

**STOURPORT TOWN COUNCIL**

**Managing Attendance Policy and Procedure**



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# Statement of Policy

The Council supports the need to create a healthy and supportive work environment for employees and recognises that there will inevitably be sickness absence, of which, high levels can lead to a reduction in service provision and place additional burden on colleagues. A collaborative approach to the management of sickness absence will be adopted involving management, employees and their representatives.

Regular and punctual attendance is an implied term of every employee’s contract of employment, as an employer we ask every employee to take responsibility for achieving and maintaining good attendance.

The Council is committed to reducing absence and will manage sickness firmly but fairly. However, nothing in this procedure will prevent the Council’s right to terminate the contract of employment before sick pay entitlement is exhausted.

# Key Principles

To ensure compliance with legislation.

To promote health and well-being of employees.

At each formal stage of the Managing Attendance Policy, the employee has a right to be accompanied by an accredited Trade Union representative or work colleague.

Managers and employees should make every effort to attend meetings or interviews relating to the application of this procedure. If an individual is unable to attend, they will need to give notice and the reasons why they are unable to attend. The meeting will then be re-scheduled to a mutually convenient time. However, where an employee fails to attend such meetings more than twice then meetings may be held in the employee’s absence.

Those responsible for making arrangements under this procedure must ensure that any necessary, reasonable adjustments required by the employee or other party attending have been addressed. This may relate to disability or religious beliefs.

Data relating to the application of this policy will be held and destroyed in accordance with the provisions of the General Data Protection Regulations 2018 and any Stourport Town Council policy that derives from those regulations and the Data Protection Act 1998 or any re-enactment thereof.

The application of this procedure will not unlawfully discriminate, either directly or indirectly, on the grounds of any of the protected characteristics as outlined by the Equality Act 2010.

This policy and procedure will be reviewed periodically giving due consideration to any legislative changes.

Individual roles and responsibilities are outlined in Appendix A.

# Aims and Objectives

This procedure is designed to help the Council meet attendance objectives, which are:

* To promote good attendance throughout the organisation
* To deal positively and sympathetically with employees who have medical conditions or injuries which affect their ability to work normally;
* To avoid operational difficulties and maintain effective staffing levels; and
* To deal fairly and reasonably with employees who have either frequent periods or extended periods of absence.

# Scope of this Procedure

This procedure applies to all employees, except for those in their probationary period.

You should familiarise yourself with this procedure so that you know what is expected of you if you become ill or injured.

# Support Mechanisms

The Council is committed to supporting employees in achieving acceptable standards of attendance and the following mechanisms have been put in place:

* Occupational Health Service
* Counselling
* Return to Work interviews
* Phased returns
* Action and Support Plans
* Separate Stress Management and Mental Health Guidance Documents

# Rules for Notifying us of your Absence and Keeping in Touch

On the first day of any absence, you must telephone your line manager (unless the nature of the absence prevents you from doing so) by no later than one hour after the time when you are due to start work, i.e. your usual start time or for shift workers one hour before the commencement of the shift. You must explain your reason for the absence, what you think might be the length of it, whether you are intending to seek medical advice and provide a contact telephone number. It is not acceptable to leave voicemail, text messages or messages with colleagues.

You should make the call yourself where at all possible (unless the nature of the absence prevents you from doing so), not ask someone to make it on your behalf. If you leave work early because you are unwell, the time lost will be treated as sickness absence and you must inform your line manager that you are leaving work.

It is our policy to keep in touch with employees during all absences, whatever their length.

If it becomes clear your absence is likely to become longer-term, your line manager will agree with you how frequently you need to contact us to keep us informed of your progress. Your line manager will also arrange to meet you periodically, either at work, home or at an agreed location.

# Medical Certificates Explaining why you are Absent

You should give your line manager a self-certification form covering any absence of less than eight calendar days (this includes non working days), as soon as possible and by the latest, on the day that you return to work. This form is available from your line manager.

You should provide a Fitness for Work Certificate (fit note) to cover any absence from the eighth day onwards and send this to your line manager as soon as possible.

If you are unable to work when your fit note expires, you must obtain a further certificate to cover ongoing absence.

