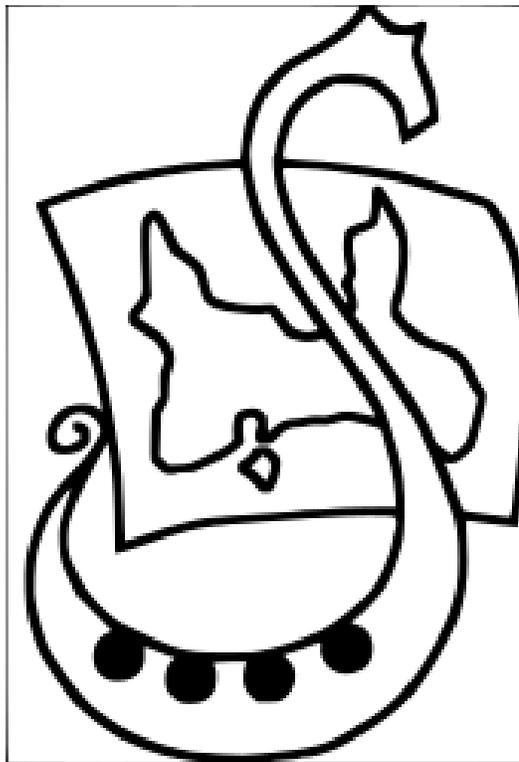


# SICKNESS ABSENCE MANAGEMENT POLICY AND PROCEEDURE

*Policies Collection –  
Revised & reissued October 2015*

**SHAPINSAY DEVELOPMENT TRUST**

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## **SICKNESS ABSENCE MANAGEMENT POLICY AND PROCEDURE**

### **SECTION 1: PRINCIPLES AND GUIDELINES**

#### **Introduction**

This document provides the framework and formal guidelines within which managers and staff at the organisation will address sickness absence. The policy applies to all staff and a copy will be supplied to existing employees and to new staff on commencement. The policy does not apply to absence resulting from accidents at work and entitlement to sick pay remains as set out in the terms and conditions of employment.

#### **Aims and Objectives**

The overall objective of this policy is to strike an effective balance between the organisation's service needs and the need for the employee to be given time to recover from illness. The policy aims:

- to ensure that short and long term sickness absence at the organisation are dealt with in accordance with best practice, relevant legislation, including the Equality Act, and the ACAS Code of Practice and guidelines;
- to monitor the level of sickness absence at the individual, team and organisational levels;
- to identify any action which the organisation can reasonably take to improve working conditions and promote the health, safety and welfare of staff;
- depending on the circumstances of the case the organisation and the employee to look at other practical and mutually agreeable alternatives to dismissal e.g. changing work load, work organisation or working environment, reviewing contracted hours, and redeployment (if possible).

#### **Management Responsibilities**

Managers are required to treat all cases of staff absence due to illness in a fair, consistent and constructive manner. It will be the responsibility of each line manager to monitor the attendance record of all staff in their team.

#### ***Statement of Fitness for Work ('Fit Note')***

In the event that a Fit Note from a GP recommends certain measures that may assist the employee to return to work sooner than they may otherwise, the manager will endeavour to implement these suggestions. However, the employer reserves the absolute right to implement them in full, in part, or not at all, depending on the needs of the organisation and the implications of adopting the measures.

## ***Return to Work Interview***

When an employee returns to work from sickness absence she/he should be seen by their line manager. The object of this informal meeting will be for the line manager to:

- welcome the employee back;
- establish/confirm the reason for the employee's absence and ensure that an absence statement form is completed;
- find out if the employee has a health problem and, if so, whether there is some support which it would be reasonable and practicable for the organisation to provide. If the employee feels unable to discuss their health issue with the manager, she/he can talk to (*as appropriate*) who will keep the conversation confidential if the staff member desires.

