

## MANAGING ATTENDANCE PROCEDURE

### 1 INTRODUCTION AND GENERAL PRINCIPLES

1.1. This procedure sets out how Islington Council will manage sickness absence to ensure that sickness absence levels are maintained within acceptable levels. Sickness absence impacts on the council's ability to provide best value services to its community and puts extra pressure on colleagues of those who are absent. The aim of the procedure is to ensure that:

- a fair, consistent and supportive approach is adopted when managing employees who have health problems;
- there is an appropriate framework for dealing with both short term and long term sickness absence;
- those employees who have declared a disability are treated with regard to their disability status.

1.2. This procedure has been the subject of formal consultation with the Trades Unions, and the council's equalities staff groups have had the opportunity to comment. It replaces all previous procedures and applies from 1<sup>st</sup> October 2011 to all attendance management processes and to all employees, except schools-based staff.

1.3 The council is committed to the promotion of the health and wellbeing of all its employees. There are a number of policies and initiatives to support this, including generous annual leave and special leave arrangements and access to programmes and staff benefits to improve personal health and wellbeing.

1.4 This procedure distinguishes between short-term and long-term sickness absence. Short-term sickness absence means frequent intermittent absences which may have a single underlying cause or may be unconnected. Long-term sickness absence means a continuous absence from work normally of at least four consecutive weeks.

1.5 In addition to an Occupational Health Service, the council further supports its employees and their immediate households through an employee assistance

programme [EAP] providing access to independent advice and counselling at any time of the day or night. The council has a contractual sick pay scheme, as well as statutory sick pay, to provide financial support to employees when absent due to sickness.

## **1.6 Roles and responsibilities**

- 1.6.1 References to the 'Manager' mean the employee's line manager.
- 1.6.2 References to the 'Alternative Manager' mean a manager of equal seniority to the employee's line manager
- 1.6.3 References to the 'Senior Manager' mean a manager on a chief officer grade.
- 1.6.4 References to the 'Consideration Manager' mean a senior manager with authority to make a determination on a sickness absence report, including the authority to dismiss.
- 1.6.5 References to the 'Appeals Manager' mean the manager who will hear an employee's appeal in accordance with paragraph 9.
- 1.6.6 The responsibilities of Human Resources, managers and employees and their representatives in relation to this procedure are set out in detail in **Appendix 1**.

## **2. PROCESS FOR MANAGING ABSENCES**

### **2.1. Reporting and recording absences**

- 2.1.1 An employee unable to attend work must contact their Manager, within two hours of their normal start time or within the timescale agreed with their Manager locally, to provide:
  - the reason for their non-attendance,
  - the expected duration of their absence and when they currently expect to return to normal duties, and
  - details of how they can be contacted,and to briefly advise their Manager of any appointments that are due or urgent work which needs to be done in their absence.
- 2.1.2 If their Manager is unavailable, the employee may report their absence to a manager in their department nominated by their Manager of at least equivalent seniority. In the case of employees on a chief officer grade, the

alternative officer can be any officer on a chief officer grade in their department (the 'Alternative Manager'). In residential settings or other service areas where there may not be an appropriate manager on duty, the employee should ascertain when an appropriate manager is next on duty so that they can phone again to speak directly to that manager. If it is initially necessary to leave a message on an answer phone as it is outside normal hours, the employee should call again when an appropriate manager is likely to be available.

2.1.3 Where a Manager or nominated Alternative Manager has not heard from an employee within two hours of their usual starting time, or such other period as has been agreed locally, they must make every effort to contact the employee and establish the reason for the absence. Contact arrangements may vary depending upon the circumstances and may include visiting the employee at their home. This is not to be seen as an intrusion, it is merely a safeguard. On occasion this has been the first indication an employee, who may be living alone, may be in serious difficulty or need assistance.