We welcome suggestions from either you or your medical advisor which will help you stay in work despite your condition. Your line manager will discuss the options with you. In particular, if your GP has ticked the box on your medical certificate indicating that you ‘may be fit for work’ if certain temporary adjustments are made, you should telephone your line manager at the earliest opportunity so that we can discuss the suggestion with you.

You are able to return to work at any time (including before the end of your fit note) without going back to your GP, even if your GP has indicated that they need to assess you again, providing a suitable risk assessment has taken place, if required, due to the nature of the role, prior to you returning to work. This will not breach any Employers Liability Compulsory Insurance.

Employees are required to cover the total length of their absence with a self-certificate and/or fit note. Failure to provide relevant certificates to cover any period of absence should be classed as unpaid absence and may fall under the Disciplinary Policy and Procedure.

# Withholding Statutory (SSP) and Occupational (OSP) Sick Pay

In some cases, your right to SSP and Occupational Sick Pay (OSP) will be lost if:

* You fail to follow the rules above on notifying us about your absence;
* For any day you are not covered by a certificate;
* Certificates are not provided on time;
* You do not let us know at the earliest opportunity that your GP has ticked ‘may be fit for work’ on your medical certificate;
* You fail to co-operate with us in implementing any suggestions for temporary adjustments made by your GP or our medical advisers;
* You fail to co-operate in providing further medical information; or
* You fail to keep in touch with us throughout your absence.

Sick pay that has been overpaid will be deducted from future pay due to you.

# Sickness Absence and Holidays

**Falling Sick during a Holiday**

If you fall ill during annual leave, and follow the current notification/reporting procedure, (see section 6), the absence may be regarded as sickness absence providing a medical certificate supporting the absence is provided. The relevant period of annual leave will be credited back to you on your return to work.

**Requesting Paid Holiday during Sickness Absence**

If you are absent on sick leave, you can apply to take some or all of your accrued holiday entitlement.

When you take a period of paid holiday at a time when you are absent on sick leave, SSP is still payable if all the usual qualifying criteria apply. This means your holiday pay is inclusive of any SSP pay due to you.

# Employees with more than one job

Where an employee is on sick leave and in receipt of sick pay from the Council in relation to their role, but holds another job (whether for the Council or another employer), they should discuss any intention to continue working in the other employment with their line manager before doing so.

Whilst an employee may be medically unfit for one role, but fit for another, especially where the duties and requirements of the roles are quite different, the line manager should consider the likelihood of affecting the employee’s recovery, which may affect their entitlement to statutory and/or contractual sick pay.

# Medical Reports

We may ask you to attend our Occupational Health or other health professional or to give us permission to seek a medical report from your own GP. Circumstances in which we may make such a request include (but are not limited to): to explore whether there is an underlying medical condition causing your sickness absence; to enable us to get a clear picture of the way your health is affecting your ability to work and how long this is likely to last; to explore whether there is anything as your employer we can do to help you return to full normal working; and to make decisions about your future employment.

If you fail to co-operate, the authority will have to consider your case and this includes a decision such as whether or not your employment should be terminated, based on the information that is available to us.

# Medical Suspension

If your manager is concerned about your state of health and believes that the health, safety or welfare of your and/or others may be at risk as a consequence of you continuing at work they can, with approval from Council, they suspend you on medical grounds.

If suspended you will receive an allowance equivalent to your normal rate of pay until advice is received from either Occupational Health or your GP on the suitability of a return to work or until you notify us of your sickness absence, if this is sooner.

# Accident or Injury Whilst at Work

All accidents and any injury, however slight, which occur whilst on Council premises; or on authorised Council business, must be reported as soon as possible to your line manager (no later than the beginning of the following working day). Full details must be given as to how the injury happened, together with its nature and extent. These must also be recorded on an accident form, which can be obtained from your line manager.

If the accident or injury whilst at work results in you being absent, the Town Clerk will then make a decision as to whether the absence will be recorded as an industrial injury.

# Sickness Absence due to an Accident/Injury caused by a Third Party

# If a period of sickness absence occurs as a result of an accident or injury caused by a third party, in respect of which damages may be payable, employees must immediately notify their line manager of that fact and of any claim compromise, settlement or judgement made or awarded in connection with it and all relevant information the Council may reasonably require.  The employee must ensure that any personal injury claim includes the sum required to repay sick pay that they have received and must repay that part of any damages or compensation received by them to the Council.

