

COPFS Attendance Management Guidance



CROWN OFFICE
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FISCAL SERVICE

SCOTLAND'S PROSECUTION SERVICE

COPFS – Attendance Management Guidance

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Policy Statement

COPFS aims to support employees in being fit to attend work and able to provide regular and effective attendance. We will balance the needs of the individual with the needs of the Service to effectively manage sickness absence. COPFS takes a positive, individual and pro-active approach to attendance management.

Attendance levels are monitored by line managers and HR as both long term and short term absences can affect the work of a team.

The application of this policy will comply with obligations in relation to the Equality Act 2010. This will include making reasonable adjustments where appropriate.

This policy applies to all employees (permanent and fixed term) and probationers as per the probation policy.

Reducing Sickness Absence

In order to help reduce the level of sickness absence COPFS will;

- Offer guidance and support to managers in their Absence Management role
- Take reasonable steps to provide a healthy working environment
- Promote health and well-being initiatives via the Employee Assistance Programme
- Collate absence data to identify action areas

COPFS is committed to ensuring that sickness absence is managed promptly and appropriately. Good communication between line managers and employees is critical, alongside proper management of HR policies and processes and early use of the sources of support available.

Confidentiality

This policy conforms to the Data Protection Act 1998. An employee's medical information is personal and will only be available to those who need to be aware of it. This is usually restricted to those in the management chain, the Attendance and People Support team and Human Resources. Confidentiality is a key principle of this policy.

Breaches of an employee's right to confidentiality by any other employee (including their line manager) may be treated as a disciplinary offence.

Roles and Responsibilities around Managing Attendance

Employees and managers have a joint responsibility for managing attendance.

All employees must:

- maintain awareness of this policy
- maintain regular attendance
- follow procedures for reporting absence, including providing fit notes and completing E9A forms on return to work
- maintain regular contact with their line manager or senior manager during periods of absence
- attend meetings with their line manager to discuss their sickness absence

All managers must:

- maintain awareness of this policy
- maintain regular contact with the employee during sickness absence
- take appropriate action to support the employee during sickness absence and on their return to work
- accurately record and monitor absence, including early reporting of absence to HR using the E9 form
- explore the causes of absence and seek advice, if necessary, from the Attendance and People Support team, Occupational Health and/or the Employee Assistance Programme (EAP) provider, in dealing with absences
- Inform the employee when trigger points are reached and consider issuing a warning if appropriate.
- inform the employee of the services offered by the Employee Assistance Programme

Employees and managers are supported in managing attendance by the following groups.

Attendance and People Support Team

The Attendance and People Support team is responsible for overseeing the application of the attendance management policy.

This involves:

- providing advice and guidance regarding the application of this policy
- making contact with managers and/or employees to discuss how the absence is being managed

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- HR administration of all absence and attendance matters
- Making referrals to our Occupational Health provider with input from line managers

Employee Assistance Programme (EAP)

The [Employee Assistance Programme](#) is available to all employees 24 hours a day, 7 days a week on Freephone number **0800 587 5670** and can provide:

- short-term, solution focussed counselling (6 sessions), confidential, independent and unbiased information, guidance and advice.
- a Management Consultancy service which can support managers in dealing with attendance management matters and any other management issues. This service provides an additional valuable resource for managers when they are helping an employee but would value some assistance.

Occupational Health Service Provider

The Occupational Health Service Provider is contracted by COPFS to provide occupational health advice and COPFS can seek advice on matters relating to an employee's health at any time.

Please see section on [Occupational Health](#) for more information.

Health and Safety Managers

Health and safety managers provide advice and guidance on health and safety matters including legislation and procedures. They will also provide advice to any member of staff on a confidential basis, if necessary.

People and Learning

In addition to the HR support provided by the Attendance and People Support Team, managers seeking additional training on the skills required to manage attendance can contact the Learning Development Team for advice on learning.

Trade Union Representative

Employees can seek the advice and support of their Trade Union in relation to attendance management matters. All employees have the right to be accompanied at formal meetings. Trade union members can be accompanied by a TU representative at formal meetings.

The Wellbeing Zone

The Wellbeing Zone offers web based information and resources for all COPFS employees to support a healthy lifestyle and general wellbeing.

The Pension Scheme Medical Adviser

The [Scheme Medical Adviser](#) is appointed by the Cabinet Office as the sole provider of advice to employers on access to medical-related pension scheme benefits. The Medical Services Advisor decides if ill health retirement should be authorised.

Occupational Health (OH) and the Referral Process

The Occupational Health Service Provider is contracted by COPFS to provide occupational health advice. The Service can seek Occupational Health advice on matters relating to an employee's health at any time.

When an employee's sickness absence is causing concern, or where ill health retirement may be considered, a referral will be made to Occupational Health for management advice.

Work-related Stress

Occupational Health referrals should be made immediately for any absences due to work-related stress.

Please see section on [Work Related Stress](#) for more information.

What do COPFS ask Occupational Health?

In discussion with the line manager, the Attendance and People Support team can make a referral to OH to obtain opinion in relation to the following general questions:

- The employee's current health status
- The prognosis for the condition
- The current functional ability of the employee. If work duties are affected advice on whether this is likely to be short term, long term or permanent.
- The likely return to work date or return to full duties. If a return to work is not possible within the next 4 weeks, then the likelihood of a return within 3 months.
- A specific rehabilitation / return to work plan
- Advice on adjustments, if appropriate, with clear timescales. Including whether these are required temporarily to aid a return to work or permanently to facilitate continued employment. These adjustments are not limited to changing the physical environment and may also include changes to duties, working hours, etc.
- Disability in accordance with relevant UK legislation
- Whether the employee is likely to be able to meet the required standard of attendance in the future
- Whether ill health retirement criteria applies and if so, the likelihood of this being granted
- Any specific management questions

Additional Questions

In order to obtain the most relevant advice in the OH report, managers should also consider whether or not it would be beneficial to ask any additional questions in the OH referral, specific to the individual's circumstances. Where additional questions are being sought, it is

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important to carefully consider what should be asked in order to enhance the information that we receive. Managers should consider:

- a) What do we really need to know so that we can facilitate an employee's return to work
- b) If the employee has suggested work related concerns, consider seeking detailed advice about how they can see the presenting issues being resolved
- c) If the absence relates to personal issues, considering seeking advice on what active steps the employee could take to resolve these difficulties

Attendance and People Support managers are available to give advice and guidance about the wording of any additional questions.