2.1.4 Where the absence continues the employee should contact their Manager or Alternative Manager again on:

- the third working day of absence and give an update on their situation
- the seventh working day of absence and on a weekly basis thereafter unless otherwise agreed by the Manager or Alternative Manager. If the absence continues for 4 consecutive weeks or more it will from then on be dealt with under section 5.3.

2.1.5 If the sickness absence is for seven days or more the employee must provide a fit note details of which can be found at:

<http://izzi/council/aboutcouncil/performance-policy/policy/Pages/hr-az.aspx?AdditionalPath=/Fit Note>

2.1.6 On the eight day of absence the employee must make arrangements for their fit note to be sent to their Manager. They should not wait until they return to work.

- 2.1.7 In all cases if neither the Manager nor the nominated Alternative Manager is available, reporting of the absence must be to a manager of at least equivalent seniority.
- 2.1.8 The Manager must record all absences on the HR system - MyHR at <https://hrmyviewv1.ad.islington.gov.uk/concerto/Portal/index.xsp> This includes absences such as medical, dental and optician's appointments unless such appointments are covered by a flexitime arrangement or annual leave, subject to 2.1.9 - 2.1.12 below.
- 2.1.9 Appointments (such as dental / medical / opticians), which are not connected to a recognised disability, should be taken outside the normal working day. Where this is not possible, appointments should be taken at times towards the beginning or end of the working day and the lost time shall be made up over a reasonable period if not taken as annual leave. Where lost time cannot be made up over a reasonable period (four weeks), the absence should be recorded in the HR system - MyHR at: <https://hrmyviewv1.ad.islington.gov.uk/concerto/Portal/index.xsp> and will count for the purposes of calculating the days and occasions of absence by the employee.
- 2.1.10 Hospital appointments or regular, ongoing appointments for a medical condition, where the timing of such appointments is not in the employee's control and where lost time cannot be made up over a reasonable period (four weeks), should still be recorded in the HR system - MyHR at <https://hrmyviewv1.ad.islington.gov.uk/concerto/Portal/index.xsp> but will not count for the purposes of calculating the days and occasions of absence by the employee .
- 2.1.11 Where an individual is absent as a result of a circumstance (e.g. rehabilitation, training etc) related to their disability but not from actual sickness, the absence should be considered as disability-related special leave and not

recorded as sickness. (See Appendix 2 for details of disability-related special leave.)

2.1.12 If an employee fails to adhere to the absence reporting procedures, their absence will be considered unauthorised and may be dealt with in accordance with the Disciplinary Procedure. This may ultimately lead to the employee being disqualified from receiving Occupational Sick Pay, unless there are exceptional circumstances. For persistent failure to adhere to the procedure, consideration will be given as to the employee's continued employment with the council.

2.1.13 Employees who are subject to the sickness absence monitoring procedure should inform their Manager if they are covering appointments or sick leave with flexitime arrangements or annual leave.

## **2.2 Return to work**

2.2.1 Following any period of absence, an employee should report to their Manager, or nominated Alternative Manager, on their return and must:

- confirm the reason for the absence, and
- where the absence is due to ill health, complete an appropriate self certificate form. Where the sickness absence was for 7 days or more, a fitness certificate (fit note) should have been provided under 2.1.6.

2.2.2. The Manager must hold a return to work interview with the employee. This can be incorporated into the discussions at 2.2.1 above or, if this is not convenient, the return to work interview must be within two days of the employee's return to work and the date recorded on My HR.

2.2.3 At the return to work interview, the employee should be prepared to enter into an open and confidential discussion about their absence in so far as it affects their work, including where appropriate, recommendations from the fit note. This is so the Manager can fulfil their health and safety responsibilities ensuring that the work environment is safe and assisting the employee where

possible to avoid a recurrence of future absences, or make reasonable adjustments in the case of disabled employees or other employees needing such adjustments.

2.2.4. Managers should act sensitively depending upon the nature of the absence and have regard to gender and cultural differences which may influence the discussion. Managers should make a note on the return to work form of any particular concerns in regards to the above and ensure they are raised with the relevant HR Business Partner.