## ***Confidentiality***

Information relating to sickness and ill health is sensitive and unnecessary circulation can cause great distress. Managers must therefore take care to ensure that confidentiality is maintained in dealing with cases under this policy and must keep records in a secure, lockable cabinet. This should be a separate cabinet for confidential personnel information.

## ***Taking action***

In certain circumstances absence can result in dismissal. However, no employee will be dismissed on grounds of sickness absence without due warning and without the appropriate procedure in this document having been followed and implemented by management. In addition, in both frequent absence and long term ill health cases, the organisation will, in consultation with the employee and their trade union or other representative, thoroughly explore all possible and appropriate alternatives to dismissal.

## ***Disability***

Where an employee experiences sickness absence as a result of a disability it will be recorded separately and treated in line with the Equality Act 2010.

A disabled employee's absence may be related to their disability rather than illness; e.g. they require a period of absence in order to be fitted for a new wheelchair or for treatment. In such cases where the absence is not related to ill health the employee will be given disability leave to manage their disability. Where this is not provided, the organisation would have to justify why they were not allowing this.

If an employee becomes disabled or their disability worsens, the organisation is under a duty to consider making reasonable adjustments if they become unable to carry out their job. This will include considering whether or not it is reasonable to make adjustments to working conditions or the workplace. It will also include considering whether it is reasonable to transfer the disabled person to another vacant post.

The organisation will allow a person who has become disabled more time off during work than would be allowed to non-disabled employees to enable them to have rehabilitation training. A similar adjustment would be appropriate if a disability worsens or if a disabled person needs occasional treatment.

## ***Grievance and Discipline***

Any employee who feels aggrieved at the way their sickness absence has been dealt with may invoke the organisation's Grievance Procedure, notwithstanding their right to appeal against any formal action that has been taken under this Sickness Absence procedure. Where an employee abuses the sickness regulations (e.g. not providing certificates, being absent without permission, refusing to comply with this policy, etc) it will be dealt with under the Disciplinary Procedure.

## **Employee Responsibilities**

When employees are absent due to sickness they must do the following:

- On the first day of sickness absence: contact their line manager (*or Chair* if the line manager is not available) within one hour of normal start time; give the reason for their absence; and indicate the likely date of their return to work.
- Keep their line manager informed on a regular basis.
- On the fourth day of sickness absence: contact their line manager (*or Chair*) within one hour of normal start time as in the first bullet point above.
- On the fourth day of sickness absence: contact their line manager (*or Chair*) within one hour of normal start time. Obtain a medical certificate from their GP or a hospital doctor and send it to the SDT Office within two working days.
- Continue to send in consecutively dated medical certificates as necessary and keep their line manager (*or Chair*) informed on a regular basis.

## **Contacting Employees Who Are at Home on Sick Leave**

Employees on short-term sickness who have followed the reporting procedure should generally not be contacted at home. There may, however be circumstances in which it is deemed necessary for the line manager or a Committee member to contact the employee at home. This would include when it was necessary to gain information from the employee. Discussion of work issues should be kept to an absolute minimum.

## **Medical Reports**

As appropriate with the agreement of the employee the organisation may seek a medical report from the employee's GP or Consultant and refer the employee for an independent medical assessment.

If it is agreed that a medical report will be sought from the employee's own GP or Consultant, written permission will be gained from the employee first. Employees have a right under the 'Access to Medical Reports Act 1988' to see a medical report from their own GP before it is given to the employer and to query items in it.

Further to the receipt of any medical report, a meeting will be arranged between the line manager, employee and his or her representative. The purpose of this meeting is to discuss the response from the employee's GP, Consultant or medical adviser and for all parties to consider options available to the worker.

## **SECTION 2 FREQUENT SHORT TERM ABSENCE**

## Introduction

Frequent absence refers to cases where an employee is frequently absent from work for relatively short periods due to sickness. Most employees will have some short-term sickness absence. However, it is essential that frequent absence is dealt with promptly and consistently and managers are responsible for deciding when to initiate action.

