

PILTON PARISH COUNCIL SICKNESS ABSENCE POLICY

What to do if you are unwell	2
Return-to-work meeting	2
Medical appointments	3
Statutory Sick Pay	3
Council's Sick Pay (occupational sick pay)	3
Medical advice	4
Persistent short-term absence	4
Long-term absence	5
Absence as a result of disability	6
Data protection	6

What to do if you are unwell

If you are away from work because of sickness you must:

- Telephone [your manager / the Clerk], before your contractual (or normal start time for work) on the first day of absence providing details and how long you expect to be off. If you are unable to call personally, someone else may call for you. It is your responsibility to ensure the Council is notified. You must then telephone again each day (unless otherwise agreed with the Clerk).
- If you are away for seven days or less (including weekends and other non-working days), you must complete a self-certification form and provide it to the council when you are back at work.
- If you are away for more than seven days (including weekends and other non-working days), you must send in a 'fit to work' statement from your doctor and continue to do so as each new certificate is issued to you. This certificate gives details as to whether you are too ill to work or whether you are well enough to work with suitable support from the Council. This gives you and the Council the opportunity to discuss suitable arrangements which will support your return to work. The form also gives more space for the doctor to provide information about your condition and helpful tick boxes to suggest common ways to help you return to work.
- All sickness or injury absence will be entered on your employment record and will be monitored from time-to-time.

Return-to-work meetings

On the first day back at work after a period of sickness absence your manager may want to meet informally. If this is not possible on your first day back, the meeting may take place later. The return-to-work meeting should take place in a private place, and all discussions should be private and confidential. The meeting would normally include

- a welcome back to work;
- outline the purpose of the return-to-work meeting; which is to manage and monitor absence and attendance to identify any problem areas and offer support where appropriate;
- a discussion about the reasons for absence, in a supportive way and to understand whether the council can take any steps to help the employee's attendance;
- explain that the absence will be recorded;
- establish if medical advice has been sought (if appropriate);
- ensure the self-certification form has been completed or a fit note from the doctor has been provided;
- a discussion on absence over the last 52 weeks, the impact on pay and any next steps; and

- a handover of work where appropriate.

Medical appointments

The council recognises that employees will, from time to time, need to attend medical appointments. Please try to arrange medical appointments in your own time or, if this is not possible, at times that will cause the minimum amount of absence from work or inconvenience to the council. The council will allow reasonable time off work [with pay / without pay] for such appointments.

Statutory Sick Pay

If you are ill and unable to attend work, you may be entitled to Statutory Sick Pay (SSP). SSP is currently paid after 4 Qualifying Days absence from work. The Qualifying Days are your normal working days that are in your contract. Tax and National Insurance will be deducted from SSP and if you earn below the lower earnings limit, you will not qualify for SSP.

Council's Sick Pay (Occupational Sick Pay) [to be deleted if the council decides to pay SSP only]

It is the Council's policy to pay you your normal basic rate of pay exclusive of overtime/allowances during periods of sickness absence of up to 16 weeks and half pay for a further 16 weeks. This occupational sick pay will be for absences due to sickness calculated over the previous 52 weeks and will include your entitlement to SSP.

Payment is, however, conditional upon you complying with the council's procedure for notifying your manager of the absence, attending an interview with your manager on request to discuss the absence, and completing a self-certification form on return to work or providing a fit-note when requested. We may also ask you to attend an interview/examination with a nominated doctor at the request of the Council.

We may not pay you occupational sick pay where:

- you have failed to comply with the Council's sickness absence notification and evidence requirements;
- you unreasonably refuse to attend a sickness absence meeting with the Council on request;
- you are unable to work because you hurt yourself in dangerous sports / activities or any other occupation you have;
- you have misled the council about your fitness to work;
- you have resigned; or
- where disciplinary proceedings are pending against you.

Medical advice

The Council may want to obtain advice on your fitness for work from occupational health advisers or medical practitioners. Examples of when the Council might refer to occupational health or a medical practitioner include the following:

- to seek a medical report on your illness or injury;
- to establish when you might be able to return to work;
- to understand when you are likely to be fully fit to resume your normal duties;
- to understand what alternative duties you might be fit to undertake if you are unfit to resume your normal duties;
- to understand when you are likely to be fit to undertake any alternative duties;
- to ask for guidance on your condition, for example if there is a possibility that you are disabled or ambiguity as to the exact nature of the condition;
- to ask what reasonable adjustments could be made to working conditions or premises to facilitate a return to work;
- to understand the likely recurrence of the illness or injury once you have returned to work; and
- to discuss any adjustments that could be made to accommodate your disability, if you are disabled.