2.2.5 If the employee's fitness for work certificate (fit note) states that they **may be** fit for work, the Manager should discuss the options with the employee and complete the Return to Work Plan to support a return to work based on the medical advice from the doctor contained in the fit note. The Plan should be updated as and when required based on the return to work discussions. See: [http://sp.izzi/published/Records/Human%20resources/Business%20planning/Policies/2012-2013/\(2012-05-01\)%20Fit%20Note%20-%20Return%20to%20Work%20Plan.doc](http://sp.izzi/published/Records/Human%20resources/Business%20planning/Policies/2012-2013/(2012-05-01)%20Fit%20Note%20-%20Return%20to%20Work%20Plan.doc)

2.2.6 The return to work interview must be recorded on the Return to Work form in Appendix 3 and, should be emailed together with the Return to Work Plan Appendix 4, where appropriate, to Human Resources to be placed on the employee's personal file.

## **2.3 Annual leave and sickness absence**

2.3.1 Employees who become sick while on annual leave must provide a fit note, if they intend to reclaim their annual leave. If illness takes place abroad, employees must obtain proof of illness e.g. a doctor's letter, or letter from the tour operator or insurance company.

2.3.2 Employees on long term sickness absence will have an entitlement to annual leave and should contact their HR Business Partner for further information.

### 3 UNAUTHORISED ABSENCE

3.1 Where an employee has been absent for an unauthorised purpose, the Manager should refer to the disciplinary procedures as such absences may constitute misconduct. See:

[http://izzi/council/aboutcouncil/performance-policy/policy/Pages/hr-az.aspx?AdditionalPath=/Disciplinary\\_Procedure\\_and\\_Template\\_Documents-New](http://izzi/council/aboutcouncil/performance-policy/policy/Pages/hr-az.aspx?AdditionalPath=/Disciplinary_Procedure_and_Template_Documents-New)

### 4 SHORT TERM SICKNESS ABSENCE PROCEDURE

#### 4.1 Stage 1 - Short term absence triggers

4.1.1 If an employee has either of the following levels of absence:

- eight working days sickness in the past twelve months; or
- three separate periods of sickness absence (albeit less than 8 days in total) in a three month period

this will trigger the short term absence procedure and the **return to work interview** (the 'trigger interview') should be carried out as soon as possible after the employee returns to work after the absence which causes the trigger to apply. The return to work interview should cover the issues in paragraph 2.2 above and, in addition, the Manager must:

- advise the employee that their attendance has triggered the absence monitoring procedure and will be monitored and reviewed again in four weeks time;
- set improvement / attendance targets to be achieved in the four week period. Targets will be determined on a case by case basis, having regard to medical advice, but will normally require the employee to have no more than one day's sickness in the review period.

4.1.2 Details covered in the trigger interview must be confirmed in writing and a copy of the Managing Attendance procedure sent to the employee with the letter.

4.1.3 Where there has been a series of absences that may indicate a pattern of absences then the procedure set out in 4.1.1. above will apply, even though the eight day trigger point may not have been reached.

4.1.4 The trigger days as indicated in 4.1.1. – 4.1. 3 above for part-time employees will be on a pro rata basis.

## **4.2 Stage two - situation after four week review period**

### **4.2.1 Improvement after the four week review period**

If the employee's attendance complies with the target set during the four week period, the Manager can either meet or write to the employee and inform them that no further action will be taken at this time. If a meeting has been arranged, the outcome of the meeting should be followed up in writing.

4.2.2 However, if the employee has any further sickness absence at any time in the next six months, the Managing Attendance Procedure, will be reinstated and the Manager may decide to take action as in 4.1.1 above or proceed to the next stage of the Managing Attendance Procedure.

### **4.2.3 No Improvement after the four week review period**

If there has been no improvement or insufficient improvement in the employee's attendance, the Manager will interview the employee again. Prior to this interview the employee should be advised that they may be accompanied by a Trades Union representative or a work colleague, if they wish.