## Informal Stage

### **Supervision:**

The organisation believes that it is in everyone's interest for cases of frequent absence to be dealt with quickly and informally. Where a manager becomes concerned about an employee's level of sickness absence, every effort must be made to resolve the matter informally. The manager should raise any concerns during supervision meetings and have a two-way discussion with the employee. Both parties should discuss the matter positively, with a view to identifying the reasons for the absences, ways in which the situation might be improved and what, if anything, the organisation can do to support the employee.

### **Counselling:**

If absence levels continue to cause concern, a Counselling meeting should be arranged. As the second (informal) step towards the formal procedure it is vital that the message conveyed is clear and unambiguous. Prior to counselling, full details of the employee's absence record along with reasons should be available to both participants.

The employee should be made aware of the date and location of the meeting and the reasons for it. The employee should be given the opportunity to explain absence records and present any evidence required.

The employee should make the manager aware of any relevant factors, such as whether the absence is related to an accident, disability, pregnancy or some medical condition and whether it is likely to be temporary, on-going or long term. The manager should look positively to see if there is anything that the organisation can reasonably do to assist the employee.

If the employee has a health problem, which s/he feels unable to discuss with the manager, they should be referred to (*an appropriate other*) who will keep the conversation confidential if the staff member desires.

If there are medical problems it may be necessary to adjourn the meeting for medical advice.

The manager will advise the employee of the outcome of the meeting and where appropriate of the need for improvement of their current absence level. The manager should also make the employee aware that if the situation does not improve it might need to be dealt with under the formal process. Written confirmation of the outcome of the meeting will be given to the employee and a copy recorded on their personnel files.

Where the situation does not improve and the manager assesses that formal action is required the matter will be raised at Stage 1 of the formal process. Where the sickness

absence is clearly of a long-term nature, it should be dealt with as under Section 3 Long Term Sickness Absence below.

## Formal Stages

### ***STAGE 1: First Formal Meeting***

In arranging this meeting the line manager should:

- put the reason for the meeting in writing to the employee;
- arrange the meeting at a time that is convenient for both parties, including the employee's representative;
- give the employee at least five working days advance notice of the date, time and place of the meeting;
- inform the employee that the meeting will be attended by (*another worker/MC member who can act as adviser on points of information and personnel procedure*);
- inform the employee that s/he may be accompanied at the meeting by a trade union representative or work colleague.

At the meeting, the employee will be given an opportunity to explain any circumstances, which might be contributing to their level of absence, or any other matter which they feel ought to be taken into account. The manager will consider the employee's submission and do the following:

(a1) decide that no further action is necessary;

or

(a2) Issue a Stage 1 Absence Warning and specify what, if any, assistance the organisation can give the employee;

And

(b) give the employee a specified review period (one to three months) during which the level of attendance should improve.

A copy of the Stage 1 Absence Warning will be issued to the employee within 3 days of the meeting. The employee has the right to appeal against the Warning and should do so in writing within 5 days of receiving it.

At the end of the specified review period the employee's level of attendance will be assessed by the line manager as follows:

(a) If there has been an improvement, no further action will be taken. After a further six months the Warning will be removed from the individual's file and destroyed. Should the employee's absence level deteriorate during this six months period the process will be dealt with as at Stage 2 below.

(b) Where there has been no improvement the line manager will consider whether there are factors relating to the employee's absence which suggest that the present high level will be temporary. If such evidence exists the line manager will decide whether to institute a further period of review. Where such evidence does not exist the line manager

will progress the matter to Stage 2 and arrange a further formal meeting with the employee.

### ***STAGE 2: Second Formal Meeting***

In arranging this meeting the line manager should follow the procedure as set out in Stage 1.

At the meeting, the employee will be given an opportunity to explain any circumstances, which might be contributing to their level of absence, or any other matter which they feel ought to be taken into account. The manager will consider the employee's submission and do the following:

(a1) decide that no further action is necessary;

or

(a2) Issue a Stage 2 Absence Warning and specify what, if any, assistance the organisation can give the employee;

And

(b) give the employee a specified review period (one to three months) during which the level of attendance should improve.

