section recommends that an employee is unfit to carry out their current role but is not permanently unfit, suitable redeployment opportunities in relation to the relevant role map/job description should be considered.
- 19.2 The relevant Manager and representative from the HR/OD Department will meet with the employee to discuss the report received from the Health and Wellbeing section and the process to be followed for consideration of redeployment opportunities.
- 19.3 The employee will be asked to complete a Skills Profile Form which will then be sent to the HR/OD department who will assess eligibility for redeployment and potential vacancies within SFRS over a minimum of a three-month period.

## **20. RETIREMENT DUE TO ILL HEALTH**

- 20.1 Where there is an underlying health condition or inability to fulfil the full duties of their substantive role which results in the employee being unable to return to work or attend work on a regular basis, consideration should be given to the option of ill health retirement. This shall be progressed where:-
- In the case of uniformed employees, the employee is considered by the Independent Qualified Medical Practitioner (IQMP) to be permanently unfit to carry out the role for which they are employed and where a suitable alternative position is not available or appropriate;
  - In the case of support staff employees, the employee is considered by the pension funds approved Independent Medical Practitioner to be permanently

unfit to carry out the role for which they are employed and where a suitable alternative position is not available or appropriate;

- Every other option for return to work has been considered e.g. reasonable adjustments to duties, redeployment;
- The employee is a member of the Local Government Pension Scheme, the Fire-fighters Pension Scheme or the New Fire-fighters Pension Scheme.

## 21. ILL HEALTH – CAPABILITY PROCESS - TERMINATION OF EMPLOYMENT

21.1 In most cases the support mechanisms outlined within this policy will assist employees to attend work on a regular basis or alternatively, where an ill health retirement is appropriate, to retire from SFRS under the provisions of the relevant pension scheme. There may however be a small number of cases where these support mechanisms are not effective in assisting employees to attend work on a regular basis or be able to undertake their substantive role.

Unless a redeployment opportunity is identified, an employee's inability to achieve and maintain acceptable levels of attendance (short term intermittent or long term) are issues of capability which may eventually result in either ill health retirement or termination of employment on the grounds of capability.

The same principle applies to employees who are unable to carry out the duties of their substantive post on the conclusion of a period of alternative duties although in these circumstances redeployment and Ill Health Retirement will also be considered. For more information on alternative duties, please refer to paragraph 15.

Employees should be advised that their employment with SFRS cannot be guaranteed if they are not able to attend work on a regular basis or be able to undertake their substantive role and ultimately their employment could be terminated on the grounds of capability. However, any decision to dismiss an employee on grounds of capability will be a **last resort** and will only be taken after all support mechanisms have been considered and implemented.

## 21.2 Assessing Suitability for Progression to the Capability Process

21.2.1 There is no single formula for determining the point at which an individual's attendance should be progressed through the capability process. Each case must be based on its own merits, but will always be based on the following principles:-

- The intention of managing attendance including formal action in the relevant Capability procedure is to improve attendance;
- Where individuals are injured or ill they should be treated fairly and compassionately at all times;
- Managers should be able to demonstrate that they have acted reasonably in all actions taken at all stage of the Managing Attendance process, including any decision to progress to the relevant capability procedure;
- In certain circumstances, it may be appropriate to consider redeployment or Ill Health Retirement in discussion with the employee. In these circumstances, advice must be sought from HR.

21.2.2 Although each case must be reviewed on its own merits, as a guide, consideration should be given to initiating the capability process at the following points:

### Long Term Absence

- After 6 months of continued long term absence, a first stage capability meeting may be considered.
- After 9 months of continued long term absence, a second stage meeting may be considered.
- As a last resort, and after all other alternatives have been explored, if an employee remains absent from work after 12 months, a third stage hearing may be initiated. Managers should contact their HR Advisor for further advice.

### Short Term Absence

If an employee fails to achieve the targets for improvement given to them as part of their attendance support meetings and short term persistent absence remains a management concern due to the continuing nature within the employee's attendance record, the first stage of the capability process may be considered. Managers should contact their HR Advisor for further advice.

21.2.3 An individual should not normally be progressed to the relevant Capability process unless:

- Notwithstanding supportive management action having been taken, the individual continues to have unacceptable levels of persistent short-term absence and there is no sufficient improvement in their attendance; and / or
- The individual is absent due to long-term sickness and, despite notwithstanding supportive management action having been taken; there is no realistic prospect of return to work or return to substantive duties in a reasonable timeframe.
- The employee is unable to return to their substantive role and it is not anticipated will be able to do so within a reasonable timeframe.
- The employee has been previously advised that their continued absence may result in progression through the capability process;
- Earlier supportive action was offered but the individual either declined it or failed to co-operate and as a result there has not been the necessary improvement in the employee's attendance.