Managers should be aware that all the information contained within the referral will be shared with the employee during the O.H. consultation.

Informing the Employee

In order to make a referral for Occupational Health advice, managers are responsible for informing their employee that a referral is being made. As part of the referral process managers will therefore be required to:

- advise the employee that the purpose of a referral is to enable us to assist them to return to work in a supported way as soon as they are well enough
- advise the employee that consultations are usually by telephone
- advise the employee that a report will be prepared for us following the Occupational Health consultation. The report will be shared with the employee, the Line Manager, others in the management chain (if appropriate) and the Attendance and People Support Team
- advise the employee that medical opinion may be sought from their own GP / Consultant or Specialist
- advise Attendance and People Support of any days / times within the fortnight that the employee isn't available
- confirm the employee's home telephone number, mobile telephone number and home address so that Occupational Health can make direct contact
- advise the employee that OH will call them to arrange the appointment and that the call they receive will be from a withheld number. It should be explained that OH are not permitted to leave voice messages.

Prior to any referral being made, managers will be required to confirm that they have discussed the above with the employee and that they have given consent.

Managers should also provide the Attendance and People support team with information about the absence; such as, their understanding of the nature of the absence, contributing factors, any work related factors, how they see a return to work plan being facilitated and any other relevant issues.

Occupational Health Reports

Following a meeting or telephone call with the individual who has been referred, the Occupational Health provider will then provide a written report to the Attendance and People Support team. The Attendance and People Support Advisor will then share this report with the employee's line manager, drawing particular attention to any "reasonable adjustments" recommended or any other action required by the manager.

Employees will be asked at their appointment if they wish a copy of the report, if so the OH provider will arrange this.

Workplace Assessments

The OH service provider also conducts workplace assessments to assess an employee's working environment and working practices for suitability. Following a workplace assessment, a written report is sent to the Attendance and People Support Advisor, this is then shared with the employee's line manager and the Health and Safety Manager (if any specialised equipment is required).

Recording and Monitoring Absence

Managers need to know how often their staff are absent from work. They therefore need to accurately record all absences including the dates and reasons for absence.

Attendance Management Record

Managers should use the Attendance Management Record form to record reasons and dates of absence for the employee that they manage. This will provide an overview of absence for each member of staff and aid in determining whether further steps are necessary.

When recording sickness absence on the Attendance Management Record, only working days the employee was absent due to illness must be recorded as only working days absence will be used in calculating breaches of the trigger points. Calendar days will be recorded on the E9A form, as detailed below.

Notification of Sickness Absence (E9 Form)

On the first day of absence, managers will complete the E9 Notification of Sickness Absence form and send this electronically to the Attendance and People Support Advisor (via [HR Absence Management](#)). The Attendance and People Support Advisor should be notified immediately where absences are caused by stress, anxiety, depression or any other mental health related cause.

Closure of Absence and Return to Work Discussion (E9A Form)

When an employee returns from a period of absence, they must complete the E9A Closure of Absence form and send this to their manager for completion of the Return to Work Discussion section. This must also be sent electronically to the Attendance and People Support Advisor as soon as possible. It is important that this form is submitted without delay so that the absence can be closed as it may affect the employees pay. Managers should also refer to the [Return to Work Discussion](#) section below for further information on how this should be conducted.

Managers must keep all records they retain confidential, however it should also be noted that employees are not obliged to disclose the nature of any illness when completing the E9A form or advising managers of their absence. In this instance, employees should be made aware that the absence of this information may restrict COPFS in providing appropriate support and/or implementing reasonable adjustments.

Line managers should contact the Attendance and People Support Team if they require any clarification on how to record and calculate absence. However, please also refer to the following guidelines.

Part Day Absences

If an employee becomes ill having been at work for at least 30 minutes and has to go home before completing half their contracted hours for that day, then a half day sickness absence should be recorded. This absence would count towards trigger points.

If an employee becomes ill after completing more than half of their contracted hours then no sickness absence should be recorded.

In both cases an E9A form should be completed and sent to the Attendance and People Support Advisor.

Sickness Absence during or preceding Annual Leave

If an employee becomes unwell during annual leave and is continuously unwell for four or more days whilst on leave, the absence may be amended to sickness absence providing the employee reports the absence to the line manager on the 4th day of sickness and submits a Fit Note (medical certificate) to cover the period of sickness.

Employees, who are off sick immediately prior to a period of prearranged annual leave, must contact their line manager to confirm their fitness to return to work, before commencing any annual leave period.

The employee's flexi record should be amended as appropriate on their return to work.

Pregnancy Related Absences

Self-certificates and fit notes should make it clear that the absence is pregnancy-related, as these absences should not count towards the limits for reduced sick pay or for the purposes of trigger points. All other aspects of the management of sickness absence during pregnancy should be dealt with in accordance with the attendance management policy.

Healthcare Appointments

Employees should attempt to arrange GP, Dental and Healthcare appointments outside of normal working hours or at the start/end of the working day whenever possible. When this is not possible, a flexi credit in line with the Flexible Working Hours policy will be granted.

Hospital appointments for outpatient treatment are not recorded as sickness absence but as medical/dental leave and should be recorded as such on the Flexible Working system. Where the appointment lasts less than a full day, employees should make every effort to attend work before and/or after the appointment, and will be credited with a flexi update in line with the Flexible Working Hours policy.