At the end of the specified review period the employee's level of attendance will be assessed by the line manager as follows:

If there has been an improvement, no further action will be taken. After a further nine months the Stage 2 Absence Warning will be removed from the individual's file and destroyed. Should the employee's absence level deteriorate during this nine months period the process will be dealt with as under Stage 3 below.

Where there has been no improvement the line manager will consider whether there are factors relating to the employee's absence which suggest that the present high level will be temporary. If such evidence exists the line manager will decide whether to institute a further period of review. Where such evidence does not exist the line manager will progress the matter to Stage 3 and arrange a further formal meeting with the employee.

### ***STAGE 3: Third Formal Meeting***

In arranging this meeting the line manager should follow the procedure as set out at Stage 1.

At the meeting, the employee will be given an opportunity to explain any circumstances, which might be contributing to their level of absence, or any other matter which they feel ought to be taken into account. The manager will consider the employee's submission and do the following:

(a1) decide that no further action is necessary;

or

(a2) Issue a Stage 3 Final Absence Warning and specify what, if any, assistance the organisation can give the employee;

And

(b) Give the employee a specified review period (one to three months) during which the level of attendance should improve.

At the end of the specified review period the employee's level of attendance will be assessed by the line manager as follows:

If there has been an improvement, no further action will be taken. After a further 12 months the Stage 3 Final Absence Warning will be removed from the individual's file and destroyed. Should the employee's absence level deteriorate during the 12 month period the process will be dealt with as at Stage 4 below.

Where there has been no improvement the line manager will consider whether there are factors relating to the employee's absence which suggest that the present high level will be temporary. If such evidence exists the line manager will decide whether to institute a further period of review. Where such evidence does not exist the line manager will progress the matter to Stage 4 and arrange a further formal meeting with the employee where the termination of the employee's contract of employment will be considered.

#### **STAGE 4: Fourth Formal Meeting (Dismissal)**

The employee must be informed in writing of the purpose of the meeting and given at least five working days' notice of its date, time and place. The meeting will be chaired by the Director (*or Chair*) and attended by the relevant line manager and by (*an appropriate other in an advisory capacity*). Where the Director (*or Chair*) is the line manager, the meeting will be attended by two members of the Management Committee, one of whom shall chair the meeting. The employee must be informed that s/he may be accompanied at the meeting by a trade union representative or workplace colleague.

At this meeting the line manager will present a historical record of the employee's attendance. The employee will have the right to submit any medical evidence and the organisation will have the right to obtain a medical report from the employee's GP, Consultant or an occupational health unit (paid for by the organisation). The employee will be given the opportunity to explain the reasons for her/his absence and any mitigating circumstances. The Director (*or Chair/MC members*) will consider the case carefully and will decide whether or not the employee's employment contract should be terminated on the grounds of incapability due to ill health or poor attendance, or whether any alternatives to dismissal are possible. The Director (*or Chair*) will inform the parties of the decision and confirm it in writing to all relevant parties within five working days.

If it is decided to terminate the employee's contract, the Director (*or Chair*) must confirm this to the employee in writing, including her/his right of appeal against dismissal in accordance with the Appeals section below. The employee will have ten working days from the date of being informed in which to make an appeal.

### **SECTION 3: LONG TERM SICKNESS ABSENCE**

#### **Introduction**

Sickness absence of one month or more is generally considered to be long-term absence. Individuals may be absent on long term sick leave for a variety of reasons (e.g., injury, operation, convalescence from illness, diagnosis of a long term disability, terminal illness, etc.) and any action taken will vary according to the circumstances of the particular case. The line manager will make contact on an agreed regular basis to maintain contact with the member of staff in order to reduce feelings of isolation, to remain informed about the

likely duration of the sickness absence and to keep them in touch with any major workplace developments. Managers should not, however, have detailed discussions regarding work-related issues with staff who are absent. The member of staff has a responsibility to update his/her manager regularly on his/her likely date of return to work. If there is no clear indication of a return to work, a GP report and / or an Independent Medical report may be requested to ascertain, if possible, the expected return date and any rehabilitation suggested.