4.2.4 At this interview the employee should be advised that their sickness absence continues to be a matter of concern and is now subject to a further four week, and possibly final, period of review. This is particularly appropriate where the absences have no clear underlying medical reason and is self certificated e.g. upset stomach, headache etc.

4.2.5 Where there are medical reasons for the absence specified in a fit note, then the Manager should have regard to the medical prognosis and set

improvement / attendance targets consistent with the medical advice in the fit note and in conjunction with advice from HR.

4.2.6 The Manager may refer the employee to one of the council's Occupational Health practitioners, if medical opinion has not already been obtained. The employee should be advised of the referral and the reason(s) for it.

4.2.7 Details of the interview (and all other meetings under the monitoring procedure) must be confirmed in writing.

### **4.3 Stage 3 - Situation after the second four week review period**

#### **4.3.1 Improvement after the second four week review period**

If the employee's attendance improves to a satisfactory level over this four week period (and having regard to the eight week period in total), the Manager can either meet or write to the employee (copying in, or inviting any previous representative) and inform them that no further action will be taken at this time. If a meeting has been arranged, the outcome of the meeting should be followed up in writing.

4.3.2 Where the review period is longer than four weeks, running parallel with medical advice, the employee should be interviewed to assess progress and a further period of review set, again consistent with medical advice in the fit note. If the absence continues for 4 consecutive weeks or more then it will from then on be dealt with under section 5.3.

#### **4.3.3 No improvement after the second four week review period**

If there is no improvement or insufficient improvement in the employee's attendance, the Manager will interview the employee again. The employee may be accompanied as at the previous meeting as at 4.3.1. above.

4.3.4 At the interview, the Manager should again address the issues covered in previous discussions. Dependant upon the outcome of the discussions at the interview, and having regard to the previous review period and relevant

medical information available, the Manager will need to decide what further action to take.

4.3.5 The options open to the Manager are as follows: -

- I. to set a further review period consistent with the fit note recommendations. If this is not detailed in the fit note, the review period should normally be of another four weeks and in any event not more than three months, on the understanding that the employee in conjunction with their medical adviser is making every effort to address the causes of the sickness absence, or
- II. to recommend the employee be transferred to available suitable alternative work, on the same grade, with a month's trial period in accordance with paragraph 5.6 (II). This action should be confirmed by the Occupational Health practitioner and the relevant chief officer; and will be dependent upon the Manager being able to identify a suitable alternative job role ; or
- III. to conclude that the stage has been reached where the employee's sickness record is such that consideration must now be given to the employee's continued employment with the council in accordance with paragraph 6 below. This will be particularly appropriate where there have been no underlying causes for the absences, where they are generally self certificated.

4.3.6 In all cases the Manager must be mindful of other issues e.g. relationships, environmental, external caring issues, which might be addressed through the Employment Assistance Programme.

4.3.7 An employee who does not have a further absence in a review period set under 4.2.4 above (or if applicable any further review period set under 4.3.5(I) above) but who is absent again within the next rolling 24 month period will be monitored as follows:

- I where the absence occurs in the twelve month period following the end of their last stage 3 review period - at stage 3 of the procedure as at paragraph 4.3.3 above.
- II where the absence occurs in the next rolling 12 -18 months following their last stage 3 review period - at stage 2 of the procedure as at paragraph 4.2 above.
- III where the absence occurs in the next rolling 18 -24 months following their last stage 3 review period - stage 1 of the procedure as at paragraph 4.1 above.

4.3.8 Where the employee is represented by a Trades Union representative, a copy of all correspondence with the employee should be sent to the representative, unless the employee requests that this should not be done.

