

# **SICKNESS ABSENCE POLICY AND PROCEDURE**

## Sickness Absence Policy and Procedure - Contents List

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# 1 Introduction

This policy sets out the standards for dealing with sickness absence in a fair, sensitive and supportive way, whilst at the same time recognising the needs of the service.

The policy is supported by the Sickness Capability Policy where management of persistent intermittent sickness absence and/or long-term sickness (4 weeks or more) is required, in keeping with employment legislation.

The provisions in this policy are non-contractual and may be updated from time to time. Whilst it will normally be followed, there may be situations where the format can be altered, in accordance with HR advice on a fair absence process.

## 2 Responsibilities

### 2.1 Employees

As a part of their contractual obligation, employees agree to:

- Take appropriate steps to look after their own health and wellbeing.
- Let their manager know when they fall sick and need to take time off work.
- Submit doctor's certificates after 7 calendar days absence or as required by their manager (to fail to do this may result in ceasing entitlement to sick pay).
- Take appropriate steps to aid their own recovery.
- Co-operate and keep in touch with their manager to support their return to work.
- Close absence on iTrent on return to work and update the reason for absence if necessary.
- Attend an Occupational Health appointment if referred.
- Refrain from participating in any sports, hobbies or social activities, which are inconsistent with the stated illness or injury and could aggravate the illness or injury or delay recovery. (In this event the Council may invoke the disciplinary procedure).
- Refrain from undertaking any paid or unpaid employment during MVDC contracted hours whilst on sick leave without management permission which will only be given in exceptional circumstances (In the event that paid or unpaid employment is undertaken whilst on sick leave without permission, the Council may invoke the disciplinary procedure).
- If the absence is due to an accident for which compensation may be received: Complete a declaration undertaking to repay any sick pay the Council has paid when the claim is settled (such claims normally include the cost of sick pay during absence from work).

### 2.2 Managers

In order to run efficient and effective services, as a part of their management function, Managers are required to:

- Keep in touch with absent employees.
- Arrange cover, as appropriate, whilst they are absent.
- Record the absence on iTrent at the start of the employee's absence, including the reason for absence where possible.
- Obtain information needed to inform the support to be provided on their return to work or to facilitate their return to work; (e.g., OH reports, advice from HR).
- Support employees through their return to work, acting on advice provided so far as reasonably practicable.

- Reassess their work so that any necessary changes are made (for example in response to risk assessments or reasonable adjustments).
- Hold return to work interviews after each absence.
- Review sickness absence of their teams regularly.
- Hold sickness absence review meetings where there are areas of concern.
- Ensure that confidential information is treated appropriately.
- Ensure that where sickness absence is related to an individual's disability or to their pregnancy then the matter is dealt with appropriately.
- Follow, where needed, the formal sickness capability procedure.

### **3 Reporting sickness absence**

If an employee is unable to attend work, they are required to inform their line manager by telephone as soon as possible<sup>1</sup> (If their line manager is unavailable, they should inform a designated alternative contact/another appropriate manager in the team and leave a message for their line manager). At induction, employees should be informed who to notify and by when, which is no later than the time they would normally start work. Appropriate details of the nature of their illness together with an indication of the number of days they expect to be absent should be given.

If an employee becomes sick during the working day and needs to stop or leave work before their normal finishing time, they must notify their line manager (and designated alternative contact/other manager as above if the line manager is unavailable).

The above provisions apply regardless of where an employee or their line manager is working, for example if either party are working at home or off site, sickness must still be reported as above.

The absence should be recorded as soon as reasonably practicable on iTrent by the manager opening the absence on the system.

In the event of an accident at work, it is important to ensure that Health and Safety procedures are followed. Sickness entitlement for industrial injuries may be treated separately and advice should be taken from HR in these cases.

#### **3.1 Keeping in Touch**

The employee should keep in touch regularly throughout their absence, in accordance with manager requests. The manager and employee should agree to speak regularly – usually at least once a week, and after any specific medical appointments, in order that the manager is kept up to date and is aware of likely return to work dates and needs. In the first week, it is advised that both parties speak more regularly.

Failure to follow the procedure for reporting sickness absence is likely to result in the withholding of Occupational sick pay entitlement.

#### **3.2 Medical Certificates**

The manager may request a medical certificate (often known as a Statement of Fitness to Work where provided by the GP) for sick leave for any length of absence, giving consideration to the circumstances and previous absence record. The Council will reimburse the cost of a medical certificate (if appropriate) to an employee upon receiving a receipt.

