



Business Services
Organisation

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Attendance at Work Procedure

May 2022



Policy/Procedure Development Overview

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Section 1 - Introduction and Purpose

1.1 Purpose

This Procedure is aimed at supporting attendance consistently and fairly across the Business Services Organisation (BSO). The Procedure sets out the way attendance will be supported in relation to sickness absence, our responsibilities and accountabilities, and how absence will be reported, recorded and monitored.

The BSO is committed to improving the Health and Well-being and attendance of our people. The BSO wants to ensure it is managing absences in a timely and supportive manner to enable employees to return to work as soon as possible.

This procedure applies to all managers and employees within the BSO. Failure to follow these procedures may result in disciplinary action.

The following procedures are set out in support of the Business Services Organisation (hereafter referred to as the BSO) Attendance at Work Policy.

Section 2 - Certification

Both managers and employees have a responsibility in the notification of absence.

2.1 Employees' Responsibilities

Employees must notify their line manager or appropriate designated officer as early as possible before the scheduled commencement of duty and no later than 9.30am on the first day of absence. Any employee working on an early shift must report as soon as possible before commencement and no later than 30 minutes after your expected start time.

Notification must be by telephone. Emails or text messages are not acceptable.

Employees must indicate the reason for absence, the expected duration of the absence and whether or not a medical practitioner will be seen. Employees should also indicate what tasks need to be completed in their absence.

Throughout the absence the employee must maintain regular contact with the Manager, the frequency of which should be agreed with the Manager at the outset of the absence, taking consideration of the circumstances of the sickness. It is not acceptable for employees to send certificates without regular verbal communication

with their manager. Failure to contact the line manager will mean that the manager will make efforts to contact the employee either by telephone or in writing. In certain circumstances, the employee may be more comfortable maintaining contact with a more senior manager. In these circumstances, this should be agreed at the outset of the absence period.

Failure to provide appropriate certification for absence may result in sick pay being withheld. Continued failure to maintain contact or respond to contact from the manager as agreed may result sick pay being withheld and disciplinary proceedings.

2.2 Managers' Responsibilities

Managers must ensure that all new and existing employees are familiar with their responsibilities in absence reporting, in particular, the person to whom they should report on the first day of absence.

Managers must ensure that all absence is recorded accurately and on a timely basis on HRPTS. The original certification documents should be retained by managers for monitoring purposes and stored in a secure location.

Upon the employee's return to work, the return to work interview (Appendix C) should be completed and held locally and securely by the line manager. Human Resources (HR) will regularly audit compliance with this aspect of the procedure.

2.3 Certification Procedure

Under the Occupational Sick Pay Scheme employees are required to submit the following certificates as appropriate to their line manager:

1 to 3 calendar days - No certification is required

Up to 7 calendar days - A self-certificate form must be submitted by the employee within 7 calendar days of the 1st day of absence dated from the 1st day of absence. The sickness absence must be recorded on HRPTS, held locally by the manager and stored securely.

8 calendar days or more - If an employee is off sick for more than 7 calendar days then they are required to submit a self-certificate and a statement of fitness for work (commonly known as a sick line) to cover their absence from day 8. If a statement of fitness for work is obtained from day 1 then a self-certificate will not be required.

In all situations the manager should discuss certification during initial contact and further agreed contact with the employee and must remind the employee of their obligation to provide appropriate certification throughout their absence.

If an employee has been admitted to hospital then a hospital certificate can be accepted from the 1st day of illness.

It should be noted that failure to provide appropriate certification within 7 calendar days of expiry of either a self-certificate or a statement of fitness for work may result in salary being withheld and it may also lead to disciplinary proceedings. In circumstances where there is a delay in forwarding the certificate, employees must communicate this to their manager at the earliest opportunity.

Managers should ensure that the original documentation is held locally by the manager and stored securely and employee absence recorded on HRPTS.

A return to work interview form (Appendix C) should be completed after all periods of absence as detailed previously.

2.4 Statement of Fitness For Work

This document can be provided by registered GPs, Nurses, Physiotherapists, Occupational Therapists or Pharmacists and will advise if an employee is unfit for work or fit for work with reasonable adjustments.

Where the practitioner has recommended reasonable adjustments the line manager should;

Contact the employee to discuss, and where the adjustments are considered reasonable and can be accommodated, the line manager should make the necessary arrangements with the employee and agree a return to work date. A manager can request advice from OH in relation to adjustments.

In exceptional circumstances where the line manager cannot facilitate the adjustments, the manager should use the statement of fitness for work as stating the employee is not fit.

There may be occasions when an employee is able to return to work before the end of the period detailed on the statement of fitness for work. The employee should discuss this with their manager and OH if necessary. If there is agreement the employee can return to work before the statement of fitness for work expires, and the manager should amend the end date of the sickness period on HRPTS.

Please note employees no longer require a signing off line.

