

**HR Guidance**

Grey Book Absence and Wellbeing guidance

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| Version Control | Changes Made | Author |
| Version 1  February 2020 | Revised procedure to replace previous Positive Attendance procedure and Sickness Absence procedure for School Staff. Incorporates procedures for Green Book, Burgundy Book and Grey Book conditions of service and includes generic guidance for all staff groups. | K. Anderson |
|  |  |  |
| Version 2  October 2018 | Wording added regarding AVC’s (Additional Voluntary Contributions) to your pension | People Management |
| Version 3  February 2020 | Absence and Wellbeing Procedure and Guidance documents reviewed and separated out from other Council Absence procedures | Takara Hanks - People Management |
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# Introduction

This guidance applies to employees who are employed under Grey Book terms and conditions, where they are absent from work due to sickness. Green Book staff working within Cumbria Fire and Rescue Service should be managed under the Green Book Absence and Wellbeing Procedure. This procedure is intended to provide guidance to managers and employees in relation to the management of sickness absence.

It should be noted that sickness absence issues are often complex and unique. Whilst it is important that issues are dealt with in a fair way, specific interventions used and the timing of those interventions may differ from case to case.

Where employees are seconded to the Council from an external organisation they will be subject to the Absence and Wellbeing Procedure applicable to their employer. Where Council employees are seconded to an external organisation they will be subject to the Council’s Absence Wellbeing Procedure.

# Notification and Certification

Employees must ring in as soon as possible and normally within 1 hour of their expected start time. Employees who work on a rota providing a direct service to the public are asked to ring before the start of their shift wherever possible to give time to arrange cover.

Employees are required to contact a station-based supervisory manager to inform them that they will be absent due to sickness. If the absence is of a sensitive nature, they may report their sickness to a station-based supervisory manager and contact their immediate line manager to discuss their absence in further detail. If for any reason the line is busy, the employee must call back and make reasonable attempts to contact the line manager as long as this does not prevent them from seeking medical treatment/attention. For employees with multiple contracts of employment, they must endeavour to contact each line manager in respect of each of their contracts to report their sickness.

In exceptional circumstances, where all efforts to contact a supervisory manager have been explored or where the circumstances are time critical, individuals may contact the Duty Manager Emergency Contact Number (0845 5211 943) who will make the necessary arrangements, this should be a last resort and justification will be sought. There may also be exceptional circumstances where it is appropriate for a next of kin to make contact e.g. the employee is in hospital. To contact a colleague or send a text message is not acceptable.

Managers should ask the employee if they can do anything to be of assistance (see [Section 5. for Sources of Support](#_Sources_of_Support)). Employees are expected to provide relevant information relating to their sickness, including the following points:

* Nature of the absence
* When the sickness began
* Expected date of return to work
* Any relevant information about current workload or priorities, including any other contracts of employment they have with Cumbria County Council (e.g. an on-call position)
* Telephone number for calling back
* If the absence is related to a disability, in order to assess if additional support could assist

If the employee is still unfit for work after 3 days, they must contact their line manager again and provide an update. This information should be recorded on the contact sheet (PA9), including any support provided/arranged by the line manager.

Employees may have a condition or impairment that they wish to keep confidential and they are not obliged to disclose this, however, the manager must advise the employee that sharing this information will enable the line manager to source specific Occupational Health service advice and appropriate support.

Managers and employees need to ensure that either a self-certification form or a doctor’s fit note covers each day of a period of absence. Any gaps will need to be accounted for otherwise pay will cease until the appropriate certification is produced.

An employee who is off sick for 7 days or less (including weekends) must complete a self-certification form to cover each day of the absence including half days, this can be done prior to, or at their Welcome Back to Work interview.

Link to [self-certification form](http://www.cumbria.gov.uk/elibrary/Content/Internet/536/5901/6049/4379691731.docx).

For sickness absence of 8 days or more (including weekends), a medical certificate (fit note) is needed, this should be sent by the employee to the manager immediately following issue by the medical practitioner. The manager should then upload this onto iTrent as a document attachment.

Employees who fail to supply the relevant certificate(s) will lose their entitlement to both statutory sick pay and occupational sick pay for that absence, subject to the scheme rules. Where requested, managers will endeavour to provide support for the prompt provision of the certificates. An employee’s continued failure to supply certificates without good reason may result in disciplinary action.

When completing a fit note a doctor has the choice between two options:

* Not fit for work
* May be fit for work

If the doctor selects “may be fit for work”, one of the following four options has to be selected:

* Phased return to work
* Amended duties (modified duties)
* Altered hours
* Workplace adaptions

The doctor then has the option to make additional comments.

If a referral has been made to the Occupational Health Service for an appointment, the suggested requirements of the fit note may be discussed with the employee at that appointment, where appropriate.

It is the line manager’s responsibility to decide whether the working environment is able to facilitate the requirements of the fit note and manage any the return to work accordingly. If the working environment is not able to facilitate the requirements, the manager must seek further advice from Occupational Health and the People Management before attempting to support a return to work.