# If the sick pay is refunded in full, the period of sickness absence will not be included in calculating whether an employee has reached their sick pay limit. If, however, no refund is made or the refund is made in part, the Council at its discretion will decide to what extent the period of sickness absence will be taken into account.

# Disability Related Absence

Reasonable adjustments will be considered for employees who have a disability related absence covered under the Equality Act. This may include the stages within this policy. The specific facts for each case will be considered.

We encourage you to tell us if your absence is caused by an underlying condition.

If we are aware that you have an underlying medical condition or injury that is causing you to have frequent absences, we will consider how best to take this into account. We will consider how your condition is preventing you attending work as normal and the prognosis for your attendance improving. Where appropriate, we will also look at whether the Council can take any measures to help you improve your attendance. We will expect you to co-operate fully with any such measures and in enabling us to receive medical reports about your condition and its impact.

Depending on the circumstances of your frequent absence, we may choose to manage your attendance outside of the review procedure described. However, we reserve the right to apply our procedure even where there is an underlying medical condition. If so, we may choose, but are not obliged, to adapt the procedure e.g. altering the trigger levels in your case or choosing not to give you a caution in some circumstances where you would have otherwise received one.

# Terminal Illness

In such cases, managers should contact the Town Clerk for further advice and guidance.

# Death in Service

In the sad event that a death in service should occur, managers/relatives should contact the Town Clerk for further advice and guidance.

# Return to Work Interviews

Preferably on the day that you return to work and certainly within two working days, your line manager will meet with you to discuss the reason for your absence, your current fitness to work and what has happened at work in your absence.

If you do have any underlying problems or reasons that are causing you to take time off, this is a good opportunity to discuss them. We may be able to help you. If you have not already sent us your self-certification form or GP’s fit note, you should hand it in at this meeting.

We recognise that there may be exceptional circumstances where you would prefer not to discuss the reason for your absence with your line manager.

# Phased Returns to Work

If you return to work on a phased basis (usually following a period of absence of four weeks or more), with temporary adjustments to your hours or duties for a reasonable period, you will be paid your normal pay for the hours that you work. A phased return to work will normally be agreed for a maximum of four weeks; discretion for up to six weeks after which you will be expected to return to work fully (subject to any reasonable adjustments in the case of disability) and as long as this is supported by the GP and/or Occupational Health. You will be paid sick pay for the days or part days when you are not working. Alternatively you can choose to take annual leave for the days or part days you are not working.

At the end of the phased return period, it will be expected that you resume normal contractual hours and duties. If this is not possible, on medical grounds, then reduced hours may be continued but on a temporary contractual basis, subject to the ability of the service to reasonably facilitate the arrangements. Sick pay, will not be payable as a supplement to actual hours worked.

# Presenteeism

Presenteeism means reduced productivity when employees come to work and are not fully engaged or perform at lower levels as a result of ill health. Line managers who have concerns regarding an individual attending work when they are unwell should discuss their views with the employee. It may be possible that by being at work the employee will put colleagues at risk of infection and / or impact adversely on their own long term health. Line managers should liaise with HR if they have concerns in respect of presenteeism.

# Disciplinary Procedure

If, at any time, the Council considers that you have taken or are taking sickness absence when you are not unwell, it may invoke its disciplinary procedure. It may also treat other actions as misconduct under the procedure e.g. failure to comply with medical certificate provisions, failure to maintain regular contact and/or notify us of your absence.

# Attendance Review Procedure

Our procedure has the following stages:

* Informal day to day management support;
* Stage 1 – Attendance Improvement Plan;
* Stage 2 – Improvement Notice; and
* Stage 3 – Capability Decision Hearing, potential dismissal.

You will be given a minimum of 3 working days notice in respect of the above formal meetings.

Before taking any formal action under this procedure, we will carry out the following steps:

* We will hold an attendance review meeting.
* Before the review meeting we will send you a letter setting out your attendance record and informing you of the possible outcomes of the meeting.
* We will give you, together with any permitted person that you may choose as a companion, reasonable time to consider the information we give you.
* At the meeting we will discuss your attendance record and the impact it is having on the business. You will be given the opportunity to explain the reason for the absence.