If the member of staff is unfit for work as a direct result of treatment received at a hospital appointment, this will constitute sickness absence

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and should be recorded and managed as for any other such absence as described in this guidance. If managers are in doubt as to whether such an absence should be treated as sickness absence, they should consult Attendance and People Support for advice.

If such an absence is due to a hospital appointment or treatment being given directly in relation to a condition covered by the Equality Act, consideration will be given, on a case by case basis, to any necessary reasonable adjustments.

It is expected that such appointments will not exceed two hours, however under extenuating circumstances line managers may approve a credit for time in excess of the two hour maximum.

It is not possible to cover every eventuality and the principle of reasonableness should be applied. Members of staff should not be prevented from attending healthcare appointments.

Certification

Self-Certificates

Employees may self-certify if the absence lasts 7 calendar days or less. This can be confirmed within the E9A Closure of Absence form which must be completed, as noted above.

Fit Notes (medical certificate)

If the absence lasts 8 calendar days or more, the employee must obtain a Fit note (medical certificate) from their doctor and send it to their manager without delay.

The manager must immediately send all medical certificates to the Attendance and People Support Advisor by post. Medical certificates must be marked "Strictly Private and Confidential".

As well as allowing doctors to advise that an employee is unfit for work, the fit note also offers an option "may be fit for work". A GP will recommend this when they believe that the employee may be able to return to work with some support (e.g. phased return, altered hours, amended duties, workplace adaptations). Managers should consider all GP recommendations and make reasonable adjustments where appropriate. Managers may also consult with the Attendance and People Support Team and any Occupational Health advice prior to implementing any adjustments.

Further information about fit notes is available in this [National Guidance](#).

Reporting Absence and Keeping in Touch

Reporting absence to the Line Manager - Guidance for employees

On the first day of sickness absence employees are required to contact their line manager or, if unavailable, another manager by 9.30am (or within half an hour before their normal start time) to report that they will be absent. Employees must phone even if they are only likely to be absent for half a day.

Communication by text, email or through colleagues is not acceptable. It is the employee's responsibility to ensure they have all relevant contact numbers available.

It is expected that any contact will be directly between the employee and their line manager unless there are exceptional circumstances which prevent the employee making contact. Employees should explain the reason for the absence, its likely duration and agree arrangements for keeping in touch. The employee should also inform the manager if there is any urgent work outstanding which needs to be dealt with in their absence.

Employees have an obligation to provide line managers with a contact telephone number.

The information provided by the employee regarding the reason for absence should remain confidential to the line management chain and Attendance and People Support unless express permission is obtained from the employee to share the information with another party.

Contacting the employee - Guidance for managers

At the first contact, the line manager's focus should be on the wellbeing of the employee. Additionally, the line manager should establish whether there is any urgent work that needs to be dealt with.

It is important that contact between the manager and the employee is maintained during the absence, particularly in instances where a longer term absence is expected or where the absence is work related (see further information below). When managers are notified of a minor illness that is likely to end within two or three days, further contact may not be necessary. This can be discussed during the initial contact.

Keeping in touch in cases of long term absence (i.e. 20 working days or more) - Guidance for Managers

With absences likely to last longer, regular contact arrangements between the line manager and the employee should be agreed on a case by case basis with an arrangement made for the next contact date at the end of each conversation. This may vary from every few days, once a week or fortnightly depending on the circumstances (please refer to

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further guidance about keeping in touch for longer term absences below). The line manager should keep a note of any conversations that they have with the employee whilst they are off sick.

If a member of your staff is absent for 20 working days or more (link to managing long term absence section), it is really important to stay in touch with them on a regular basis. Not only does this show them that they are valued and missed, it also helps minimise the loss of confidence and connection to work which many people suffer during long-term absence, and which can make it harder to come back once they are well.

Regular contact is vital to:

- Ensure that any support needs can be identified
- Identify when a return to work can be expected
- Give time to discuss and organise any necessary special arrangements to facilitate a return to work
- Give an opportunity to keep the individual in touch with developments at work and, where appropriate, to discuss outstanding work
- Provide the employee the opportunity to raise any issues or concerns.

If the employee refuses contact with their line manager, they should be offered an alternative person, within the management chain, to maintain contact with. Employees are required to co-operate fully with this policy and procedure, including maintaining contact throughout their absence and the manager should keep a record of all contacts made with the employee.

What to do if the employee doesn't make contact?

If there has been no contact from the employee within one hour of the start of core time, the manager should attempt to contact the employee by telephone. If the manager is unable to make contact by lunchtime on the first day of absence they should contact Attendance and People Support for advice on further action. Contact should be made earlier if there are specific concerns.

What if fit notes are not provided - Absent without Leave (AWOL)

COPFS can only pay appropriate rates of sick pay if the absences are self-certified or covered by a fit note. In cases of long term absence, if an employee fails to send the fit note to their line manager, the employee will be considered to be on unauthorised absence. If this happens, the employee may not be paid for those absences until the fit notes are provided.

Managers should ensure they receive fit notes for all absences and contact Attendance and People Support if they encounter difficulties.

Work Related Issues

Some situations may require more consideration. One such situation is where the staff member tells you that there is a work-related issue affecting their attendance. As a manager you have a responsibility to address any work-related issues and to try to help and support employees.

Where employees do not want to discuss work related issues with their line manager, they may do so with someone else in the management chain. Alternatively they are able to contact an Attendance and People Support Manager, who can offer support in approaching their line manager, where appropriate.

Work Related Stress

If a manager is made aware that an employee is experiencing work-related stress they should, as a first step, identify what the contributing factors are by conducting an Individual Stress Risk Assessment. Every effort must be made to maximise the employee's wellbeing and to prevent work-related stress absence.

See the COPFS Stress Policy for more information about Individual Stress Risk Assessments and further information about minimising stress.