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<sup>1</sup>Text, whatsapp or other similar messages or emails will not generally be considered appropriate.

If an employee is sick for 1-7 consecutive calendar days, they are generally considered self-certificated.

If an employee is sick for more than 7 consecutive calendar days, they must obtain a medical certificate from their doctor or the hospital and forward it to their line manager immediately. The line manager will provide a copy to HR. (If the employee sends straight to HR, it will be forwarded to the line manager).

The medical certificate will advise that the employee is either “unfit for work” or “may be fit for work”.

An employee will need to continue submitting medical certificates ensuring that the dates are consecutive. A failure to either obtain, or submit, medical certificates regularly and on time which covers all days of sickness will be likely to result in the employee's absence being treated as unauthorised, resulting in loss of pay and/or disciplinary action.

Failure to provide a valid medical certificate is likely to result in the withholding of both Occupational and Statutory sick pay entitlements and the period recorded as unauthorised absence. Backdated certificates will not be accepted without an acceptable reason being given and must run consecutively with the other medical certificates.

Please note that unlike the GP's sick note, the Statement of Fitness for Work currently provided by a GP does not include the option for doctors to advise someone that they are fully fit for work. Individuals do not have to be fully fit to return to work and are therefore not 'signed back' to work by a doctor. However, when returning from long term sick leave, where further clarity and/or advice is needed to support an employee back to work, Occupational Health advice should be sought. In addition, in some cases there are procedures to ensure someone is fit to carry out a specific role safely and these should be followed – for example with the DVLA rules for drivers. Managers should contact HR for advice in these cases.

### **3.3 Disability related sickness**

The Sickness Absence Policy applies to all employees whether they have a disability or not. If the employee's absence, however, is because of their disability, then MVDC will comply with relevant legislation. Employers are required to make 'reasonable adjustments' to their policies, practices or physical aspects of their premises.

Employees are encouraged to inform their manager if they know that they have a disability especially when this may affect their ability to perform their duties. The manager may then ensure absence that is due to disability is recorded appropriately on iTrent. It is advised to seek HR advice if there is any uncertainty over this. If managers are unaware of the employee's condition they are unable to do this, or to make reasonable adjustments where agreed.

#### **3.3.1 Reasonable adjustments**

The assessment of 'reasonableness' will be based on all the relevant circumstances including effectiveness, practicability, financial consequences and the size of the organisation. An employer needs to balance the costs of making the adjustment with the benefits of making it. The purpose of considering adjustments is in order to enable employees to return to work where practical.

There may be assistance available to help the manager make adjustments (e.g. through the Access to Work scheme).

### **3.4 Pregnancy related sickness**

Pregnancy related sickness absence will continue to be recorded as general sickness absence and sick pay provisions will apply. However, it will not be counted as absence for the purpose of absence monitoring. If an employee becomes unwell with a pregnancy related illness during the 4 weeks immediately preceding the expected date of delivery, their maternity leave will automatically commence at that point. See Maternity Policy for further information.

## **4 Return to Work**

On the day the employee returns to work, they should close the sickness absence record on iTrent, ensuring that the most up to date reason for absence is recorded. This should be done as soon as possible as failure to do so will lead to incorrect calculation of absence figures and may affect the employee's sick pay entitlement.

The line manager needs to hold a Return-to-Work Discussion in private with the employee on their first day back at work, or as soon as practical. The Return-to-Work Discussion should be recorded by the manager and shared with the employee. A template Return to Work form is attached at [Appendix A](#). This is not a required document but includes relevant heading that can be used to aid the discussion.

## **5 Arrangements for sick pay**

Payment of sick pay is conditional upon employees following the requirements laid out in the Sickness Absence Policy and sick pay may be withheld if these requirements are not met without an acceptable reason.

Where it is agreed that an employee is eligible for sick pay, the calculation and eligibility to sick pay outlined in the employees' contract (also at [Appendix B](#)) should be followed. Note that any continuing eligibility does not give employees protection from dismissal during such period of entitlements. It is payment to alleviate hardship as opposed to an allowance.

### **5.1 Advice on sick pay**

HR will advise the manager in relation to any reductions due to be made to an employee's sick pay i.e. if contractual sick pay drops to half pay or is due to expire. The manager is responsible for: ensuring the employees sick record on iTrent is up to date to allow for accurate sick pay entitlements to be made; notifying the employee of any changes to sick pay; and ensuring that they keep track of the relevant dates. A letter confirming any changes will be provided to the employee by HR.