This section gives broad guidance and establishes standards of good practice.

### **Informal Meetings**

Where an employee has been absent for more than six weeks and there is no identified return date in the near future, the line manager will contact the member of staff to arrange an informal welfare meeting to discuss their current situation and when a return to work can reasonably be expected. The employee will have the right to be accompanied by a trade union representative or work colleague. The response will determine the next stage in the process, as the options will depend on the individual circumstances. Further meetings may be arranged. In the event that the employee is too ill to attend the meeting, the manager will seek to obtain the necessary information from them in an appropriate manner, e.g. by home visit or via their trade union or other representative.

### **GP Report / Referral to an Independent Medical Adviser**

A GP report will normally be sought prior to referral to an IMA. If a date for return to work cannot be established, the employee may be asked to attend, at the organisation's expense, a medical examination by an Independent Medical Adviser (Occupational Health) to obtain an expert assessment of her/his fitness for work. The employee will be provided with a copy of the letter to the IMA and a copy of the medical reports.

### **Formal Meetings**

Where the facts of a case appear to call for formal review, a meeting will be called as soon as possible. The meeting should comprise the line manager and a member of the Staffing Sub Committee or, in the absence of such a Sub Committee, a member of the MC. The employee shall be informed by letter giving at least five working days' notice that a meeting is to be held. The employee may request an alternative date to allow up to an additional five working days to prepare themselves or if the representative is unavailable. The employee has the right to be accompanied by a work colleague or trade union representative. The letter shall include a copy of the sickness absence procedure, the employee's sickness absence record and any other appropriate relevant information e.g. medical reports. If the outcome may be dismissal, it should be stated in the letter that this will be a possibility.

The purpose of the meeting is to consult with the employee and to determine options for the future. On the basis of the medical report/s, the options are likely to be one of those outlined below.

A letter confirming the outcome will be handed to the employee whenever possible or posted directly by recorded delivery to the employee within three working days of the hearing and to the employee's representative, where applicable.

## **Possible Outcomes of Formal Meeting (Long Term Absence)**

### ***Fit to Continue in Present Job***

If the manager is advised that the employee is fit to continue in her/his current job in the near future, the recommendation should be discussed with the employee as soon as possible. This should be done at a formal meeting as above. The outcome of the meeting must be confirmed in writing by the line manager and placed on the employee's personnel file. A phased return to work may be appropriate. (See below.)

### ***Unfit to Continue in Present Job - Consider Adjustments or Alternative Employment***

Whilst the organisation is under no obligation to create a specific job for an employee who becomes permanently unfit to undertake her/his contractual duties, every effort will be made to make reasonable adjustments or to find alternative employment which is compatible with the medical limitations of the employee. The employee should be asked to attend a formal meeting so that possible reasonable adjustments or alternative employment can be explored. The meeting will attempt to identify which type of adjustments or jobs at the organisation would be suitable for the employee and the feasibility of redeployment. Thereafter, either reasonable adjustments will be carried out or an alternative job will be offered. If neither is possible, it may be necessary to proceed to dismissal on grounds of capability. Any change to an employees' job role will only be made with the agreement of the employee.

### ***Incapable of Any Work for the Foreseeable Future***

Where the Medical Adviser or GP advises that the employee is incapable of carrying out her/his current job description for the foreseeable future and reasonable adjustments are not feasible, and where suitable alternative employment cannot be offered, the employee should be asked to attend a formal meeting to discuss the situation and the content of the medical report. The outcome of this meeting will be dismissal on grounds of ill-health and the employee will be entitled to fully paid contractual (or statutory if longer) notice.