Required Levels of Attendance – Absence Trigger Points

Like many employers, COPFS use a 'trigger point' system to help identify situations where absence requires further consideration and possible formal action.

For all permanent and fixed term employees who are not on probation, the trigger point for further consideration is:

- 10 working days (pro-rata for part time and fixed term staff) in a rolling 12 month period; OR
- 4 occasions in a rolling 12 month period

The 12 month rolling period will be calculated from the date an employee returns from a period of sickness absence.

Absences may be short term or long term or sometimes a combination of both. Where absences reach the trigger points, managers will consider whether formal action is required.

Absence must be looked at on a case by case basis and managers must use their discretion about whether formal action is appropriate. Consideration of the circumstances and employee's history will form part of this process.

If managers have any doubts, after reading all of the guidance, about what action to take, they should speak to Attendance and People Support for advice.

Trigger points – part time employees

Part time employees work fewer than 37 hours each week, therefore trigger points for taking action must reflect the hours worked.

For example one of the trigger points for full time employees is 10 days absence in a 12 month rolling period. For part time staff this is calculated as follows:

Part time employee's ready reckoner

| Days worked per week | Trigger point in 12 month rolling period |
|------------------------|--|
| 1 | 2 days |
| 2 | 4 days |
| 2.5 (week on week off) | 5 days |
| 3 | 6 days |
| 4 | 8 days |
| 5 part time days | 10 days |

Trigger Points - Probationary Staff

For the purpose of considering formal action, the absence trigger points for probationary employees are:

- 8 working days (pro-rata for part time staff) in the 9 month probationary period; or
- 3 occasions of absence in the 9 month probationary period

Line managers must seek advice from Attendance and People Support at an early stage when dealing with sickness absence problems with probationary employees. Attendance should be assessed at the 3, 6 and 9 month stage as required under the probation policy.

Please refer to the Probation Policy for further information about how attendance is monitored for employees on probation, including the consequences of failing to improve attendance. This may mean an extension to probation or termination of contract.

If probation is extended, managers will advise employees on the standard of attendance that is expected during the period of extension.

Trigger Points – Fixed Term Staff

The trigger point, as applicable to Fixed Term employees, will be pro rata in line with the length of their contract/appointment.

Long Term Absence – Impact on Attendance Management Trigger Points

As long term absence automatically breaches the trigger points managers will consider if a formal Attendance Management meeting is appropriate (the stage of which will be determined by any current Attendance Management warning i.e. Stage 1 or Stage 2), following the return to work discussion. An outcome of this type of meeting could be a warning.

For example, it is unlikely to be appropriate to instigate a formal Attendance Management meeting where the member of staff has had one long term absence and no other absences within the twelve month rolling period. Whereas, it would be consistent with this policy for a manager to hold a formal meeting when an employee has had a number of absences during the twelve month rolling period.

The procedures to be followed regarding the formal Attendance Management meeting are detailed in the short term or intermittent absence section.

Attendance and People Support can be consulted if a warning is being considered.

Managing Short Term or Intermittent Absence

Short term or intermittent absences will become a cause for concern if they reach the above trigger points. Managers must use their discretion about whether formal action is appropriate and at what stage it should be taken. Managers should also consider all individual factors, but should not avoid dealing robustly with problematic absence levels and only look to take appropriate action when the levels of these absences become a concern or exceed trigger points.

The process:

Where an employee is absent for short spells or a series of short and long spells, the manager should closely monitor the attendance record and look at the total number of occasions / working days within the rolling twelve month period. They should consider whether any trends seem to emerge, for example sickness absence usually occurring on the same day of the week or around holiday periods, and look at the reasons for the absences. They should also look back at the employee's previous attendance record. If this information is unavailable, then they should contact the previous line manager or the Attendance and People Support Advisor.

It is important that the current medical position is established before any action is taken. Line managers can discuss the appropriateness of a referral to Occupational Health with the Attendance and People Support Managers. A referral will indicate whether or not there is a specific underlying medical reason for the absences.

Early intervention where absence is due to stress, depression, anxiety, nervous debility or other psychological illness is important and a referral to OH should always be considered to help support the individual and provide expert management advice. Advice on timing of an occupational referral in these cases should be obtained from Attendance and People Support.

It should be noted that formal meetings and reviews do not lead automatically to prescribed action such as a warning. In some cases, no further action may be appropriate.

Stage 1 – Meeting and Review

When trigger points are reached the manager should review the attendance record and conduct a Stage 1 meeting.

The manager must formally invite the employee to attend the meeting allowing them sufficient time to prepare (at least one week). The invitation to meet should be in writing and should include:

- details of the attendance record (this will usually range from a period of twelve months to four years);

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- confirmation of the employee's right to be accompanied by a Trade Union representative or a workplace colleague
- contact details for the Employee Assistance Programme

At the meeting, the manager should discuss the attendance record and explore whether any further support or action is necessary and what form it should take. The employee should be encouraged to speak openly about the reasons for their absences and the manager should ask the employee if any support, advice, training or guidance is required.

The manager should then consider if the employee should be given a formal warning or whether no further action is necessary at this stage.

Managers must consider each case individually as no two cases of sickness absence are the same. Therefore, it is not possible to provide examples of when it is or it is not appropriate to give a formal warning.

Managers must act in a fair and reasonable way and not allow personal feelings to form part of the decision making process. Any action taken should be timely and based on the information available, factors which should be taken into account include;

- the nature of the absences
- the pattern, frequency and duration of absences
- any ongoing medical condition(s)
- previous attendance record (this will usually range from a period of twelve months to four years)

If the manager is unsure, they may wish to consult an Attendance and People Support Manager who will help them to decide whether a formal warning is appropriate and whether Occupational Health advice may be beneficial.

Record of the meeting and agreed action

The manager should keep a note of the meeting and highlight any action that either they or the employee have agreed to take. Copies of agreed actions signed by the employee and/or warnings must be sent to the Attendance and People Support Advisor for information and filing on the employee's personal file.