### **5.2 Calculation and eligibility to sick pay**

The period during which sick pay should be paid and the rate of sick pay for any period of absence, is calculated by deducting from the employee's entitlement on the first day of sickness, the aggregate periods of paid sickness absence during the 12 months immediately preceding that day.

Sick pay will not be paid in the case of an accident caused by active participation in sport as a profession.

Sick pay will not be paid where the absence arises from or is due to the employee's own misconduct or neglect.

Sick pay will not be paid if an employee demonstrates deliberate conduct that is prejudicial to their recovery.

If an employee is proven to have failed to follow the rules of the sick pay scheme, they will forfeit their right to receive further payments.

In exceptional circumstances, there is discretion to extend the application of sick pay for a limited period. Permission will need to be given by the Chief Executive or Section 151 Officer in consultation with the relevant SLT Lead and in conjunction with HR advice.

### **5.3 Absence caused by a third party**

If an employee is absent from work due to injury or illness caused by a third party (i.e., a road traffic accident), any payments made under the sick pay scheme will, at the Council's discretion, be classed as a loan and this will be repayable to the Council by the employee if compensation for loss of earnings is recovered from the third party.

### **5.4 Victims of Crimes and Violence**

If an employee is a victim of a crime, sick pay will be paid to them. If they make a successful claim via the Criminal Injuries Compensation Scheme, they will not be required to repay their sick pay. At the Council's discretion, such absence will not be counted as absence for the purposes of monitoring under this policy.

### **5.5 Industrial injury**

An industrial injury results from an accident at work or in connection with work.

Although many employees will receive Statutory Sick Pay (SSP) for industrial injury as for any other sickness absence, it is necessary to determine whether or not the absence has been caused by a work-related incident(s) (industrial cause). If the cause is industrial, the employee may have different entitlements, providing sick pay for longer periods. Please contact HR for advice on specific cases.

### **5.6 Sickness during annual leave**

If an employee becomes sick during a period of annual leave, the period covered may be treated as sick leave provided that the employee follows the procedure for reporting the sickness at the time they fall sick and provided they can supply a medical certificate completed at the time of first becoming ill, confirming the dates they would not have been fit enough to carry out their normal duties. The annual leave will then be reimbursed.

If an employee fails to follow the procedure for notifying that they are sick, or fails to supply a valid medical certificate, their absence will continue to be classified as annual leave, not sick leave.

Employees must not go on holiday, either abroad or elsewhere in the UK, whilst on sick leave, without written prior agreement from their line manager, which will be agreed in exceptional circumstances. This is part of the conditions for receiving Occupational Sick Pay.

The manager will need to keep Payroll informed to ensure that the employee is paid the correct rate of pay for the period of annual leave and to return the employee to sick pay following the annual leave.

### **5.7 Sickness during employee notice period**

When an employee resigns, their contract should be checked to see what their notice period for dismissal would be. Their notice pay rights depend on whether their dismissal notice period is statutory or contractual:

- a. If the dismissal notice period is less than a week longer than the statutory notice period, they are entitled to 1 week's full normal pay if they are off sick during their notice period.

For any remaining weeks they are off work, they are only entitled to Statutory Sick Pay (SSP).

- b. If the dismissal period is a week or more longer than the statutory notice period, the employee is only entitled to be paid SSP if they are off sick.

## **6 Occupational Health and other medical advice**

The Council offers an Occupational Health service to all employees where there are concerns that work performance is impacted by health or wellbeing issues.

Managers may refer employees to attend an Occupational Health clinic as appropriate. Employees are required under their contracts to ensure they are as fit and healthy as possible to do their jobs therefore if their manager has made a referral on the basis of genuine and reasonable concerns, the employee has a duty to attend the appointment. HR advice should be sought if there are disagreements, or the employee is incapacitated so that their attendance is more difficult.

Occupational Health provides professional advice about the employee's fitness to perform their current job. It also enables the organisation to seek guidance as to any reasonable adjustments that can be made to support an employee in the workplace or other appropriate advice to reduce the possibility of further sickness.

### **6.1 Phased return**

A well-structured phased return to work plan can support an employee to return to work more quickly and smoothly. If Occupational Health or another medical professional has advised that a phased return to work would be appropriate, the line manager must consider how this is to be organised in a way which is supportive of the employee and ensures the needs of the service are met. This arrangement should be confirmed in writing with the employee and state the timeframe, normally between four and six weeks.

During the phased return, providing it does not exceed six weeks and/or the path for recovery as set out by a medical professional, the employee is treated as back at work so there is no reduction for absence or sick pay purposes. The systems should be entered to record the employee's normal working pattern, though entitlement to flexi time will be suspended during this period.