## **5 Long-term sickness absence**

5.1 Long term sickness absence is defined as a continuous absence from work normally of at least four consecutive weeks.

5.2 Each employee's case will be reviewed as their circumstances progress with the approach taken being determined by the employee's particular circumstances but in all cases of long term absence, the following general principles will apply:

- Regular and reasonable contact will be maintained between the Manager and the employee. The method and frequency of this contact will depend on the employee's particular circumstances, but may be by telephone, in writing (including email or text) or, with the employee's agreement, through home visits or meetings at other suitable locations. The Manager should keep a record log of this contact.
- Advice and guidance will be sought from Occupational Health practitioners, if the Manager considers this is necessary.

- Consideration will be given to all options available to facilitate the employee's return to work.

5.3 The Manager should regularly (at least after each four weeks of absence) review any cases of long term sickness absence taking into account the following factors:

- The nature of the sickness absence (e.g. an accident or operation which is likely to be a one off or an ongoing serious illness);
- Recommendations from the Occupational Health practitioner;
- Recommendations on the fit note;
- Agreed actions in the Return to Work Plan (if appropriate)
- The length of absence to date and the likelihood and possible timing of a return to work;
- The feasibility of continuing with any temporary work cover arrangement;
- The impact of the absence on other staff and on service delivery;
- Any other relevant factor(s).

5.4 When the Manager considers it appropriate having taken into account these factors (and normally no later than three months after the start of the continuous absence) the Manager should invite the employee to a review meeting to discuss their sickness absence. The purpose of this meeting will be to:

- Establish the progress of the employee's injury or illness and their recovery.
- Discuss what support or assistance can be offered to help the employee return to and remain in work.
- Consider reviewing the Return to Work Plan, if appropriate.
- Ensure that the employee is aware that their absence record is giving cause for concern.
- Discuss the outcome of an Occupational Health referral, if appropriate, and consider further Occupational Health involvement.

- Consider any personal problems the employee may have and explore how the employee can be supported in resolving them.
- Discuss any concerns or answer any questions the employee might have about their absence.
- Discuss any future action that might be taken in line with other council policies and procedures.

5.5 The employee will be entitled to five working days notice of the meeting. The employee should be informed that they may be accompanied at this meeting by a Trades Union representative or a work colleague, if they wish.

5.6 Following the review meeting the Manager may:

- I. set an appropriate date for a further review meeting; or
- II. recommend the employee be transferred to available suitable alternative work, on the same grade, with a month's trial period. This action should be confirmed by the Occupational Health practitioner and be with the agreement of a relevant chief officer; or
- III. conclude that the stage has been reached where the employee's sickness record is such that consideration must now be given to the employee's continued employment with the council in accordance with paragraph 6.

## **6 MEETING TO CONSIDER CONTINUED EMPLOYMENT**

6.1 Where under paragraphs 4.3.5(III) or 5.6 (III) the Manager concludes that the employee's continued employment should be considered, the Manager will prepare a report on the employee's attendance. The report will include:

- the employee's sickness and absence record;
- action taken to date to address the issues;
- any matters that have arisen during the monitoring procedures;
- relevant medical information/opinion including relevant information on the fit note or in an Occupational Health report;
- the employee's general employment record; and
- if the employee has a disability, the measures undertaken to make reasonable adjustments and the outcome of such measures; similarly

the recommendations, if any, in the Occupational Health report and in the G.P's fit note should be addressed and the Fit Note Return to Work Plan, if appropriate.

- 6.2 This report will be provided to the employee and the employee will be given the opportunity to respond in writing to the report within five working days. A copy of the report must also be forwarded to the HR Business Partner. It is the employee's responsibility to forward the report onto their representative, if required.
- 6.3 The report should then be referred to a Senior Manager with authority to make a determination on the issues set out in the report, including dismissal, (the 'consideration manager').
- 6.4 After the five working days given to the employee to respond to the report have passed, the Consideration Manager should convene a meeting to make a final determination on issues raised in the report. At the meeting the employee and their representative may comment on the report, if the employee so wishes.
- 6.5 The Manager is responsible for sending the letter setting up the meeting which should:
- give the time, date and location of the meeting;
  - make the purpose of the meeting clear (to consider the issues contained in the report);
  - make clear the range of options open to the Consideration Manager at this final stage (see paragraph 6.6 below);
  - advise the employee that the interview may be held in their absence if they fail to attend or
  - if they are unable to attend, they may arrange representation at the meeting and/or provide written submissions.