The potential outcome of the Stage 1 meeting and review can be:

- [Action other than a stage 1 warning](#)

Following discussion with the employee, the manager may decide that it is not necessary to issue a stage 1 warning. At this point managers should issue a no further action letter as set out in the policy. It is important that employees are aware that any further sickness absence may result in a stage 1 warning being issued.

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If it appears that the employee's absences may be linked to difficulties at work, the manager should offer support and discuss with the employee whether any action needs to be taken to resolve the underlying problem. If the employee is experiencing personal problems which appear to be affecting their attendance, the manager should encourage them to seek appropriate help and advice.

If the cause of the absences is work related stress the manager should consult the Stress Policy and consider conducting an Individual Stress Risk Assessment and contact the Attendance and People Support team for advice.

The manager should also consider whether there are any alternative options to enable the employee to reach the standard of attendance required.

Where the trigger points are breached further, the manager should arrange to hold a meeting in line with the Stage 1 procedure as detailed above.

- **Stage 1 Warning**

If the manager decides that it is necessary to do so, then they should issue a Stage 1 letter which formally warns the employee that any further absence in breach of trigger points may lead to an escalation to stage 2 of the attendance management process.

The manager should also make the employee aware that further absences could ultimately lead to dismissal.

Any warning will remain live for twelve months from date of the letter.

An employee can appeal against a decision made to issue a warning at any stage of the process and warning letters will detail the appeal process to employees. Please refer to the [Appeals Procedure](#) section for further information.

Where the trigger points are breached again within the warning period, the process should be escalated to Stage 2, which is dealt with by the second level manager.

Stage 2 – Meeting and Review

Consider issuing a Final Warning

Whilst the line manager maintains responsibility for monitoring sickness absence, further breaches and formal action should be considered by a second level manager.

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The procedure for Stage 2 is similar to the procedure for Stage 1 meeting and review; the second level manager should review absence levels and formally invite the employee to a Stage 2 meeting.

Prior to arranging the meeting, the second level manager should consider whether it would be helpful to obtain an Occupational Health report, this can be discussed with an Attendance and People Support Manager.

Following the meeting, the manager will consider if the employee should be given a further warning or whether no further action is necessary at this stage.

Record of the meeting and agreed action

The manager should keep a note of the meeting and highlight any action that either they or the employee have agreed to take. Copies of agreed actions signed by the employee and/or warnings must be sent to the Attendance and People Support Advisor for information and filing on the employee's personal file.

The potential outcome of the Stage 2 meeting and review can be:

- [Action other than a stage 2 warning](#)

Following discussion with the employee, the manager may decide that it is not necessary to issue a stage 2 warning. Therefore the employee will remain on Stage 1. At this point managers should issue a no further action letter confirming that attendance will continue to be monitored in line with the Stage 1 procedure. It is important that employees are aware that any further sickness absence may result in a stage 2 warning being issued.

The manager should also consider whether there are any alternative options to enable the employee to reach the standard of attendance required.

Where the trigger points are breached further, the manager should arrange to hold a meeting in line with the Stage 2 procedure as detailed above.

- [Stage 2 Final Warning](#)

If the manager decides that it is necessary to do so, then they should issue a Stage 2 letter which formally warns the employee that any further absence in breach of trigger points may lead to an escalation to stage 3 of the attendance management process.

The manager should also make the employee aware that further absences could ultimately lead to dismissal.

Any warning will remain live for twelve months from date of the letter.

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An employee can appeal against a decision made to issue a warning at any stage of the process and warning letters will detail the appeal process to employees. Please refer to the [Appeals Procedure](#) section for further information.

Where the trigger points are breached further within the warning period, the process should be escalated to Stage 3, which is a Case Conference held with HR.

Monitoring during the review period after a final written warning has been given

If a final written warning is given, the employee's attendance must be closely monitored during the review period. They should be encouraged by their manager to attend work regularly and be given every opportunity to discuss any concerns or difficulties.

The line manager should, in any event, be meeting with the employee regularly (or if they work remotely from the employee, contact them regularly) during the review period to offer any support that is necessary to achieve regular attendance.

Are there any circumstances when the time limit of a final warning can exceed 12 months?

In exceptional circumstances, the second level manager may consider (in consultation with the Attendance and People Support team) whether it would be appropriate for the final written warning to remain active for a period of 13 to 18 months. The duration of the final written warning must be confirmed in writing to the employee when the warning is given. The Attendance and People Support team will be able to give advice on the wording of the letter and will ensure consistency of approach.

Stage 3 – Case Conference

The aim of the case conference is for the line manager, second level manager and HR to discuss and consider appropriate next steps.

Using the Stage 3 Case Conference Record, a review of all previous steps in the process will be conducted including:

- Previous attendance history;
- return to work interviews;
- notes of Stage 1 and 2 meetings conducted;
- confirmation that process has been followed;
- any reasonable adjustments made; and
- up-to-date occupational health advice (usually within the last 3 months).

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This will ensure that all previous steps have been taken and that all relevant material is available to inform further action.

Potential outcomes of the case conference are:

- Continuation of Stage 2 monitoring process for a further period (usually 3 months);
- Consideration of ill health retirement; and
- Consideration of dismissal on the grounds of inefficiency due to poor attendance (this will include consideration of any compensation payment under the Principal Civil Service Pension Scheme)

The employee will be notified of the outcome by letter.

If the decision at the case conference is to consider dismissal of the employee, a final hearing must be arranged.

Stage 4 – Final Hearing

Prior to the final hearing meeting, the employee must be advised in writing that consideration is being given to their dismissal on the grounds of inefficiency due to poor attendance. A third level manager will chair the meeting and be accompanied by an appropriate HR representative.

The invitation to the Final Hearing must confirm the employee's right to representation by a TU representative or work colleague.