If an employee does not return to their normal duties within a six week period and/or within the path for recovery envisaged and set out by a medical professional, these arrangements should be reviewed and consideration given to whether this can be accommodated further, or if the matter should be considered under the Sickness Capability Policy instead. Where a further period of phased return is agreed, the employees will be paid commensurate to the hours of actual work.

### **6.2 Redeployment**

As a small organisation, redeployment may not be an option, so it should not be perceived as an employee right. However, where it is possible to facilitate either temporary or permanent redeployment and there is confirmation that the employee is currently unfit to carry out the full duties of their post, but could be temporarily redeployed to alternative work, Occupational Health or other medical professional may advise on an adjustment. In such circumstances, recommendations will be required about the advised length of time of the adjustment, the kind of work the employee should be capable of performing and any particular tasks or duties that should be avoided. Any redeployment will need to be discussed and agreed with the employee and arrangements confirmed in writing.



During any such temporary redeployment, there is no right to pay protection.

Where redeployment is not possible, a manager is able to refuse this request and require the employee to remain on sick leave until they are fit to return to their normal duties. In these circumstances normal sick pay arrangements will apply.

If an employee does not return to their normal duties within an agreed timeframe, further advice should be taken from HR. The manager should consider taking action under the Sickness Capability Policy.

Where dismissal from their current job is the outcome, redeployment opportunities can continue to be sought during the notice period. A further referral to Occupational Health to establish whether ill health retirement pension benefits would be appropriate, should also be considered.

## **7 Medical appointments**

### **7.1 Doctor or dentist appointments during working hours**

Flexible working arrangements should be used wherever possible to attend doctor or dentist appointments. Where hours are fixed and an employee is able to exert control over the timing of an appointment, such as a doctor or dentist appointment, it should be made outside of their normal working hours. Where this is not possible, reasonable concessionary time may be authorised by the manager providing it does not conflict with operational needs and the manager is notified in advance of the appointment.

Any necessary absence that cannot be made up through flexible working should be recorded as sick leave.

### **7.2 Hospital appointments during working hours**

For hospital appointments, employees should ask for an appointment at the start or end of the day where possible and then use flexible working arrangements. Where hours are fixed and it is not possible to arrange appointments outside of these hours, reasonable concessionary time may be authorised by the manager providing it does not conflict with operational needs. Employees need to notify their manager in advance of the appointment. Any necessary absence that cannot be made up through flexible working should be recorded as sick leave.

### **7.3 Antenatal visits**

Pregnant employees may take paid leave to attend antenatal visits and should make their manager aware of the timing as soon as possible. This will not be classed as sick leave but as paid authorised leave, however, such visits should be arranged with as little interruption to the working day as possible.

### **7.4 Fertility Treatment**

It is appreciated that undertaking fertility treatment is an extremely stressful time and MVDC supports our employees undergoing IVF. Whilst there is no statutory right to paid time off for those undergoing IVF, the Council can offer those with a minimum of 12 months continuous service, up to five paid days off per cycle for three cycles of IVF. Further unpaid leave will be considered if required.

The Council can offer those employees who have partners undergoing IVF treatment unpaid time off work to attend up to two appointments per cycle for three cycles, provided they have a minimum of 12 months continuous service. For further information, please discuss this with either your manager or the HR team. Any discussions of this nature will be strictly confidential.

### **7.5 Therapy appointments (e.g physiotherapy, osteopathy, chiropractor etc)**

Where the therapy appointment is being provided on medical grounds, the same approach should be adopted as for hospital appointments. Where it is not, sick leave will not be appropriate so alternative arrangements will need to be agreed by the manager.

### **7.6 Elective or cosmetic surgery or voluntary procedures for improvement purposes (e.g. laser eye surgery)**

If procedures are not on medical grounds but elected by the employee for enhancement purposes e.g., cosmetic surgery or laser eye surgery, the employee will need to arrange to use annual or flexi leave as appropriate. When booking annual leave/flexi, the employee should include the expected recovery time if it is recommended that they should be off work for this period. Such procedures do not constitute 'sickness'. If an employee becomes ill after the expected recovery time, normal sickness absence applies.

### **7.7 Cancer screening**

Employees are entitled to paid time off work to attend cancer screening.