There may be occasions when the opinion of OH and the practitioner signing off the line will differ and the OH report may state that the employee is fit for work while the practitioner may provide a further statement of fitness for work stating that the employee is not fit to return to work. In these situations the manager should contact the employee immediately and discuss what may have changed since the employee attended OH and then subsequently attended their practitioner. The employee should be advised that the final advice will be taken from OH rather than the employees' practitioner and if there has been no change the employee will be expected to return to work on the date suggested by OH or on the Monday following the date of the report and will not be entitled to sick pay as the absence will no longer be related to sickness.

There may be occasions where an employee submits a statement of fitness for work certificate that contains a different reason for absence than what was originally received. At this point the manager should discuss the change in reason with the employee and HRPTS should be updated with the dominant reason i.e. the reason which takes up the longest period of absence

Section 3 – Management of Short Term Absence

As Short term absence is a single period of absence lasting less than 20 days. The pattern is usually 1, 2 or 3 days at regular intervals. It can also manifest itself in excessive use of certification processes of more than 3 days which would fall below 20 days.

3.1 Triggers

The triggers for management action in respect of short term absence, in line with the Regional Attendance Framework, are as follows:

- 3 episodes of absence within a 12 months rolling period.
- 2 episodes of absence totalling 10 working days or 2 calendar weeks within a 12 month rolling period.
- 1 episode of 10 working days within a 12 month rolling period.

After all periods of absence a return to work interview must be completed (Appendix C) and held locally by the manager, the date of the return to work interview should also be input to HRPTS. The purpose of the interview is to discuss the circumstances of the absence and to enable appropriate monitoring and action to be taken.

3.2 Courses of Action (Management Action)

Once a trigger point, as set out above, is reached the manager should consider the circumstances of the case and take action as appropriate. Management Action could include;

- 1) Formal meeting with the employee,
- 2) Referral to Occupational Health (OH),
- 3) Disciplinary action.

Account should be taken of the individual's circumstances and when a trigger point is reached discussions at the return to work interview along with the previous history/action will determine one of the following three courses of action to be taken:

- Mitigation
- Manage in context of medical condition
- Manage in context of no medical condition

3.3 Evidence of Mitigation

Following a review of the circumstances of each case which may establish extenuating personal circumstances (previous history and/or job related factors) which may contribute to the absence level a decision may be taken that a verbal warning under the disciplinary procedure may not be appropriate at this stage.

Particular care must be taken when dealing with staff who have a disability, caring responsibilities for people who have a disability or pregnancy related absences and advice from HR must be requested.

However, managers should in all circumstances reinforce the need for improvement in the level of attendance and discuss options including a reduction in hours (temporary or permanent) and different start and finishing times.

It is essential that the employee understands that it is expected that they will demonstrate and sustain an improvement in attendance.

If the employee is unable to sustain an improvement and the Manager is satisfied that circumstances of the case have been addressed and there are no health issues to explore consideration should be given to taking disciplinary action as detailed below.

3.4 Management action where there is evidence of a medical condition/ health issue

If there is a common reason for short term absence or where the employee indicates at the return to work interview that they have a disability or medical condition which is contributing to their absence level a referral should be made to OH to determine if there is an underlying health problem (See Appendix F).

If it has been established by OH that periods of short term absence are caused by an underlying health condition managers should consider the information provided by OH and consider what appropriate adjustments could be made. In these circumstances managers should not attempt to reinterpret medical advice, but should seek advice relating to adjustments. These adjustments must be with a view to enabling the employee to stay in work.

Adjustments may include:

- Changes to the employee's working pattern;
- Reduction in hours;
- Changes to work tasks or work environment if possible;
- Redeployment to a different job;
- Reasonable adjustments in accordance with the disability discrimination legislation.

Such adjustments may be for a temporary period only and it is important to remind the employee that they are responsible for their own attendance and as such must contribute to finding solutions which will enable them to provide regular attendance.

Confirmation of a medical condition/illness does not preclude further action being taken and the employee should be advised that an improvement in attendance is expected. Any agreed adjustments should be confirmed to the employee in writing, outlining agreed time periods and the requirement for monitoring.

Should there continue to be an unacceptable level of short term absence, discussion at the return to work interview should include reference to previous meetings and action that has been taken to assist the employee.

Further advice should be sought from OH if appropriate and if there are no further adjustments that could reasonably be made the employee should be advised that consideration may have to be given to re-deployment or termination on the grounds of ill health.

Where there is no improvement in attendance but the reasons for absence are unrelated to the health issue, consideration may be given to further disciplinary actions which may result in the contract being terminated in accordance with relevant incapability or disciplinary procedure.

3.5 Management Action when there is no underlying medical condition

If a manager is satisfied after discussion with the employee that the short term absences are not related and that there are no mitigating circumstances, underlying medical condition or a disability under the Disability Discrimination Act, then an employee should be advised during return to work interviews that a further period of absence may lead to an informal warning under the disciplinary procedure. This is to caution the employee that an improvement in attendance is expected and this should be recorded.

The employee should be provided with a copy of the attendance policy and procedure, and this should be recorded in the return to work interview documentation.