# Formal Action

There are limits to the amount of absence which the Council and your work colleagues can sustain and there may come a point when we will consider ending your employment for example when, taking into account the circumstances, we believe that:-

* We cannot reasonably hold your job open any longer; or
* We cannot reasonably sustain your level or pattern of absence; or
* There is no reasonable prospect of you resuming your full duties.

At all stages of the formal procedure managers should seek advice from the Town Clerk.

# Stage 1 – Attendance Improvement Plan

The issue of an Attendance Improvement Plan and an agreed action plan will require the employee to take immediate action to control their absence levels.

An employee issued with an Attendance Improvement Plan will be expected to maintain a required level of attendance management as directed within a set twelve month review period as follows:

* Improvement as outlined within the agreed action plan
* To maintain an acceptable pattern of attendance

The Attendance Improvement Plan will lapse after **twelve months** from the date it is issued.

An employee should also be aware that a decision can be made to move to Stage 2 of the Attendance Review Procedure set out in this policy should unacceptable level or patterns of absence contine.

At the end of this formal stage, an employee should be aware that the Council reserves the right to resume action immediately at this stage of the procedure, depending on circumstances, should absence levels increase in the near future. This means even where an Attendance Improvement Plan has lapsed, an employee could be moved to Stage 2 without a new Attendance Improvement Plan being agreed if the pattern of attendance causes concern and/or the trigger level is reached within 6 months following the lapse of the previous Attendance Improvement Plan.

# Stage 2 – Improvement Notice – Trigger Level: Failure to achieve Stage 1

A further review meeting will be held to discuss attendance record levels and the reasons. If appropriate an Improvement Notice will be issued.

An employee issued with a Stage 2 Improvement Notice and agreed action plan will be expected to maintain a required level of attendance management as directed within a set eighteen month review period as follows:

* Improvement as outlined within the agreed action plan
* To maintain their absence record below the Bradford Factor ‘trigger level’
* To maintain an acceptable pattern of attendance

The Improvement Notice will lapse after **eighteen months** from the date it is issued.

An employee should also be aware that a decision can be made to move to Stage 3 procedure set out in this Policy should unacceptable level or patterns of absence continue.

At the end of this formal stage, an employee should be aware that the Council reserves the right to resume action immediately at this stage of the procedure, depending on circumstances, should patterns of attendance cause concern and/or the trigger level is reached within 6 months following the lapse of the Improvement Notice.

# Long Term Absence Review and Underlying Medical Conditions

We encourage you to tell us if your absence is caused by an underlying condition.

If your condition or injury causes long term absence, (4 weeks or more), we will generally manage your absence outside of the review procedure described above. This will involve us obtaining medical advice, consulting with you and considering how your condition is preventing you returning to work (and possible adjustments for you) and your prognosis for recovery. We will keep in touch with you throughout your absence and will expect you to co-operate fully in our absence management measures, including enabling us to receive medical reports and co-operating with any arrangements or measures to enable you to return to work, such as temporary adjustments to working arrangements.

# Procedure for Long Term Absences

**Review Meetings**

* Stage 1 – Review Meeting
* Stage 2 – Case Review
* Stage 3 - Capability Decision Hearing

The employee will be given a minimum of 3 working days notice in respect of the above meetings.

# Stage 1 – Review Meetings

Review meetings will take place between you and your line manager no more than monthly intervals unless an alternative arrangement has been agreed. The aim of the meeting is to agree a return within a reasonable period of time. If the absence continues beyond three months a meeting will then be arranged with the line manager.

At each review meeting consideration should be given to any reasonable adjustments suggested that would allow the employee to return to work earlier, if appropriate.

# Stage 2 – Case Review

A case review will be appropriate once the advice of Occupational Health is received and they have made a recommendation regarding your fitness to work. This will usually be between you and your line manager and usually no later than **six** months. Whilst advice from OH is useful, **decisions about what action is appropriate ultimately rests with the line manager.**

The purpose of the case review is to consider the latest advice of Occupational Health, and consider any other relevant factors, before deciding on an appropriate course of action. This will include the prospect of a return to work in the foreseeable future and any potential barriers to a planned return to work, the development of a return to work plan and the planned implementation of any necessary adjustments.