The procedure at the meeting should be as follows:

- The third level manager should open the meeting by explaining the reasons why the meeting has been arranged and detailing the background.
- The third level manager must then outline the previous discussions including occupational health advice.
- The employee should be given the opportunity to respond and to provide any additional information they wish the panel to consider.
- The detail of the employee's response should be discussed with them.

Given the seriousness of the situation, the third level manager and the HR representative will need to take time to decide the outcome. This is best done by adjourning the meeting to allow consultation to take place. Wherever possible the employee will be advised of the outcome in person.

In any case the decision will be confirmed, in writing, by the third level manager within 5 working days of the Final Hearing. Where additional time is required to consider the information presented, the employee will be advised in writing of the new anticipated date when the outcome will be notified.

Managing Long Term (Continuing) Absence

COPFS defines long term absence as 'a single spell of 20 working days absence'.

Managers are responsible for the management of long term sickness absence; however they will be supported by the Attendance and People Support Managers.

It is important for managers to keep in touch with the employee for all long term absences and particularly where the absence is due to stress, depression, anxiety, nervous debility or any other psychological illness. Advice on timing of an Occupational Health referral in these cases should be obtained from Attendance and People Support.

By working collaboratively, line managers, employees, Attendance and People Support Managers and the Occupational Health Service Provider will facilitate the employees return to work as soon as they are well enough to do so.

Considerations

The main considerations which need to be balanced when dealing with long term sickness absence are:

1) The needs of the employee

The employee has the right to expect that the Service will consider all individual factors and options. In cases of serious and terminal illness, the needs of the employee are paramount.

2) The needs of the Service

It is reasonable for management to expect that an employee is, and remains capable of, carrying out the duties of the post in which he or she is employed and that a return to duties is expected within a reasonable timeframe.

3) The need to act fairly and reasonably

COPFS must act fairly and reasonable in dealing with such cases and follow this policy and procedure.

In all cases, it is necessary, before considering terminating employment on the grounds of attendance/capability, to consider all available information.

Whatever the medical evidence, it has been recognised under UK employment law that the decision to dismiss a long term sick employee is not a medical but a management issue.

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The possible outcomes of long term sickness absence are:

- A successful and supported return to work
- A return to work with adjustments which can be accommodated on a temporary or permanent basis by the Service
- Eligibility for ill health retirement under the provisions of the Civil Service pension scheme (see [myCSP Ill Health Retirement guidance](#) for further information)
- Termination of the contract of employment on the grounds of capability due to ill health

The Process:

Long Term Absence – 1st Review and Meeting

At 20 working days absence, the line manager must conduct a review of the absence and arrange to meet with the employee, unless there are exceptional circumstances (e.g. the employee being in hospital).

Line managers who are unfamiliar with this process can speak to an Attendance and People Support Manager for advice and guidance.

The manager's review should include:

- The notes from 'keeping in touch' conversations with the employee;
- The most recent information received during contact with the employee about their current health status and any current or planned treatment;
- The information provided on the fit-note/medical certificate, including the date the individual is signed off until and any reasonable adjustments noted;
- Any current Occupational Health advice; and
- The individual's circumstances, e.g. is the employee currently a hospital in-patient

As this is a formal review meeting, the manager should write to the employee to invite them to attend the meeting, giving them at least 5 working days' notice. The letter must explain the reason for the meeting and remind the employee of their right to be accompanied by a colleague, or trade union representative.

The meeting should be held at a suitable location. A private meeting room within the workplace should be proposed in the first instance, however there may also be scope for meetings to take place at another COPFS office or alternative location, where appropriate. Meeting the employee in their home should only take place with the employee's consent and where it is not possible for the employee to attend a meeting at work.

The meeting should cover:

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- the employee's health and wellbeing and current/future treatment and prognosis
- any reasonable adjustments which may facilitate a return to work
- Information on the long term absence process
- Information about referrals to [Occupational Health](#) and, if appropriate, consent given to be referred
- Advice about entitlement to sick pay and the processes which may lead to a reduction in pay; and, where appropriate checking that the employee has been made aware of half and no pay dates (this information is provided to the employee in writing by the Attendance and People Support Advisor)
- Keeping the employee updated of significant work-related issues which may affect them
- Sharing information about the support services available
- Agreement about how manager and employee will maintain contact in the future

The meeting will allow the manager the opportunity to assess progress and to discuss possible future outcomes; including return to work, reasonable adjustment to duties, ill health retirement or dismissal.

It gives the employee an opportunity to share progress, issues and medical updates.

If a return to work is not an option at this stage, the employee must be made aware that if he or she is not able to return to work within a reasonable timescale, or there is no suitable work available, their contract may be terminated on grounds of capability. The employee must be told that dismissal is a last resort and any decision to dismiss will be taken by a senior manager in consultation with an HR Manager.

Depending on the circumstances of the absence an action plan may be agreed to facilitate a return to work and a further review period set.

A summary of the discussion and a copy of any action plan (if appropriate) must be confirmed to the employee (and their representative) within 5 working days of the meeting. The summary of the discussion should also be copied to the Attendance and People Support Team.

Long Term Absence – 2nd Review and Meeting

At 40 working days absence the manager must conduct another review of the absence and must arrange to meet formally with the employee (unless there are exceptional circumstances).

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If you decide, for the second time, that exceptional circumstance prevent you from holding a formal review meeting with the employee then you must contact an APSM to discuss the absence.

Your review should be conducted as per the 1st Review meeting, detailed above.

The meeting should be arranged, as detailed above. Remember that as this is a formal review meeting, you should write to the employee to invite them to attend the meeting, giving them at least 5 working days' notice. The letter must explain the reason for the meeting and remind the employee of their right to be accompanied by a colleague, or trade union representative.

Occupational Health advice should be available for the Stage 2 review meeting taking place. The contents of this report should be an integral part of the discussion.