Should there be a further period of absence and after investigation of the circumstances at the return to work interview the manager should refer to the previous discussions and advise that an informal warning is now being considered. The employee should be issued with a letter inviting them to a separate meeting and given the opportunity to bring a representative in accordance with the Disciplinary Procedure (Appendix H)

At the meeting under the Disciplinary Procedure, the Manager should outline the absences to date and refer as appropriate to previous discussions at return to work interviews. The employee will be advised that an informal warning is being issued in accordance with the Disciplinary Procedure and they are expected to demonstrate and sustain an improvement in their level of attendance.

The informal warning must be confirmed, in writing, to the employee advising of the right of appeal to the next line manager and that the warning will be active for a period of 6 months (Appendix K). The manager must update HRPTS with details of the informal warning.

The employee should be advised that a further absence during this 6 month period may lead directly to a formal Disciplinary Hearing.

There may be cases where the informal warning has lapsed and the employee falls back into a pattern of poor attendance record. In these circumstances, where the informal warning has not had the desired effect on improvement to attendance, the manager may move to instigate formal disciplinary proceedings.

3.6 Formal Disciplinary Action where there is no underlying medical condition

Where there is no improvement in the level of attendance and there is sufficient evidence that informal action has been taken to address the level of absence it may

be necessary to commence formal disciplinary proceedings. It should be noted that absenteeism is listed as misconduct within the BSO Disciplinary procedure.

Disciplinary action may also be appropriate where there is evidence of non-compliance with the policy and procedure, failure to provide appropriate certification, failure to report absent for work or misuse of sick pay provisions.

The Manager should ensure that the employee understands that formal disciplinary proceedings are being instigated and the case is being referred to the HR department.

The Disciplinary Panel will be constituted in accordance with the Disciplinary Procedure. The Line Manager of the employee will present all the facts of the case and the employee will have the opportunity to present a response and raise any issues which they consider to be relevant. The employee will have the right to be accompanied in line with the disciplinary procedure.

Section 4 – Management of Long Term Absence

Long term absence is defined as continuous absence of 4 calendar weeks or more. It is important that the manager establishes the reason for absence and establishes a frequency and method of contact from the outset. The normal expectation would be that weekly or fortnightly contact is maintained throughout the period of illness depending upon the circumstances of the sickness.

Early interventions in a period of sickness absence which is likely to be long term are more effective than waiting for a 4 week indicator to trigger action. The management of long term absence may be assisted by the efficient medical management of the case in close co-operation (where appropriate) between OH Service and the GP. This may minimise time off and identify at an early stage the employee's capacity to return to work. In some circumstances it is appropriate to make an immediate referral. These include injury at work, musculoskeletal injury and absence following maternity leave. In dealing with instances of work related stress, the manager should meet with the employee to assess the reasons for stress and attempt to resolve the matter, and provide any support necessary prior to making an OH referral. Advice should be sought from HR where necessary.

Section 5 – Referring to Occupational Health (OH)

A manager should assess the reasons for absence and determine if a referral to OH is appropriate. If an employee has been hospitalised or is undergoing treatment it may be better to defer making the appointment to a more suitable time. The manager should seek to take advice from OH on specific conditions if necessary.

The manager should complete the BSO management referral form (Appendix F) ensuring they complete all sections and detail all relevant background information. The

manager should specify the questions they would like the OH nurse to address and the manager should ensure the questions are medical related. The questions should not be questions that the manager should ask the employee such as how the employee is feeling. A manager should always ask if adjustments need to be made. Appendix G provides guidance on the type of questions the manager should ask. Referral forms which do not contain relevant questions will be referred back to the manager for amendment.

The contents of the referral form including the questions that are being asked should be discussed with the employee before the form is sent to HR for the appointment to be made.

A manager should also consider a referral to OH even before a period of absence if they are concerned about an employee.

If a manager has any queries in relation to completing the referral form they should contact their HR Business Link.

Managers must record the referral date to OH on HRPTS following confirmation of the OH appointment from HR.

5.1 OH Report

Whilst at OH, the employee will be told the content of any report to management and the likely consequences of the report. They will be offered the opportunity to see the written report before it is sent to their manager and may choose to withdraw their consent at any stage to forward the report. Employees should, where possible, take advice from their representative if they are considering withdrawing consent as managers will then have no alternative but to take action without medical guidance and based on the information they have.

If on receipt of a report anything is unclear, managers should ring, email or write to the OH professional who provided the report to seek clarification.

5.2 Failure to attend OH

If an employee is unable to attend OH they must contact their Line Manager in good time to provide a reason for this. If no reasonable explanation is given, the manager should advise the employee of their contractual obligation to attend, and link with HR to arrange for a new appointment.

Failure to attend again may lead to disciplinary action being taken and the Manager should contact their HR Business Link where there is sufficient evidence of repeated non-compliance despite previous warnings.

Where an employee fails to attend OH and fails to make contact in relation to their non-attendance, the Manager should immediately make contact with the employee

to ascertain the reasons for this. Such failure to attend OH appointments should be recorded on HRPTS in notes. Employees must be reminded of their contractual obligations and a new appointment date provided. The employee should be advised in writing that disciplinary action will be considered and salary withheld if this is repeated. Appendix H provides a template letter.