## **8 Handling cases of terminal illness**

In the case of a terminally ill employee, there is a particular need to consider the individual circumstances of the case in a compassionate and sensitive way which always:

- Takes account and acknowledges the wishes of the employee.
- Makes advice and information about the options open to the employee and their relatives readily available to them. Advice about continuity of employment, death in service and superannuation benefits for partners and/or dependents should be sought from HR.
- An employee and their relatives should be given a named manager as their key contact point, in order to ensure that they are responded to promptly and efficiently, with dignity and compassion.

## **9 Monitoring and review of the sickness absence**

Sickness absence levels will be monitored and reported to provide data at a service and organisational level to assist in the improvement of the health of the organisation.

## Appendix A

### Return To Work Discussion *(to be completed by supervisor/manager)*

A return-to-work discussion should take place after every period of sickness absence. The purpose of the return-to-work discussion is to:

- Welcome the individual back to work
- Update the employee on key developments during their absence
- Confirm details of the employee's sickness absence and discuss any underlying causes for their absence.
- Confirm appropriate medical certificates have been provided (where appropriate)
- Offer appropriate support, where needed, to facilitate the employee's smooth return to work e.g., EAP, referral to Occupational Health
- Review risk assessments and make any changes that are needed
- Assess fitness to work.

|  |  |   |                            |  |  |
|--|--|---|----------------------------|--|--|
| Employee's Name:                             |  | Manager's Name:                                   |                            | Date Of RTW Discussion:                              |  |
| Period of Sickness:                          |  |   | Have all necessary medical |  |  |
| From: -----                                  |  | To: -----   |                            | certificates been provided? Yes/No                   |  |
| No. of working days/hours lost this absence: |  | No. of working days/hours lost in last 12 months: |                            | No. of spells of sickness absence in last 12 months: |  |
| Has a trigger point been reached?            |  |   |                            | Yes/No   |  |

Record key points from discussion including the areas outlined above:

|  |
|--|
|  |
|--|

Date OH Referral made (where necessary):

If an OH referral has been made prior to RTW, discuss the content and consider and agree any reasonable adjustments that may assist the employee back to work. *Briefly record the main points of your discussion:*

|   |        |   |        |
|---|--------|---|--------|
| Are any specific support measures required? | Yes/No | Do any changes to work practices or work environment need to be considered? | Yes/No |
|---|--------|---|--------|

Date of wellbeing risk assessment (*where appropriate*):

If "yes", to either of the above, describe below:

Agree Action Going Forward

| What action | By whom | Review/Completion date | Notes |
|-------------|---------|------------------------|-------|
|-------------|---------|------------------------|-------|

|  |  |  |  |
|--|--|--|--|
|  |  |  |  |
|  |  |  |  |
|  |  |  |  |
|  |  |  |  |

Signed (employee): .....

Date: .....

Signed (manager): .....

Date: .....

## Appendix B

Mole Valley entitlement to sick pay is currently:

|                       |   |
|-----------------------|---|
| 1st Year              | 1 month's full pay + 2 months' half pay |
| During 2nd Year       | 2 months' full pay + 2 months' half pay |
| During 3rd Year       | 4 months' full pay + 4 months' half pay |
| During 4th/5th Years  | 5 months' full pay + 5 months' half pay |
| Over 5 Years' Service | 6 months' full pay + 6 months' half pay |

The council's contractual sick pay provisions are clear and specific in relation to the levels of payment received when an employee has been on sick leave over a period of months. The most an employee can receive depending on length of service is 6 months full pay and 6 months half pay in all but the most exceptional circumstances.

| Version | Version Status                                  | Date                      | Version Comment  | Version Author |
|---------|---|---------------------------|--|----------------|
| V1.1    | Final SLT draft                                 | SLT meeting 7/10/21       | For SLT approval for document to be shared with Business Managers and Staff Hub. SLT given 2 weeks to review and consider                | KI             |
| V1.2    | SLT amends discussed and agreed                 | SLT meeting 21/10/21      | Final SLT approved draft for BMT, Staff Hub consultation (2 weeks – 25/10/21 until Monday 8/11/21 10.00 am)                              | KI             |
| V1.3    | Amends discussed and agreed post Hub/BMT review | SLT meeting 11/11/21      | Agreed amendments following consultation   | KI             |
| V2.1    | FINAL (pre-formatting)                          | Week comm 6/12/21         | Policy finalised for publication and implementation  | KI             |
| V2.2    | Final (formatted)                               | Anticipated December 2021 | Final version post formatting  | Comms          |
| V3      | Review  | 2024                      | Policies to be reviewed at least every 3 years or in the event interim changes are needed (e.g. changes in legislation, work practices). | KI             |