The Council will pay the cost of the report and you will have the right to see it. The Council will also be provided with a copy of the report and once we have seen it, we will want to meet you to discuss the findings and consider options available to you.

If you choose not to consent to an Occupational Health referral, any decisions in relation to your employment may be made without the benefit of access to medical reports.

Definition of Absence

Short Term or Persistent Frequent Absence is defined as absence through illness of less than 20 working days. Absence can be of a short term duration (e.g. a few days or less) and may occur at regular intervals. These absences are normally self-certified (for periods of up to 7 calendar days).

Absence due to sickness or ill health means when someone is unable or not fit enough to work. If you would normally expect someone to be attending the work place, office or other location and they notify you that they are “working from home” because they do not feel fit enough to come into work you should discuss this with them at their next one to one or supervision session. You should explain that they must attend work as planned and if unwell then this should be recorded as “sickness absence” and not “working from home”. However, in some circumstances it could be appropriate for someone who is feeling “off colour” or has

a mild cold to work from home for a day or two as long as you are confident that “homeworking” is not being used to mask a more serious health issue and if this pattern becomes regular then it may be appropriate to review the flexible working arrangements for this employee.

Wherever possible it is hoped that absence can be improved through the use of informal monitoring and review procedures. However, if despite the appropriate support being given, there is no improvement then the formal procedure will apply. There are four stages within the formal procedure and the Council uses trigger points to help managers manage absence consistently.

Long Term Absence is defined as an absence due to illness for an unbroken period of four weeks or more where there is no anticipation of an imminent return. This may be a serious, continuing, worsening illness/disease or serious injury of a long-term nature. In all cases of long term absence, a referral will be made to Occupational Health.

The Council has adopted a four stage approach for managing long term absences due to ill health with the intention of facilitating the employee’s return to work at the earliest opportunity. These stages are detailed in the Appendix 1 attached to this policy.

However, the procedure also recognises that the employee may ultimately be unable to return to work. In such cases, the Council will always seek appropriate expert medical advice and review all reasonable options for alternative employment or other means of potentially facilitating a return to work before considering any termination of employment on grounds of capability.

Persistent short-term absence

Persistent short-term absence is where an employee is frequently absent from work for relatively short periods due to sickness. We understand most employees will have some short-term sickness absence from time to time. However, if you are frequently and persistently absent from work, this can damage efficiency and productivity, and place an additional burden of work on your colleagues and councillors.

Therefore, it is essential that frequent absence is dealt with promptly and consistently and in some circumstances, the Council may begin a capability or disciplinary procedure as part of the absence management process. If we do so, we will meet with you to set attendance targets. Following a review meeting we may issue a formal warning if those targets are not met. You will be given written notice in advance of any formal meeting and you can be accompanied by a work colleague or trade union representative. You may appeal against a formal warning. If your absence remains unacceptable after a second formal warning, the council may bring your employment to an end following consultation with you.

If frequent absence is due to an underlying long-term health condition then we will also request, with consent, a medical report either from an Occupational Health Physician or your G.P. or consultant to establish further information about your health and how the council can support your attendance.

When considering the reasons for absence, and deciding on whether a formal meeting is appropriate, the council will not consider any pregnancy related absence. The council will also make adjustments where absences are related to a disability by allowing a higher level of absence before considering whether disciplinary action is appropriate.

The council will consider any alternative employment options before making any decision about ending employment. You will have the right to be accompanied by a work colleague or trade union representative at formal meetings and a right of appeal against a formal warning or dismissal sanction. The monitoring of absence operates on a rolling 52-week period.

Where it appears that there is no acceptable reason for an absence or if you have not followed the correct absence notification procedure, the matter should be treated as a conduct issue and dealt with under the disciplinary procedure.

Long-term absence

As a guide, long term absence is any absence which lasts or is expected to last over 4 weeks. In all cases of long-term absence, it is essential for the Council to maintain contact with you. In cases where the return date is less certain this will take the form of consultation and will include:

- Discussions at the start of the absence and periodically throughout
- Obtaining better information on your health and likely prognosis, ideally through an Occupational Health Physician
- Where appropriate alerting you to the fact that your absence is becoming a problem, and
- Allowing you the opportunity to state your opinion of your condition and giving consideration to that opinion

Where ill-health means that you are unlikely to return to work for a long period of time, the council may need to consider bringing your employment to an end. In these circumstances, the council will:

- Review your absence record to assess whether or not it is sufficient to justify dismissal
- Consult with you
- Obtain up-to-date medical advice

- Advise you in writing as soon as it is established that termination of employment has become a possibility
- [Discuss whether you may be able to access benefits from the Local Government Pension Scheme (where appropriate)]
- Meet with you to discuss the options and consider your views on continuing employment before any decisions are made, allowing you to be accompanied by a work colleague or trade union representative
- Review if there are any alternative jobs that you could do prior to taking any decision on whether or not to dismiss
- Allow a right of appeal against any decision to dismiss you on grounds of long-term ill health
- Following this meeting, inform you of the final decision

Considerations under The Equality Act 2010

Employers are under a duty not to treat a disabled employee. An employee who is off sick for a lengthy period of time may be disabled for the purposes of The Equality Act 2010. If this is the case the employee will be entitled to protection against discriminatory treatment and to expect the employer to make reasonable adjustments.