Employees required to attend OH may be able to claim travel expenses at public transport rate.

5.2 Self-Referrals

Employees can 'self-refer' to the OH Service at any time for advice about their own health at work. Self-referral appointments are confidential, however if a self-referral is made and the Manager also refers the employee, both appointments will be linked and the employee asked to give consent to OH to provide a report to management.

5.3 Maintaining Contact during Periods of Absence

It is an employee's responsibility to maintain regular contact with their line manager while they are absent from work. The frequency of contact should be agreed at the outset of the absence and if the absence is long term the manager should arrange to meet with the employee every 6 to 8 weeks. The purpose of the meeting is to discuss the employee's current state of health, the OH report, the return to work date and any updates from the workplace. Appendix I provides a template for the meetings. The frequency of contact meetings will be determined by the reason for absence and the duration of the absence. In certain circumstances, the employee may be more comfortable maintaining contact with a more senior manager. In these circumstances, this should be agreed at the outset of the absence period.

5.4 Phased Return Recommended by Occupational Health

In exceptional circumstances, especially where there has been a lengthy period of absence, OH may recommend a phased return to work. An employee returning from long term sickness absence on a rehabilitation programme with a phased return, recommended by OH (and agreed with management) will receive no loss of normal pay during the rehabilitation period. Details of phased return should be recorded in free form notes on HRPTS.

The employee will return to work on an agreed phased rehabilitation programme for a period not exceeding six weeks. The phased return will generally include reduced working hours and may also include some adjustment to tasks. This should be clarified and agreed with OH and the member of staff prior to the return to work. It should also be clear how working hours will increase throughout the phased return so that by the end of the agreed period the employee is ready to commence normal working (this should be agreed between the Manager and the employee). During

the phased return period the employee will receive normal pay. It is important to note that a phased return may be recommended for a period less than 6 weeks.

It is important that during the phased return that the manager monitors the arrangement. Before the end of the phased return the Manager should meet with the employee to review progress and confirm the return to normal working arrangements.

If it is clear that the employee requires more time, this should be discussed and a further time limited period agreed. It should be made clear to the employee that this further period does not attract full pay (if it is beyond 6 weeks) and will be paid either at the reduced hours or using accrued annual leave.

The employee should be reminded that it is expected that there will be a return to full duties and working hours. If at the end of the agreed extension the employee feels that they would like to continue working reduced hours, the Manager must decide if this can be granted on a permanent basis and should confirm any decision in writing. Where an employee indicates that they cannot carry out the full range of duties associated with their post, the Manager should contact OH for further guidance.

Phased returns recommended by OH should be recorded on HRPTS under leave request.

5.5 Request for Phased Return

Where a phased return has not been recommended by OH but has been requested by the employee or on the fit note issued by a registered practitioner, consideration should be given to granting this request as it may enable the employee to return to work earlier.

Any adjustments to working patterns, hours or alternative duties, should be discussed, agreed and confirmed in writing. In cases, where a phased return to work was not recommended by OH, yet agreed between the Manager and employee at local level, staff can use accrued annual leave to reduce hours or should be paid according to the reduced hours.

Managers should also consider if re-training is required and should be guided by the employee and their rate of progress when they return to work. It should be noted that training includes “on the job” training and will not always mean formal training programmes.

It may be useful to enable the employee to shadow / spend time with colleagues rather than expect them to commence work immediately.

The extent and length of reintegration will depend upon the needs of the employee balanced with the requirements of the service.

In all cases Managers are responsible for monitoring arrangements and again employees should be reminded that this is for a temporary period only and it is expected that they will return to normal working, subject to reasonable adjustments.

Section 6 – Other Related Issues

In situations where there is a combination of both long and short term absence the Manager must explore the reasons for both at the return to work interview before taking action. If the short term absences are unrelated to a health issue and the employee has reached a trigger point it may be necessary to proceed with action under the disciplinary procedure.

6.1 Failure to Attend Meetings

It should be noted that at any stage of this process if an employee is unable to attend a meeting, contact should be made with their manager advising of the reason for non-attendance in advance of the meeting taking place. Where failure to attend is due to circumstances outside of the employee's control then another date will be offered. Where there is no reason for non-attendance or evidence of repeated cancellation the employee should be aware that decisions may be made in their absence and disciplinary action may be taken.

6.2 Having Surgery Outside the UK/EU

Employees who are travelling overseas for surgery may be entitled to Occupational Sick Pay. They should discuss the medical requirement for surgery with their Manager to ensure that arrangements for communication are agreed and that they provide appropriate medical certification throughout their period of absence. Managers should seek advice from HR before the employee commences sick leave.

6.3 Sickness and Annual Leave

Where an employee has booked a period of annual leave and either becomes sick before or during a period of annual leave they must immediately report sick for work in the normal way so that the annual leave can be returned to them where appropriate. If the absence is for 8 calendar days or more, the employee will require a statement of fitness for work. Managers will need to update HRPTS to show that the leave type has changed.