21.2.4 Capability has no informal or preliminary stage only 3 formal stages. These are outlined in **Appendix 1**. Line Managers should always seek advice from HR when dealing with cases of capability.

21.2.5 Employees invited to a First or Second stage capability meeting should be invited to do so in writing and using the standard letters contained within the Managing Attendance Handbook.

21.2.6 The outcome of capability meetings should be detailed in the standard outcome letters. An outcome letter for a first stage and second stage capability meeting are contained within the Managing Attendance Handbook.

21.2.7 After considering all other options such as redeployment and Ill Health retiral, any Manager considering progression to the third stage of the capability process must review the checklist detailed within the Managing Attendance Handbook to ensure that all reasonable steps have been taken prior to initiating this stage, if appropriate.

21.2.8 An employee required to attend a third stage capability hearing will be invited using the standard letter detailed in the Managing Attendance Handbook.

## **22. THE APPEALS PROCEDURE FOR TERMINATION OF EMPLOYMENT DUE TO CAPABILITY**

Where an employee is dismissed on the grounds of capability, the employee has the right to appeal the decision. Appeals should be in writing and within seven days of receipt of the letter detailing the outcome. The appeal shall be heard by the Staffing Group of the Scottish Fire and Rescue Service Board. The grounds of appeal will normally be one or more of the following:-

- The principles of the Managing Attendance Policy have not been adhered to
- Decision to dismiss was too severe
- Medical information has not been considered or new information has come to light

## **23. SICK PAY ENTITLEMENTS**

Sick pay entitlements are as those detailed within the relevant conditions of service for support staff and uniformed staff. Further guidance is available from HR/OD.

## **24. THIRD PARTY DAMAGES**

Where the employee is absent as a result of an accident SFRS shall continue to pay the individual. Any claim for damages against a third party should include a sum equivalent to the salary provided. The Service will, on application, provide a certificate to the employee as evidence to the third party.

## **25. CONTACTS WITH INFECTIOUS DISEASES**

In the case of contact with infectious diseases, employees are required to:-

- Decide if they are fit enough to attend work. If an employee is concerned about their contact with an infectious disease, they should speak to their line manager or contact the Health and Wellbeing section;
- If the employee feels unwell and cannot come to work then they should report their absence in the normal way to their line manager and contact their GP who will make a decision as to whether the infectious disease is significant and the employee needs signed off work;
- If an employee is in contact with another person who has an infectious disease and is concerned then they should seek advice either from their G.P. or a practitioner from the Health and Wellbeing section.

## **26. DATA PROTECTION ACT 1998 – SENSITIVE PERSONAL HEALTH DATA**

It is the Policy of SFRS to fully comply with the provisions of the Data Protection Act and to observe the principals of the Act by maintaining the confidentiality of all personal sickness absence information held manually or electronically.

## **27. POLICY REVIEW**

This policy will be reviewed 24 months after its publication date, or sooner if required due to a business change.

The introduction of an integrated HR / Payroll system will also require a review of the processes used to manage attendance, with an electronic absence trigger system being considered as part of the implementation of this system.

## **28. CONSULTATION**

This policy has been developed following consultation with Representative Bodies and has been agreed by the SFRS Board.

### The Capability Process

#### **Background**

*The capability process will be used for managing absence in the case of both short term persistent absence and long term absence which despite previous supportive action has failed to either improve an employee's attendance record, achieve a return to work or a return to full substantive duties.*

Moving from the First to the Second and the Second to the Third Stages will normally have a 12 months' time limit **in total**, dependent on the individual circumstances of the case. During each stage of the process, the case will remain "live". Therefore, within that period of 12 months, an interview can be linked to the next stage. However, there may be occasions where an employee's absence is satisfactory, only to lapse very soon after a 12 month period expires.

Where a pattern emerges e.g. frequent absenteeism on a Friday or a Monday, before or after public holidays or during school holidays, the employee's record under the capability process should be considered when deciding whether to move to the next stage of the procedure or to repeat the stage for another 12 months. After one repeat stage, normally further absences will result in moving to the next stage up.

The process has a structured approach to dealing with capability issues in a reasonable and fair way that affords the employee every opportunity to address the issues being brought to their attention by management.

#### **Stage 1**

A **First Stage Meeting** will be held to discuss the employee's attendance record and determine any support mechanisms that could be put in place to assist the employee to return to work or achieve the targets set for improvement. The employee will be advised of this meeting in writing using the standard letter (contained within the Managing Attendance Handbook) and a copy filed in the employee's personal file. It is recommended that the manager involves the HR/OD Department when this stage is reached.