The Act contains a very broad definition of disability, which includes both physical and mental impairments that last, or are expected to last, 12 months or more and are substantial in terms of their effects on the person's day-to-day life.

A wide range of physical and mental conditions and illnesses may amount to disabilities, depending always on whether or not the effect of the condition on the person is substantial and long term.

An important point to note is that a condition may amount to a disability even if, as a result of medication or another form of support, the person experiences no adverse effects on a day-to-day basis. The question that determines whether or not an employee is disabled is how the condition would affect the employee if he or she did not take the medication or use the support.

unfavourably directly on the grounds that he or she has a particular disability. For example if an employer immediately decided to dismiss an employee, just because he or she had developed a particular illness, this would be discriminatory and unlawful.

Employers are also under a duty not to treat a disabled employee unfavourably on grounds related to disability, unless this is justified. For example dismissal on the grounds that an employee can no longer perform his or her job may be justified. Whether it is in fact justified will depend on the particular circumstances.

Absence as a result of disability

Where you experience sickness absence as a result of a disability it will be treated in line with the provisions contained within the Equality Act 2010 (formerly as part of the Disability Discrimination Act 1995). This will include considering whether any reasonable adjustments can be made.

Data protection

The Council will treat personal data collected during the absence management process in accordance with its data protection policy on processing special categories of personal data. Information about how your data is used and the basis for processing your data will be provided in our employee privacy notice. When relying on legitimate interests as the legal ground for processing your data, you can object to the processing.

This is a non-contractual procedure which will be reviewed from time to time.

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— policy ends here —

Notes

1. Green Book terms

If the council adopts Green Book terms and conditions of employment, employees are entitled to receive sick pay for the following periods: -

During 1st year of service

1 month's full pay and (after completing 4 months service)

2 months half pay

During 2nd year of service

2 months full pay and
2 months half pay

During 3rd year of service

4 months full pay and
4 months half pay

During 4th and 5th year of service

5 months full pay and
5 months half pay

After 5 years' service

6 months full pay and
6 months half pay

The period during which sick pay shall be paid, and the rate of sick pay, in respect of any period of absence shall be calculated by deducting from the employee's entitlement on the first day the aggregate of periods of paid absence during the twelve months immediately preceding the first day of absence.

Periods of full pay will include SSP. In periods of half pay, employees receive half pay in addition to SSP provided the total does not exceed normal pay.

If an employee abuses the sickness scheme or is absent on account of sickness due or attributable to deliberate conduct prejudicial to recovery or the employee's own misconduct or neglect or active participation in professional sport or injury while working in the employee's own time on their own account for private gain or for another employer sick pay may be suspended.

2. Council's Sick Pay

The legal requirement is to pay Statutory Sick Pay (subject to eligibility) and anything additional is for the council to decide. Any additional sick pay is known as 'occupational sick pay' (OSP). The council will need to commit to paying any OSP it decides to offer and take into account the cost of National Insurance and the cost of any temporary staff required to cover the absence.

It would be unusual to bring an employment contract to an end before the occupational sick pay expires.

If a member of staff already has a paid sick leave entitlement, you cannot unilaterally change their entitlement. Councils can change the policy for all new staff joining after a defined date provided this is consistently applied.

3. Return-to-work meetings

Return to work meetings should ideally take place following every absence, with notes taken, agreed and stored on file. They are especially important if the absence has been caused by, or related to incidents at work. Having a written record of a return to work meeting may help the council defend later claims or allegations.

Sometimes it is not practical to have return to work interviews after every absence so councils may decide to do so only after 2 absences in a 2-month period, or where the absence is work-related.

4. Medical appointments

There is no legal requirement to pay time off for medical appointments, except antenatal appointments. Please see the Maternity and Parental leave policies for details.

A council may decide that staff should make up the time (if possible) or take it without pay. If a council decides to offer payment for medical appointments, it is sensible to put some limit on this.

5. Medical advice

Health information is considered to be personal sensitive information under Data Protection legislation and particular care must be taken when processing medical information. The Information Commissioner website (<https://ico.org.uk>) contains guidance.