If an employee is on sick leave and has been advised by their medical advisor that a holiday would be beneficial to their recuperation then the employee must make contact with their manager to discuss their intention in consideration of the nature of their absence, prior to travel.

Employees continue to accrue annual leave whilst on sick leave. Employees, who return to work with accrued annual leave, should discuss this with their Manager so that the leave can be used appropriately. This may include returning on a part time basis due to the accrued leave. Where an employee remains on sick leave and the new leave year commences the employee can carry over a maximum of 28 days (pro rata for part time staff)

Employees will not be entitled to an additional day off if sick on a public holiday.

6.4 Sickness as a Result of Sports Injury/Secondary Employment

An employee should seek to refrain from any secondary employment or activities that may affect their capacity to provide regular and effective employment. Where an absence has been attributable to a sports injury or secondary employment managers should remind employees of this at the earliest opportunity. Where there is evidence of recurring frequencies or excessive amounts of absence due to either of the above, this may affect the employee's entitlement to Occupational Sick Pay in the future. Statutory sick pay will continue to be paid.

6.5 Sickness during Pregnancy

Periods of sickness during pregnancy which are directly related to that pregnancy should not be counted towards the trigger points for managing short term absence. The absence should be recorded as normal and the Manager should carry out a return to work interview to discuss and explore options that will support the employee. It may be necessary to temporarily adjust the employees work tasks or work environment for an agreed period of time to enable the employee to remain in work. This should be progressed following a risk assessment for pregnant employees.

6.6 Going Home Sick

Where an employee reports for work but then has to leave due to sickness it should be recorded as 'gone home sick' on HRPTS. If this happens for a third occasion

within a 12 month rolling period this should be recorded as a sick day on HRPTS, and regarded as such when monitoring absence towards the trigger for management action. The first two episodes should remain recorded as 'gone home sick'.

6.7 New Employees and Probationary Period

Employees should be aware that their absence record is considered during their probationary period, and the manager can take action if this is not satisfactory, including termination of the contract of employment. The probationary period of the contract of employment should be used constructively to assess, amongst other things, the employee's attendance record. If attendance is poor or gives cause for concern during the probationary period, managers should make the employee aware of that concern during the probationary period and give them an opportunity to improve at the earliest opportunity. Employees should also be advised of the consequences of absence and that it may result in the termination of their contract of employment.

During the probationary period, the following trigger points will apply and a formal meeting will be held and consideration given to the appropriate disciplinary action.

- Following a single episode which lasted for 5 working days (or one calendar week pro rata) or
- Following 2 episodes of absence.

An extension of the probationary period would only be in exceptional circumstances. Such exceptional circumstances might be hospitalisation or bereavement. The extension of the probationary period would be for the sole purpose of allowing the manager the opportunity to properly assess the individual's performance, which due to the length of the employee's absence; they have not been in a position to do during the six-month period.

If managers are considering the extension of the probationary period solely on the basis of the employee's attendance record, they should always seek advice from the HR Department before doing so.

In other cases where the absence has been addressed with the employee during their probationary period and their attendance has not improved or been maintained at a satisfactory level, the disciplinary procedure should be initiated, which may ultimately lead to termination of the contract of employment.

Section 7 – Disability Discrimination Act (DDA) 1995

In accordance with discrimination legislation the BSO has a legal requirement to make reasonable adjustments which would enable an employee with a disability to remain in work and provide reliable and effective service. Serious consideration must be given to making temporary or permanent adjustments to working practices or premises and in all cases advice and guidance should be sought from the OH and HR. It should be noted that consideration of reasonable adjustments should also be made in relation to employees who are not covered by disability legislation.

OH cannot confirm whether or not an employee has a condition which falls within the statutory definition of disability. Equally the employer and/or the employee may not be able to determine this and in these cases it is important that all parties consider the definition and establish whether it is likely that the employee would meet the definition. In order to avoid discrimination, managers are encouraged not to attempt to make a judgement as to whether a particular individual falls within the statutory definition of disability, but to instead focus on meeting the requirements of each employee on a case by case basis.

The Act defines a disabled person as **someone who has a physical or mental impairment that has a substantial and long-term adverse effect on a person's ability to carry out normal day-to-day activities.**

Examples of reasonable adjustments may include:-

- Allowing absence during working hours for assessment or treatment.
- Allocation of some duties to others.
- Making adjustments to premises.
- Acquiring or modifying equipment.
- Change of hours or work patterns and availing of work-life balance policies.

Adjustments made for the purposes of retaining staff will require managers to make a judgement as to whether or not the adjustment is reasonable. Factors which may have some bearing can include:

- Disruption to service and other colleagues.
- How effective the adjustments are in preventing the disadvantage.
- How practical it is.
- Its financial and other costs.