The First Stage is the start of management “firming up” on non-improvement of previously set targets or failure to return to work/substantive duties. The approach taken should continue to be supportive with the focus being on how to resolve the employee’s absence issues. The employee should be made aware of the impact their absence is having on the service delivery and work of their colleagues. Further targets for improvement should be set if appropriate and the employee informed of the consequences if they do not meet these targets or achieve a return to work/substantive duties i.e. they will be required to attend a Second Stage Meeting.

In terms of setting absence targets, managers must consider the following:-

- Any emerging patterns so that support / assistance can be offered to the employee if necessary e.g. alcohol / drug addiction / caring issues;
- The period of time that the absence target will be set for and whether this is realistic and achievable for the employee;
- Discuss any practical support / assistance that are required to allow the employee to improve over the timescales set.

The employee’s line Manager or other designated officer, should chair this meeting.

The outcome of the meeting will be put in writing using the standard letter and a copy filed in the employee’s personal file. Where there is a requirement to request further medical information from the Health and Wellbeing section at this stage, a referral should be made and specific information requested.

## **Stage 2**

Where it is necessary to hold a **Second Stage Meeting**, a discussion should take place with the employee as to why they have failed to achieve the targets set at the first meeting or achieve a return to work/return to substantive duties. Again support mechanisms should be considered, if appropriate and a referral made to the Health and Wellbeing section (if no previous referral arranged) to obtain further medical information in relation to the employees medical condition (if appropriate). Further targets for improvement should be set, if appropriate and the employee informed that failure to meet these targets or achieve a return to work/substantive duties could ultimately result in their employment being terminated on the grounds of capability.

This is the penultimate stage to potential dismissal and presents another chance for the employee to make the necessary improvements in attendance. The employee should be invited to the meeting using the standard letter. The outcome of the meeting should be detailed using the standard letter and a copy filed in the employee's personal file. Management, whilst still taking a reasoned and understanding approach to the employee's position, will be at the point where the employee's lack of improvement is of **considerable** concern. Accordingly, it will be important to ensure absolute clarity in understanding of where the improvements are required and of the case put forward by the employee. It is therefore important that a discussion should take place with the employee as to why they have failed to achieve the targets set at the first meeting or achieve a return to work/substantive duties. It is important to ensure absolute clarity in understanding where the improvements are required and the case put forward by the employee.

It is important to note that it should be the second level of manager who should chair this meeting. Where an employee's absence record continues to give cause for concern following a Second Stage Meeting, the matter will be referred to the appropriate Local Senior Officer (LSO) or Head of Department.

### **Stage 3**

To assist in determining whether or not an employee should move to the third and final stage of the procedure, it is recommended that a management of sickness absence case review checklist is complete (contained within the Managing Attendance Handbook). This checklist should be completed by the manager who held the second stage interview and forwarded to the local Human Resources Advisor for review prior to the third stage meeting being arranged.

If it is agreed to proceed to the Third Stage of the procedure, the employee should be advised of the arrangements in writing using the standard letter detailed in the Managing Attendance Handbook and a copy filed in the employee's personal file. This is the **final stage** in the capability procedure at which dismissal can be the result. Only instances for which there is a strong case for dismissal should be brought to this stage but it is for the Senior Manager conducting the meeting to decide on the outcome based on the information and case put forward by the employee. This is especially relevant where the employee presents new information.

To sustain dismissal there needs to be a consistent record of non-improvement in the employee's record of absence or no foreseeable date identified for a return to work or a return to substantive duties. Each stage must be clearly documented, setting out the requirements of management and the employee's obligations. Management must also be able to demonstrate consistency and reasonableness in their approach to the actions previously taken. All cases should have a consistent record of absences, supporting medical opinion of the reasons for the absences, knowledge of the employee's intentions and a record of unfulfilled employee obligations and the reason for unfulfilled obligations.

Any decision to dismiss an employee will only be taken when:

- The employee has been formally advised that failure to attend work on a regular basis could lead to dismissal. This applies equally to cases of both short term persistent and long term absence.
- The employee and trade union representative have had an opportunity to explain the absence record and the reasons for it.
- Management has explained the requirement for the employee to attend work on a regular basis and has given him/her the opportunity to prove that he / she can attend work on a regular basis.
- Reasonable adjustments to the post have been considered, as required under the Equality Act, and it has been determined that no adjustments can be made.
- Where applicable, the option of a suitable alternative position has been fully considered.
- Medical advice has been obtained to ascertain the nature of the illness / ailment, its likely duration, whether the employee is likely to make a full recovery and if not what work he / she is able to perform.
- Ill Health Retirement has been considered where appropriate

## **IMPORTANT**

Clearly each case will require to be considered on its own merits and careful judgement exercised before reaching a decision to dismiss on the basis of capability. Management should consult the HR/OD Department for advice at any stage where it is felt this could be of assistance.