The employee will fall immediately under Stage 3 procedure set out in this Policy if the absence continues or is expected to continue for at least 9 months or the expected date of return cannot be determined.

# Stage 3 – Capability Decision Hearing

Where an employee fails to attain the required levels of attendance as set out under Stage 2 of the Attendance Review Procedure or is on Long Term Absence and the absence continues, or is expected to continue for at least 9 months, or the expected date of return cannot be determined, the manager should request the Line Manager convene a hearing to consider the matter. It must include a report from the line manager incorporating all relevant information received from the Council’s Occupational Health Provider, and must give you the employee and/or your representative the opportunity to make representations against dismissal.

We will write to you asking you to attend a capability decision hearing. You should be aware that, if you reach this stage, you may be dismissed (with notice)..

The Town Clerk having heard the case, having considered all relevant factors, must then determine, in the light of the information presented and available, whether:

* Action short of dismissal is appropriate, i.e. an extension of time, additional support package, alternative employment etc;
* whether there are any reasonable adjustments that can be made to support you to return to work;
* you should be dismissed on the grounds of capability **(unacceptable levels of attendance);** or
* early release of pension on grounds of ill health should be explored.

# Appeals

You have the right to appeal against any formal sanction received. Appeals must be lodged in writing with the Town Clerk (contact point will be specified in the letter of notification) within 5 working days of the date of the written notification of the caution. The period may be extended only in exceptional circumstances. The notice of appeal must state the grounds of the appeal.

Appeals will be heard within a reasonable time of the receipt of the notice of the appeal by a more senior manager to that manager taking the action in the first instance. All appeal panels will include a Senior Manager /representative from the Town Clerk.

Appeals against dismissal will be heard by the Appointment and Appeals Committee. You or your representative must appeal, in writing, setting out the reason for the appeal to the Town Clerk, within 10 working days of first receiving the dismissal decision (Verbal or written). The decision of the appeal hearing is final.

**Appendix A**

**Responsibilities under the policy and procedures**

**Town Clerk responsibilities**

* To maintain the policy and update as appropriate to reflect legislative changes, best practice etc.
* To provide specialist advice and support to managers and staff in dealing with absence issues.
* To liaise with Occupational Health (OH) providers as appropriate.
* To ensure managers and employees understand their responsibilities in the context of the workplace.
* To provide managers with training and guidance in delivering return to work interviews, information, counselling etc.
* To work with managers and employees to facilitate a return to work, including provision of advice, support and OH referrals.
* To provide statistical information to support the management of absence , including reports on:
	+ Total working time lost by team
	+ Total working time lost by individual
	+ The average number of working days absence
	+ The percentage of working time lost due to absence
* To ensure any information held will be in line with the requirements of GDPR and confidentiality maintained.

**Manager responsibilities**

* Managers have a duty of care for heath, safety and well-being of their employees and should work supportively in conjunction with the Town Clerk and OH to support employees with genuine sickness absence.
* To understand and observe their responsibilities.
* To ensure that all absences are treated equitably and consistently within their area of responsibility.
* To be responsible for managing sickness effectively and ensuring absence is monitored and recorded. Managers are responsible for carrying out effective return to work interviews and other review meetings, promoting a positive working environment, motivating and managing their team to maximise attendance.
* To maintain contact with the employee during their absence.
* To be aware of the impact of absence on the remaining employees and take action accordingly.
* Senior managers should ensure that training is available for staff who are managing sickness absence
* To establish whether there is any work-based contributory cause to the absence and to consider taking appropriate action to enable the employee to return to work.
* To ensure any information held will be in line with the requirements of GDPR and confidentially maintained

**Employee responsibilities**

* For own health and well-being and for minimising absence from work. This includes not participating in any activity that may delay the ability of the employee to return to work.
* To seek medical help as appropriate
* To understand and observe their responsibilities, particularly in terms of sickness notification, providing statements and keeping in regular contact during longer term absence.
* To refrain from participating in any activity inconsistent with their illness or which might aggravate it.
* To comply with the directions of their own GP or the Council’s OH advisors
* To refrain from undertaking any unauthorised work or employment whether paid or voluntary during the period of their sickness absence
* Where necessary, give consent for OH to contact their GP or medical advisor for further details.
* To attend return to work interviews and review meetings as appropriate.