7.1 Managing Absence

Periods of sickness which are directly related to a disability should be recorded as such on HRPTS in the free form notes section. Whilst it is not appropriate to deal with absence related to a disability under the Disciplinary Procedure, the Manager should ensure that levels of absence are addressed directly with the employee at the return to work interview and that the employee is aware of their responsibility to

contribute to finding solutions which will enable them to provide regular service. Managers must record all return to work interview dates on HRPTS.

Where the employee would have reached a trigger point in respect of their level of short term absence (or before this if absences can be prevented) action must be taken. The Manager should discuss and explore options with the employee that will support the employee and enable them to provide regular and effective service. It may be necessary to adjust the employees work tasks or work environment and advice should be sought from OH in relation to any proposed adjustments and whether the adjustment would sufficiently support the employee. This should be confirmed to the employee in writing and again the employee reminded that it is expected that they demonstrate and sustain an improvement in attendance.

Where adjustments have been made and where there is evidence that there are no further adjustments which could be reasonably made and the employee remains unable to provide regular and effective service, consideration may be given to termination on the grounds of ill health or retirement due to ill-health (section 11). Advice should be sought from HR in these circumstances.

Section 8 – Redeployment on Health Grounds

Where an employee is not able to return to their post due to health reasons, OH will consider and make recommendations on whether the employee should be considered for redeployment. This may be on a permanent or temporary basis depending on the circumstances of the case.

Where alternative employment is being sought for an employee who is found unable to return to their post as a result of health-related problems, this search will take place during a time limited period of no longer than 8 weeks from the point when it was agreed that the search should begin. Consideration for redeployment is limited to vacant posts which OH deem suitable on health grounds. The employee must meet the basic criteria or have equivalent experience to be considered for redeployment for the vacancy. It is expected the employee will show flexibility in the posts being considered. In the first instance, managers should explore any potential vacancies or opportunities (eg covering of sick leave, maternity leave or project) within their own team/department and directorate.

It is the responsibility of all Managers to support the redeployment process by giving due consideration to redeployment cases presented to them.

If a vacancy is identified and the employee meets the criteria for the post and is deemed fit for the post by OH or the post meets OH recommendations, the employee will be allocated to the vacant post. If the employee refuses to consider the post on offer or fails to report for duty in the allocated/redeployed post the manager of the previous post should initiate a discussion with HR about next steps.

Alternative employment at the same grade and hours cannot be guaranteed and protection of pay will not apply. Payment will be made at the appropriate band/hours for the new role. If the employee states after starting the post that they do not like the post, the manager should initiate a discussion with HR.

Where employees have been redeployed the suitability of the redeployment must be formally reviewed after 4 weeks. The purpose of the 4 week review period is to enable both the employee and the new manager to assess the suitability of the redeployment and the employee's capability to complete the duties of the post.

Whilst redeployment will not be overturned on the basis of the employee not liking the new post, there may be occasions when redeployment is unsuccessful. In these cases advice should be sought from OH and a decision on the way to progress the case will be taken.

The BSO will ensure every opportunity is made to redeploy staff where necessary. However, the BSO may not always be able to facilitate redeployment. If this is the case, consideration will be given to termination of the contract of employment on the grounds of ill-health or retirement on the health grounds.

Section 9- Ill Health Retirement and Ill Health Termination / Redeployment Process

For information, managers and employees should note that ill health retirement may be applicable where an employee contributes to the HSC Pension Scheme. Ill health termination will apply to those who do not contribute to the HSC Pension Scheme, or are over the normal retirement age.

9.1 Ill Health Termination Procedure

Termination of the contract of employment should only be considered if absence has become unsustainable and there is evidence from OH that a return to work within the organisation cannot be accommodated due to ill health (i.e. permanently unfit for work or unlikely to make a recovery within the foreseeable future).

Ill health termination will be applicable if the employee is over normal retirement age (in relation to their membership of the HSC Pension Scheme), or doesn't contribute to the pension scheme. If neither of these applies, the employee may apply for ill health retirement.

It should be noted that a process for ill health termination can commence before occupational sick pay is exhausted and that there is no automatic entitlement to exhaustion of sick pay before a contract can be terminated.

Before proceeding with an ill health termination the following should be in place:

- An up to date opinion from OH that an employee is permanently unfit for work;
- Evidence of engagement in the review process i.e. review meetings;
- Consider if the employee has been unsuccessful with an application for ill health retirement. In these circumstances a termination is not automatic, and before a termination is considered, reasonable adjustments and redeployment should be considered (see flow chart).

9.2 Final Review Meeting

The final review meeting should take place within 2 weeks of the OH report becoming available. If it is satisfied that the employee will remain unfit for work and there is no further action which can be taken (i.e. adjustments to current role or redeployment), it is appropriate for termination to be considered.

The review meeting should include the manager, employee, union representative or colleague (if applicable) and a representative of the HR Department. The final review process should involve the following:

Step 1

Invite the employee to a meeting advising them by letter that the organisation is contemplating the termination of their contract of employment on ill health grounds.

Step 2

Hold the meeting and consider all evidence provided, including any new evidence. If there is agreement by the employee that the only option available is termination of the contract, a decision should then be taken to terminate employment following advice from the HR representative.