**6.6 The options open to the Consideration Manager are as follows:**

- a further review period (and if no further absence occurs in the review period any absence after that will be covered by paragraph 4.3.7); or
- dismissal of the employee with notice because they are incapable of satisfactorily performing the job for which they are employed: or
- transferring the employee to a job on the same or a lesser grade in accordance with paragraph 4.3.5.(II) where this is supported by medical advice; (If the transfer is of a temporary nature and is for two months or less, the salary will be protected at the higher grade during this time. If the transfer is for more than two months, a new contract will be issued without salary protection.) or
- reduced hours on a permanent basis – new contract to be issued; or
- referral to an Occupational Health practitioner for consideration of ill health retirement in accordance with paragraph 10.2.

6.7 If there is further absence in a review period set by a Consideration Manager, the Consideration Manager shall be informed and normally a further meeting under paragraph 6.6 will be held. The Consideration Manager may, with the agreement of the employee or their representative, set a further review period in these circumstances without a further consideration meeting taking place.

6.8 The Consideration Manager, in the light of the particular circumstances of the case, may decide upon another course of action (not included at 6.6) deemed appropriate, following further advice from the HR Business Partner and / or an Occupational Health practitioner.

6.9. The option to terminate an employee's employment on the grounds of incapacity due to ill health will only be considered after all options for reasonable adjustment or redeployment have been fully investigated and exhausted.

6.10 A decision to terminate employment on the grounds of incapacity will be made by the Consideration Manager taking into account advice from the

Occupational Health practitioner and with prior consultation and discussion with the employee.

- 6.11 The employee will have the right to appeal against the decision to dismiss due to incapacity and the process for appeal is set out in paragraph 9 below.

## **7 Failure to attend meetings**

- 7.1 If the employee fails to attend a meeting arranged under the short or long term absence procedures, the Manager may proceed in the employee's absence if, in the Consideration Manager's opinion, no satisfactory reason for the failure to attend has been given by the employee or the employee's representative.

- 7.2 If the employee fails to attend a meeting on the grounds of sickness, the Manager should, if appropriate, seek medical advice as to the employee's fitness to attend a rearranged meeting. If the employee cannot or does not attend the re-arranged meeting, the Manager may judge that it is essential for the meeting to go ahead in the employee's absence.

- 7.3 If, having considered medical advice, it is the Manager's opinion that there is no reasonable prospect of the employee being able to attend a meeting within a reasonable period, the Manager / Consideration Manager may judge that it is essential for the meeting to go ahead in the employee's absence.

## **8. SPECIAL CASES**

### **8.1 Equality Act 2010**

Special consideration may need to be given to any absence related to a protected characteristic under the Equality Act 2010. Absence related to maternity, disability, terminal illness and gender reassignment in particular should be considered separately and in accordance with the following paragraphs.

## 8.2 Maternity

- 8.2.1 Sickness during pregnancy must not result in less favourable treatment of the employee.
- 8.2.2 Maternity-related sickness will be disregarded for the purposes of sections 4 and 5 of this procedure.
- 8.2.2 Where an employee has a maternity-related sickness at any time from the **fourth week** before the due date, maternity leave will start automatically.
- 8.2.3 If an employee is sick for a reason not connected with their pregnancy, at the date they are due to return to work, they will be deemed to have ended their maternity leave on that date and the sickness will be treated in the same way as any other period of sickness.