Long Term Absence – Further Reviews and Meetings (after 2nd Review and prior to Case Conference)

Long term absence reviews and formal meeting should take place monthly (and be numbered for the purposes of record and note-keeping i.e. 3rd Review Meeting, 4th Review Meeting, 5th Review meeting, etc) following the processes detailed above.

These ongoing review meetings will not go on indefinitely – by the 6 month stage a case conference will take place (see below).

Long Term Absence - Case Conference Stage

The aim of the case conference is for the line manager, second level manager and HR to discuss and consider appropriate next steps.

HR will arrange for a case conference to take place when a member of staff has been absent from work continually for 6 months.

In some cases it may be apparent prior to the 6 month stage that the employee is not going to be able to return to work, in such cases the case conference can take place prior to the 6 month stage. Similarly, the case conference may be delayed, in appropriate circumstances.

Using the Case Conference Record, a review of all previous steps in the process will be conducted including:

- previous attendance history
- notes of long term absence review meetings
- letters issued

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- any reasonable adjustments proposed
- up-to-date occupational health advice (usually within the last 3 months)

This will ensure that all previous steps have been taken and that all relevant material is available to inform further action.

Potential outcomes are:

- Continuation of monitoring process for a further period, for example, if more information is expected (e.g. a specialist's report). If the further monitoring period reaches its specified end date and a return to work still isn't possible then a further, and final, Case Conference will take place.
- Whether a deadline should be given for a return to work, for example, when no further information is expected or required. If this deadline passes and a return to work still isn't possible then the next stage is to have a Final Hearing.
- Consideration of ill health retirement
- Consideration of dismissal on the grounds of capability due to poor attendance

The employee will be notified of the outcome by letter.

If the decision at the case conference is to consider dismissal of the employee, a final hearing must be arranged.

Long Term Absence – Final Hearing

Prior to the final hearing meeting, the employee must be advised in writing that consideration is being given to their dismissal on the grounds of capability due to poor attendance. The second or third level manager will chair the meeting and be accompanied by the HR representative.

The invitation to a meeting must confirm the employee's right to be accompanied by a work colleague or represented by a TU representative.

The procedure at the meeting should be as follows:

- The second or third level manager should open the meeting by explaining the reasons why the meeting has been arranged and detailing the background.
- The manager must then outline the previous discussions and occupational health advice.
- The employee should be given the opportunity to respond and to provide any additional information they wish the panel to consider.
- The detail of the employee's response should be discussed with them.

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Given the seriousness of the situation, the manager and the HR representative will need to take time to decide the outcome. This is best done by adjourning the meeting to allow consultation to take place. Wherever possible the employee will be advised of the outcome in person.

In any case the decision will be confirmed, in writing, by the manager within 5 working days of the Final Hearing. Where additional time is required to consider the information presented, the employee will be advised in writing of the new anticipated date when the outcome will be notified.

Return to Work

Studies show that Return to Work Discussions are the most effective approach for managing both short term as well as long term absence. Line managers must meet with the employee on their first day back from sick leave.

It is important to welcome the employee back so that they feel valued on their return. The manager should also update them on anything that they have missed.

If the line manager isn't available when the employee returns they may wish to make alternative arrangements, e.g. for a fellow manager to conduct the return to work discussion.

Employees who work at a remote location from their line manager should phone their line manager to tell them they have resumed duty. If there is going to be a lengthy period before the line manager meets the employee, they should conduct the Return to Work Discussion by telephone.

Return to Work Meeting Preparation

It is important to prepare appropriately so that the Return to work discussion is constructive and helpful.

In practical terms, you should:

- Consider the setting - it is not appropriate to hold a return to work discussion where colleagues are within earshot (e.g. at a desk in an open plan office). Even if you do not anticipate the discussion covering confidential or sensitive issues you should book a meeting room.
- Allow enough time for the conversation and ensure you will not be interrupted.
- Review your notes of previous discussions, if any, to refresh your memory
- Update and review the sickness absence record
- Consider any recommendations made regarding reasonable adjustments, either by the employee's GP or COPFS occupational health

Some members of staff, for example for cultural or gender related reasons, may find it embarrassing to discuss reasons for sickness absence with someone of the opposite gender. The member of staff may prefer to have the Return to Work discussion with a manager of the same gender and you should agree to any such request where this is possible.

Managers should also ensure that they consider the guidance under [Work Related Issues](#) and [Work Related Stress](#).

Conducting the Return to Work Meeting

The manager should:

- Welcome back the employee and find out how they are feeling (checking they are well enough to be back at work);
- Ask them if there is anything else they wish to discuss or whether they require any support;
- any ongoing health concerns
- Update them on what has been happening in the workplace during their absence;
- Ensure that any outstanding fit notes are submitted;
- Advise the employee that a further meeting will be necessary (if the trigger points have been reached)
- Discuss any recommended or potential reasonable adjustments, where necessary
- ensure that the E9A form is completed and submitted to Attendance and People Support

The tone of the return to work meeting should always be constructive and supportive. There should be no suggestion, unless there is clear and specific evidence to the contrary, that the absences were anything other than genuine. A line manager is not expected to question the diagnosis and is not medically qualified to do so.

Keeping a Record of the Return to Work Discussion

The manager should note any points raised about the employee's most recent absence or their overall attendance record on the return to work section of the E9A form. The member of staff must be given a copy of the form and the opportunity to record any disagreements or further comments before this is forwarded to HR.

Return to Work after a Long Term Absence

Phased return (if appropriate)

Where an individual has been away from work for an extended period, or the nature of their absence warrants it, it may be necessary to put in place a return to work plan to ease their return to work. The plan should balance the needs of the employee with the needs of the office.

A return to work plan should include:

- The approximate date of the employee's return to work
- The time scale of the plan e.g. 1 week, 2 weeks etc. It should generally last 2-4 weeks.

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- Whether the days/hours which are not being worked are being recorded as sick leave or as annual leave
- When the plan will be reviewed.

The Occupational Health Service Provider may provide guidance on the terms of the phased return to work.