In consideration of statutory obligations, the decision to terminate the contract of employment must be communicated to the employee in writing within one week of the meeting providing a right of appeal to the decision.

Step 3

Provide the right of appeal to the decision, as soon as reasonably practicable.

9.3 Formal and Independent Hearing and Management Presentation

There may be times when the outcome of the final review meeting is disputed by the employee or their representative. In these circumstances, the HR representative should arrange a formal, independent hearing. The hearing will consist of a presenting officer (this should be the manager who was involved in the final review meeting) who will present the facts of the case, and right to Trade Union representation.

The panel will be constituted to make a decision on termination of the contract of employment on behalf of the organisation, and should consist of one appropriate officer from within the directorate, and one from outside, where practicable. The employee, if they are in attendance, may respond to the detail of the case presented, assisted by their trade union representative (if applicable). A decision will be taken by the panel based on the evidence submitted.

9.4 Appeal

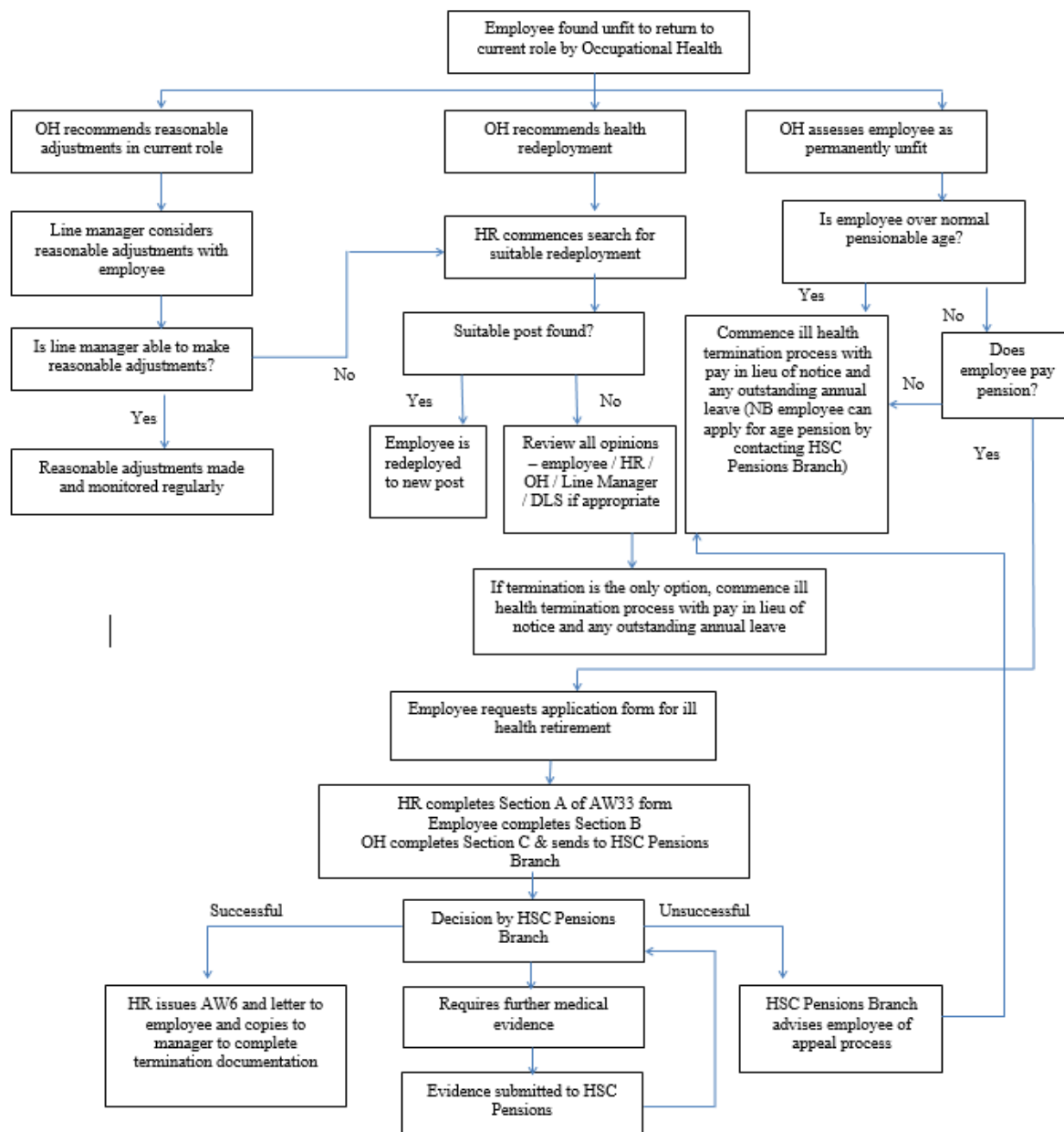
The decision to terminate will be communicated to the employee offering the right to appeal (to the Director of Human Resources within 7 days of receipt of the letter confirming termination).