## 8.3 Disabled employees

- 8.3.1 Disabled employees who are absent due to sickness or other reasons **not** connected to their disability will be subject to the Managing Attendance procedure as outlined above.
- 8.3.2 If an employee's sickness absence is due to a declared disability, the overall procedure will still apply but a more flexible approach will be taken to the management of their disability-related absence. Monitoring will still apply but, for example, the trigger days may be increased by the Manager in consultation with the employee concerned and, where appropriate, with Occupational Health practitioners.
- 8.3.3 Where the employee has a disability, there is a duty to consider reasonable adjustments to assist the employee in carrying out their job. Where appropriate, reasonable adjustments will be put in place to support the employee to return to work and in their continued employment.

8.3.4 The Manager should always discuss the employee's absences with the employee, whether or not it is disability-related, undertake a return to work interview and, where appropriate, complete a Return to Work Plan.

8.3.5 For the avoidance of doubt, where the prognosis for a disabled employee is that it is unlikely that they will be able to return to work and/or improve their attendance within a reasonable timeframe, or that the adjustments required cannot be objectively justified, it may be necessary to hold a meeting with the employee in line with paragraph 6 above about the appropriate arrangements for the termination of their employment contract. Such employees will have the right of appeal. See paragraph 9.

#### **8.4 Terminal illness**

8.4.1 Where an illness or medical condition is diagnosed as reasonably likely to result in an employee's death, they may be disabled and covered by the previous sub-section (although 8.3.5 shall not apply). In any event, the arrangements set out in this subsection will apply.

8.4.2 Human Resources will arrange for the Occupational Health practitioner to liaise with the employee's General Practitioner and/or Consultant to establish the medical position and prognosis.

8.4.3 The Council will not dismiss any employee with a terminal diagnosis because of their condition. The employee will not be subject to any formal action under this procedure.

8.4.4 An extension of the period during which Occupational Sick Pay is payable should be considered, if appropriate.

8.4.5 Where the employee so wishes, the options available in respect of potential retirement will be discussed at the appropriate time, taking into account the employee's individual circumstances and with a view to providing the most financially beneficial result for the employee and/or his/her relatives so far as is reasonable.

## **8.5 Gender re-assignment**

8.5.1 If an employee is absent due to medical surgery for gender re-assignment this will be considered separately from sickness absence and advice should be sought from the HR Business Partner about how such absence should be recorded.

## **8.6 Alcohol, drug or substance abuse**

8.6.1 Absences involving alcohol, drug or substance abuse are not covered by the Equality Act and will be subject to the Managing Attendance Procedure as outlined above. See also the Alcohol, drugs and substance abuse policy: <http://izzi/me/staff-essentials/buildings-workplace-support/health-safety/policy/Pages/Drugs-and-Alcohol.aspx>

## **8.7 Work-related Injury**

8.7.1 Absence due to a work-related injury, that has been correctly recorded as such on the Health and Safety system (see: <https://iris.info-exchange.com/Incidents>), will not count towards periods of sickness absence for the purpose of calculating entitlement to the occupational sick pay but will be treated in the same way as other sickness absence for the purposes of this procedure.

## **9 APPEAL PROCEDURE**

9.1 The employee must be informed that they have a right of appeal against the decision to dismiss and that any appeal will be considered by a more senior manager within that service area or a service manager in a different service area.

9.2 The employee must also be informed that: -

- Any appeal must be submitted in writing to their Manager or Head of Service within five working days of receipt of the letter confirming the decision to dismiss and

- They can be represented at the appeal by a Trades Union representative or Islington Council work colleague;

9.3 Any appeal should, where possible, be considered within their notice period or the equivalent period if pay in lieu of notice is made.

#### **9.4. Grounds of appeal**

9.4.1 Employees may appeal against the following:

- the decision to dismiss on the grounds of ill health / incapacity
- the decision to dismiss on the grounds of excessive absence

in that:

- I. there was a procedural flaw which had a material affect on the dismissal decision; and/or
- II an unreasonable conclusion was reached by the Consideration Manager on a material point of fact; and/or
- III the sanction was unreasonably severe and an alternative option should have been adopted by the Consideration Manager; and/or
- IV. there is new evidence which the employee wishes to introduce which could not reasonably have been raised at the time of the original hearing and the absence of which had a material affect on the dismissal decision.