An Occupational Health report can comment on an individual's health in relation to the employee's role. It will be important to provide the OH physician or nurse a referral form with full details of the employee's job, the concerns you have about their health in relation to their work and be specific about the questions you need answering. Any report should then be discussed with the employee before the council decides on any follow up actions. If the report makes recommendations, these must be carefully considered and discussed with the employee.

6. Health and wellbeing

All employers have duty to provide a safe place of work which includes the physical environment as well as mental health. There are a range of initiatives that can promote health and wellbeing (see Fit for Work: <https://fitforwork.org>). Also, the Health and Safety Executive has useful information on their website including a stress risk assessment (www.hse.gov.uk/stress/risk-assessment.htm).

Guidance

Where there is text in [square brackets] this part may be updated or be deleted if not relevant. An alternative option may have been provided.

Important notice

This is an example of an employment policy designed for a small council adhering to statutory minimum requirements and does not constitute legal advice. As with all policies it should be consistent with your terms and conditions of employment.

This document was commissioned by the National Association of Local Councils (NALC) in 2019 for the purpose of its member councils and county associations. Every effort has been made to ensure that the contents of this document are correct at time of publication. NALC cannot accept responsibility for errors, omissions and changes to information subsequent to publication.

This document has been written by the HR Services Partnership – a company that provides HR advice and guidance to town and parish councils. Please contact them on 01403 240 205 for information about their services.

APPENDIX 1

Stages in Dealing with Short Term or Persistent Frequent Absence

Informal Stage Meeting Line Manager (with advice from Human Resources)		Triggered by 3 absences in 3 months or 2 absences totalling 6 or more working days in 6 months (this will be applied on a pro-rata basis for part-time employees)	No formal warning given at this stage
Next stage – if there is no improvement in attendance move to Formal Stages of procedure			
	Formal Procedure Stage 1 Line Manager Human Resources	further absence within 3 months or 2 further absences within 6 months*	Verbal Warning
	Formal Procedure Stage 2 Line Manager and Human Resources	further absence within 3 months or 2 further absences within 6 months**	Formal Written Warning
	Formal Procedure Stage 3 Line Manager and Human Resources	further absence within 3 months or 2 further absences within 6 months**	Final Written Warning
	Formal Procedure Stage 4 Divisional Director and Human Resources	further absence within 3 months or 2 further absences within 6 months**	Panel held due to ill health
*	a referral to Occupational Health should be made, if this has not already been done		
**	a full review of Occupational Health advice and guidance should be carried out with the employee sought where necessary		
Where it has been confirmed that there is no underlying medical condition or where, despite adjustment, attendance has not been achieved then the appropriate level of warning may be issued at the review.			
The warning must include:			

- the reason for the warning i.e. their unacceptable attendance levels;
- the improvement in attendance expected; and details of support put in place to assist
- that any further sickness absence which meets the trigger points within the relevant timescales will lead to the formal procedure
- at the relevant stages (2 and 3) that failure to improve their attendance to an acceptable level could result in
- the duration of the warning and right of appeal.

Stages in Dealing with Long Term Absence

	<p>Informal Procedure</p> <p>Stage 1</p>	<p>Informal Review – Line Manager (with advice from Human Resources)</p> <p>Employee has been absent for 4 weeks – manager should make contact with employee and establish how this is to be maintained Continue to monitor situation and agree a review date *</p>	<p>In li O th</p>
	<p>Formal Procedure</p> <p>Stage 2</p>	<p>Formal Review – Line Manager and Human Resources</p> <p>Provide further support to employee</p> <p>Arrangements must be made for a referral to Occupational Health if not already made – consideration should be given to any reasonable adjustments.</p> <p>Occupational Health should be asked to confirm the likelihood of the employee’s return and any adjustments that may facilitate a return to work</p>	<p>C M</p>

		Where Occupational Health confirm there is no likelihood of return and/or where redeployment is not an option move to Formal Stage 3	
	Formal Procedure Stage 3	Formal Review – Line Manager and Human Resources The employee should be advised that unless they are able to resume their duties within a month, the matter will be referred to a Final Absence Review Hearing. They should also be advised that their employment may be terminated on the grounds of “incapability” due to continuing ill health.	C re P
	Formal Procedure Stage 4	Final Review – Divisional Director (or nominated officer) and Human Resources Consideration must be given to redeployment and reasonable adjustments under the Equality Act 2010 .	P g
<p>It is difficult to provide exact timescales when dealing with long term ill health issues. However disability health normally applies to employees who have been on continuous sick leave for one year. Disability Occupational Health recommends that the employee’s health is such that they can no longer carry out their existing post, or that they will not be able to return to work or sustain regular attendance which is considered to be reasonable. The ongoing business needs of the service may also be a legitimate business need - provided any justification for doing so has been agreed with Human Resources and Legal Services.</p>			