If the decision to terminate the contract is upheld, the dismissal will be effective from the date of the hearing. Notice pay will be paid in line with the contractual position. This will be communicated to the employee in writing. If the employee is over 60 and contributes to the HSC Pension Scheme, details should be provided on how the employee can claim their pension benefits.

If the decision is taken to overturn the original decision to terminate, the employee will be reinstated onto the payroll from the date of termination. Discussion should then commence on where the employee should be placed by considering OH advice on adjustments or redeployment.

This procedure is supported by the attached flowchart, checklist and regional best practice guidelines.

III Health Redeployment / Retirement / Termination Process



III Health Termination Checklist

The purpose of this checklist is to ensure all necessary steps have been taken prior to considering ill health termination:

Is the employee a member of the HSC Pension Scheme?	
HRPTS Sickness print contained on file?	

Evidence on file of all absence related meetings and correspondence with employee?	
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<p>Summary of Occupational Health Report:</p> <p>(Ensure all relevant Occupational Health reports have been reviewed and are available on file)</p>	
<p>Ill health retirement details:</p> <p>(Ensure copy of application form and relevant correspondence is on file)</p>	
<p>Details of any rehabilitation options / adjustments:</p>	
<p>Details of any redeployment options:</p>	
<p>Review Meeting – to explain employment at risk</p>	
<p>Reason for termination:</p>	

	<input checked="" type="checkbox"/>
Decision letter issued to employee outlining reason for termination and appeal process	

9.5 Ill Health Terminations - Best Practice Principles

Ensure the staff member is fully engaged and consulted with throughout the course of their absence by:

Holding regular and early meetings with the staff member in accordance with the Attendance at Work Policy

Explaining the potential options available and the implications for the staff member ensuring they are alerted in advance of the potential termination of the contract of employment if there is further absence

Ensure there is an up to date OH opinion which has been discussed with both the staff member and line management prior to a decision being taken regarding termination of contract.

Consider all alternatives and / or adjustments in conjunction with the employee to enable them to remain in employment, including all 'reasonable adjustments' and redeployment options taking cognisance of all relevant legislation such as DDA, Health and Safety, New and Expectant mothers. This should include organisation-wide redeployment searches in all suitable posts. Staff member to be advised that pay protection does not apply for health redeployments.

Consider the impact of the absence on the delivery of service and other staff members.

If termination is the only option, review of all actions and opinions sought to ensure all courses of action have been exhausted and ensure the three step statutory dismissal procedure is adhered to. In certain cases, advice may be required from DLS. Ensure staff member is advised that there is no entitlement to exhaust sick pay before termination stage commences.

Invite the staff member to a meeting advising them by letter that the organisation is contemplating the termination of their contract of employment on ill health grounds.

Hold the meeting and consider all evidence provided, including any new evidence.

Communicate the decision to the staff member by letter.

Provide the right of appeal to the decision, as soon as reasonably practicable.

Provide right of representation throughout the process.

Ensure the entire process and all communications with the staff member and all others involved are fully documented.

9.6 Ill Health Retirement – Best Practice Principles

Applications for ill health retirement can be made by employees who are members of the HSC Pension Scheme. Applications are made on a voluntary basis and cannot be processed against the wishes of the employee.

HR should discuss the option of ill health retirement and seek any information regarding benefits when OH indicate that an employee may not be able to return to work.

If OH declares that an employee is unfit to continue work and the employee is a member of HSC Pensions Scheme, the employee should be advised of the option to make an application for ill health retirement on form AW33. This should be the case even if sick pay allowance has not expired.

Ill health applications should be made at the earliest opportunity (at least 3 months before a potential retirement date) to ensure that the employee's sick pay does not expire before their pension is available.

If the employee does not wish to make an application for ill health retirement or does not pay superannuation, then the ill health termination process outlined above should be followed.

Where a member of staff becomes terminally ill and medical advice is available that they have a reduced life expectancy which on the balance of probabilities is less than 12 months, then they will be allowed to commute their pension for a one off lump sum.

Applications for ill health retirement may be progressed concurrently with the ill health termination process.

Where an application for ill health retirement is unsuccessful, HR and the line manager should meet with the employee and re-review all available options in line with OH guidance.

Ensure the entire process and all communications with the staff member and all others involved are fully documented.

Section 10 – Review

This policy will be regularly reviewed and updated to ensure its effectiveness.

Section 11 - Equality Impact

“This procedure has been screened for equality implications as required by Section 75 and Schedule 9 of the Northern Ireland Act 1998. The screening has identified specific equality impacts for gender and disability and outlines the way these will be addressed.

The equality screening has been published and can be accessed here [\[insert weblink to the published screening\].](#)”

It is recognised that it might bring to attention a number of staff who may have a disability or have difficulty attending work because of carer arrangements and sets out specific actions to address such issues. Each circumstance will be dealt with in accordance with the relevant legislation as it is identified.

Section 12 – Appendices

Please contact Human Resources for the full appendices containing the template letters and pro-formas related to Attendance Management.

**Business Services
Organisation**

**[Attendance at Work
Procedure, 2022]**