9.4.2 The employee shall state the decision appealed against and the grounds for considering the decision to be wrong. The employee should provide any documentation which they want to be taken into account when considering the appeal.

#### **9.5 Process**

9.5.1 An appeal will be considered at a meeting by a manager senior to the Consideration Manager, except where the original decision was taken by a Senior Manager, in which event the appeal may be considered by another Senior Manager or the Chief Executive.

## **9.6 Notice of the appeal hearing**

9.6.1 The employee will be given at least five working days' notice of the date, time and place of the hearing and at the same time will be provided with a copy of the Managing Attendance procedure and documentation relevant to the decision being appealed against.

9.6.2 The letter notifying the employee of the hearing shall also advise them of the following:

### **1. Right to representation**

The right to be represented by a representative (Trades Union official or Islington Council work colleague, or where it would be a reasonable adjustment under the Equality Act, the right to appropriate external support – to be agreed beforehand by the Appeal Manager.)

### **2. Non-attendance at the hearing**

That the hearing may proceed in the absence of the employee in accordance with paragraph 7 if they fail to attend the hearing.

### **3. Forum for hearing the appeal**

- The name of the Appeal Manager.
- That the Consideration Manager (or a manager nominated by the Consideration Manager) will present the management case.
- That the Appeal Manager may decide to:
  - Uphold the decision already made
  - Change the decision made

## **9.6.3 Documentation sent to the manager who will consider the appeal**

A copy of all papers to be considered at the appeal will be sent by the Consideration Manager to the Appeal Manager at the same time as they are sent to the employee.

## **9.7 Procedure at the appeal hearing**

9.7.1 The meeting will be chaired by the Appeal Manager. The Manager, HR representative, employee and their Trades Union official or work colleague will also be at this meeting.

9.7.2. The employee will present their case, followed by the Consideration Manager. The Appeal Manager may ask questions for clarification as may both parties.

9.7.3 The employee and the Manager will be given the opportunity to sum up, with the employee going last.

9.7.4 At the conclusion of the appeal, the Appeal Manager can make one of the following decisions:

- Uphold the decision already made, or
- Change the decision made

9.7.5 The decision at the appeal is final and the employee will be sent a letter to confirm the outcome as soon as is practicable.

9.7.6 If the decision is overturned due to a procedural flaw, the Appeal Manager will have the discretion to refer the matter to be considered afresh by the original Consideration Manager or may hear it again themselves.

## **10 OTHER ISSUES**

### **10.1 Medical redeployment**

10.1.1 If the Occupational Health practitioner advises that an employee is unable to continue working in their substantive post for health reasons, the Manager, with support from Human Resources, will investigate whether suitable alternative employment opportunities are available to enable the employee to continue working. If suitable alternative employment is found a revised contract will be issued relating to the new post.

## 10.2 Retirement on ill health grounds

10.2.1 If the Occupational Health practitioner advises that an employee, who is a member of the local government pension scheme, is not capable of discharging efficiently the duties of their post for health reasons they may be eligible for the early release of their pension.

10.2.2 In such circumstances the Occupational Health practitioner will advise, in accordance with current local government pension regulations that the employee:

- is permanently incapable of discharging efficiently the duties of the above post because of ill health or infirmity of mind or body **and** there is no likelihood of obtaining gainful employment before normal retirement age [**TIER 1**] or
- is permanently incapable of discharging efficiently the duties of the above post because of ill health or infirmity of mind or body **and** unlikely to be able of obtaining gainful employment within a reasonable period **but** likely to be able to do so before normal retirement age [**TIER 2**] or
- is permanently incapable of discharging efficiently the duties of the above post because of ill health or infirmity of mind or body **but** is likely to be capable of gainful employment within a reasonable period [**TIER 3**]

10.2.3 Employees who wish to appeal an ill health determination should in the first instance raise an appeal under the procedure set out in paragraph 9 above.