## **Pensions**

Where an employee is a member of a relevant occupational pension scheme and the medical evidence indicates that their condition could qualify for ill health retirement, this will be pursued as the first option. Any decision on granting a pension under these circumstances rests solely with the trustees of the fund concerned and will be based on the medical evidence presented.

For employees who are ineligible for an ill health pension, or are not members of an occupational pension fund, the only option in the absence of redeployment or reasonable adjustment possibilities will be termination of employment on grounds of capability.

## **Terminal Illness**

The organisation will approach cases of terminal illness with as much sensitivity and flexibility as possible. Where a line manager becomes aware that s/he is dealing with an employee whose absence is due to a terminal illness, they should seek confidential advice from the (*Director or Chair*) and, where appropriate, from the employee's GP, Consultant or an Independent Medical Adviser (occupational Health). Each case needs to be dealt with separately depending, in particular, on the medical prognosis and the possible effect on the employee of terminating her/his employment. If the affected employee wishes, the organisation will make every effort to facilitate her/him in continuing to work for as long as possible, either on a full or part time basis or with periods of absence to take rests from work. In such cases, the Management Committee (*or sub-committee*) may use its discretion to extend sick pay, as appropriate but is under no obligation to do so.

### **Phased Return to Work**

Employees who have been on long term absence may benefit from a phased return to work, should this be acceptable to the employee, the employer and the employee's GP. This option should be stated in the Statement of Fitness for Work from the GP. Where a phased return to work is agreed, the following arrangements in respect of pay will be put in place (all rates inclusive of SSP):

- Where an employee would be entitled to occupational sick pay at full pay rate, they will receive full pay during their phased return regardless of the number of hours worked.
- Where an employee would be entitled to occupational sick pay at half pay rate, they will receive half pay for any hours up to 17.5 per week plus payment for the number of hours worked over 17.5 per week.
- When an employee has exhausted all entitlement to occupational sick pay they will be paid only for the number of hours worked during their phased return. Alternatively, an employee may choose to use accrued annual leave during their phased return.

A phased return will normally be no longer than 4 weeks' duration and will be agreed on an individual basis.

## **SECTION 4: APPEALS**

### **Appeal against Management Action (except dismissal)**

If a member of staff is dissatisfied with any management action taken against them, they may raise an Appeal. The Appeal must be taken out within five working days of the action or decision being complained about.

### **Appeal against Independent Medical Adviser Report**

If a member of staff disagrees with the opinion expressed by the Independent Medical Adviser they will be given the option, at their own expense, to obtain an additional expert opinion. Upon receipt of a second opinion, the case will be referred again to the IMA who will be asked to review the original advice in light of any new information that has been produced. Where there remains a difference of opinion, the organisation will observe the advice given by the IMA and appropriate management action will be taken as detailed above.

## **Appeal against Decision to Terminate Employment**

All employees may appeal to the Staffing Sub Committee (*or the Management Committee*) against the decision to terminate their employment. Appeals must be made within ten working days of the date on which the employee was informed of the dismissal, by writing to the Chair (*of Staffing sub-committee or the MC*).

### **Grounds for Appeal**

The grounds for appeal may be as follows:

- (a) severity of the decision;
- (b) failure to adhere to the agreed procedure;
- (c) mitigating circumstances.

### **Format of the Appeal Hearing**

Appeal hearings will have the following format:

- (a) the employee or her/his representative will present their case for the appeal;
- (b) the manager will then present the case against the appeal;
- (c) members of the panel can question both parties in turn;
- (d) both parties will be invited to sum up, with the manager summing up first.

The Staffing sub-committee (*or MC members*) who form the Appeals Panel will hear and consider the case. The employee will be informed of the decision in writing within five working days of the appeal being heard. The decision of the Panel is final.

Implementation Date: Reissued 30/10/2015

Review Date: 30/10/2017