Attendance and People Support Managers can provide advice and guidance in relation to phased return to work plans and can provide examples.

Long Term Absence – Returning to Work and Impact on Attendance Management Trigger Points

Any long term absence will be considered as part of the overall picture of an employee's absence record.

Please refer to [Required Levels of Attendance – Absence Trigger Points](#) for further information on how long term absences should be considered.

People with Disabilities

Under the Equality Act 2010, we are legally required to make reasonable adjustments to enable a person with a disability to continue in post.

The nature of some disabilities may mean that an employee needs to take more time off work than someone who does not have a disability. Consequently, when dealing with an employee who has a disability, it is essential that a line manager consults their Attendance and People Support Manager before taking action under this policy and procedure.

It is recommended that Occupational Health advice is sought and any suggested reasonable adjustments considered.

Reasonable adjustments that may be considered in consultation with the employee could include:

- acknowledging that the individual might need more time off work than someone who does not have a disability
- being flexible about working hours – including allowing employees to have different core working hours and to be away from the office for assessment, treatment or rehabilitation for short periods of time
- providing modified equipment
- making instructions and manuals more accessible
- changes to duties

Managers may seek further advice from an Attendance and People Support Manager and the Occupational Health Service Provider if considering reasonable adjustments. Managers should also refer to the Disability Guide for Line Managers.

Terminal Illnesses

In cases of terminal illness the employee's circumstances will be considered in a compassionate and sensitive manner. The line manager should advise their Attendance and People Support Manager if an employee has a terminal illness. If requested, the Attendance and People Support Manager will provide information on the options available regarding ill health retirement, pension entitlement, death in service benefits, and benefits for partners and dependants where appropriate.

Infectious Diseases

Employees who have been in contact with infectious diseases (other than scarlet fever, measles, rubella, whooping cough, chicken pox, shingles or

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mumps) should consult their doctor about whether it is appropriate to attend work and keep their manager informed of the position.

Employees who have had any contact with rubella or chickenpox must tell their manager at the earliest opportunity as they could be working with a colleague who is in the first 16 weeks of pregnancy.

If there is a genuine belief that an employee is showing symptoms of or carrying an infectious disease, they will be asked to see their GP and then inform their line manager. COPFS reserves the right to ask the employee to stay away from work until such time as they are declared fit to return by their GP.

HIV/AIDS/Hepatitis B

Employees who are HIV positive and/or have AIDS or Hepatitis B are not required to inform their colleagues, line manager, HR or anyone else in the organisation. However COPFS encourages such employees to confide in their manager in order to gain the support available from the organisation. All such information will be treated with the strictest of confidence. If, for example, an employee confides in their immediate manager, that manager must not report the matter to higher management, unless they have the express permission of the employee.

If information made available to the Occupational Health Service Provider reveals that an employee is HIV positive and/or has AIDS or Hepatitis B, the information will not be communicated to COPFS without the permission of the individual.

Appeals Procedure

Internal Appeals

Employees have the right to appeal against any decision made at any stage of the attendance management process. The process for appeals under the attendance management policy is as follows:

- The employee may appeal in writing within 10 working days of receiving written confirmation of the warning or notice of dismissal
- An Appeals Manager will be appointed, who has seniority over the original decision maker and will have had no previous involvement in the decision making process.
- The appeal hearing will normally be held within 10 working days of receipt of the appeal
- The Appeals Manager will, whenever possible, verbally inform the employee of the decision reached and confirm this decision in writing no later than 5 working days after the hearing.

In cases of dismissal, every effort must be made to resolve any appeal before the effective date of the dismissal (i.e. the date of expiry of the notice period). However, if the appeal process is not concluded at the expiry of the notice period, employment will be terminated and pay will cease. The appeal process will continue and if the appeal is subsequently upheld the employee will be reinstated in line with the recommendations of the Appeals Manager. The employee will receive back-pay to cover the period from the expiry of the notice to the date of reinstatement.

Appeals against Medical Decisions – Ill Health Retirement

An employee also has the right of appeal against recommendations made by the Medical Advisor appointed by The Cabinet Office. An appeal may be made against either a proposal to medically retire the employee or a refusal to recommend retirement on health grounds.

Further information can be found via [Civil Service Pensions](#).

Additional Guidance

Ill Health Retirement

If the employee's sickness is likely to prevent a return to work in the near future, HR should refer to the Occupational Health Service Provider who will advise on whether ill health retirement should be considered.

If Ill Health Retirement is deemed to be an option, HR will action the ill health retirement recommendation through the Medical Advisor. Further information on IHR, the process and the right to appeal can be found via the [myCSP Ill Health Retirement guidance](#).

At least 9 weeks' notice, of the date on which ill health retirement is to take effect should be given, unless a shorter time is convenient for both parties. The HR Manager will make the arrangements.

If ill health retirement is not recommended, the employee's situation must be reviewed by the HR Manager in conjunction with local management. The HR Manager may wish to discuss the case in more detail with the Occupational Health Service Provider.

A further meeting will also take place with the employee. The employee must be consulted about the prospect of a return to work and must be given every opportunity to discuss their circumstances with management.

Employees have the right to appeal against the decision to recommend or refuse medical retirement, please refer to the [Appeals Procedure](#) for further information.

Sick Pay and Sick Pay at Pension Rate (SPPR)

Sick pay will be payable in accordance with the Staff Handbook.

Sick pay at pension rate may be considered when the contractual entitlement to sick pay is exhausted. An employee may be eligible for SPPR if:

- there is an expectation of a return to work within the next **3 months** or
- the requirements for ill health retirement are likely to be met.

HR meets regularly to discuss any potential SPPR payments. OH advice will form part of the recommendation.

PCSPS Injury Benefit Scheme

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Injury benefit may be paid to bring your income up to a guaranteed level, providing the reason for your absence is work related. For further details, including the application form, please refer to the PCSPS Injury Benefit Scheme [guide](#).