There is no option on a fit note for a doctor to advise that an employee is fit for work and it is not necessary for an employee to be signed back to work by a doctor once the expiry date has been reached. If the employee wishes to return to work before the expiry of the fit note they may choose to do so, or the Service may request that they return to their doctor, who could provide another certificate indicating that the employee “may be fit for work” with certain adjustments to the employee’s duties, hours or workplace. However, where the employee feels fully fit to return and the Service is confident that the appropriate levels of fitness and recovery have been achieved, the individual may return to work earlier than the fit note expiry date without the need for a doctor’s advice.

An employee does not always need to be fully fit to go back to work. For example, agreements may be put in place to make some changes to help staff return to work; please see section 10.3 for further guidance on returning to work with adjustments. However, for operational roles where employees are required to be fully fit to undertake operational duties, it may be appropriate for them to return to modified duties, please see section 10.4 for further guidance on the modified duties categories and requirements.

If the health condition no longer affects their ability to do their normal duties, staff may be able to return to work even though they may not be fully fit. In these circumstances, or where an employee recovers from their illness or injury more quickly than expected, with the managers agreement and support (and relevant Occupational Health Service advice), they may go back to work or return to their normal duties before the expiry of their fit note. Managers will assess the risks and if it is thought that it is not safe for the employee to return or if this could be detrimental to their health and/or could worsen their condition, they will have to stay off work until the expiry of the fit note.

If managers are unsure whether or not it would be appropriate for an employee to return to work, they can seek confirmation from a medical practitioner that the employee is fit and well enough to attend work.

In all circumstances, where managers feel it is necessary, they will seek advice and guidance from the Occupational Health Service by making or updating a management referral on the [Occupational Health Service Portal](https://genohsisportal.cumbria.gov.uk/Portal). Managers may also contact the People Management Team for advice by logging a ticket on the [People Management Portal](http://www.intouch.ccc/tools/IE8Check.asp?url=https://peoplemanagement.cumbria.gov.uk/helpdesk/WebObjects/Helpdesk.woa&alt=https://peoplemanagement.cumbria.gov.uk/helpdesk/WebObjects/Helpdesk.woa/wo/12.17.1).

# Recording and Record Keeping

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| --- |
| Accurate and prompt recording of information (duration and reason for absence code) on the HR system (iTrent) is critical as the data forms the basis for managing and monitoring the sickness absence of employees at a local level. Line managers responsible for on-call employees should record any absence on iTrent and ensure that availability is updated on Gartan. When preparing for a period of annual leave, line managers are expected to deputise their line management responsibility on iTrent to an appropriate alternative manager to ensure records are maintained in their absence.  Information should be input into the HR system on the day the employee notifies the employer of their absence and updated when a self-certification or a fit note is received. This is to enable managers to have up to date information to allow them to seek advice and/or implement a timely referral to Occupational Health, offer support and carry out reviews when employees reach absence triggers. The details of the medical certificate should be entered onto the HR system and the certificate uploaded as an attachment. Managers who do not have the facility to scan and upload documents into the HR system should send hard copy certificates to the Service Centre for them to upload to the person’s record, making sure they note the employee’s personal number on the certificate(s). Original fit notes have to be destroyed once uploaded into the HR system.  For guidance on how to do this iTrent User Guides – [People Manager Sickness Absence](http://www.intouch.ccc/eLibrary/Content/Intranet/536/671/5053/6001/4203216566.doc) input.  It is essential that managers keep records of all discussions and meetings with employees regarding their sickness absence. This is to ensure that absence is managed effectively and fairly and records of earlier decisions and actions are readily available to inform future decisions. When an employee is absent due to sickness the Manager should complete a contact sheet (PA9), and where required an action plan (PA10) for each employee, to record all communication and meetings held, these documents may be shared with the employee if they request to see them.  Managers can upload documentation associated with an absence into the HR system. Once uploaded hard copies need not be kept locally. Instructions on how to do this are detailed in the Sickness Absence user guide (link above).  When the employee returns to work the manager must close the absence on the HR system on the day they return to work. Monitoring Sickness Absence Immediate line managers must monitor all periods of sickness absence for each individual within their team. Managers should regularly review the sickness absence record of all individuals within their team/s, to enable them to proactively manage sickness absence issues. Sickness absence details are recorded on the iTrent system which managers may access to review relevant information. Managers can use the Self-Service Reporting system (accessed via People Manager on iTrent) to run and analyse team sickness absence related data easily. Managers can only see data relating to employees/teams they line manage. This is to ensure data security and confidentiality of important and sensitive information. Managers can run reports on the entire sickness absence history for individual employees and calendar month reports that shows all the sickness absences for their staff in the relevant calendar month (any of the past 24 calendar months can be selected). |

# Injury arising out of authorised duties

If during the initial notification of sickness, the employee states that their absence is due to an accident that happened at work, the manager must ensure that an accident form was completed at the time of the event and that any necessary investigation has/is being carried out.

Following an incident such as an accident or an incident of violence in the work place, employees are required to comply with the reporting procedure. The immediate impact of such events may not be realised until a period of time has elapsed; employees are recommended to access support via national helplines and websites on [inTouch](http://www.intouch.ccc/hr/attendance_wellbeing/default.asp) or the [County Council website](http://cumbria.gov.uk/employeeinformation/copingwithchange.asp) and/or access the counselling service if they experience symptoms such as anxiety, panic attacks, fear or any associated problems.

Injuries confirmed as arising out of authorised duties/industrial injuries shall be dealt with in accordance with the Grey Book. Advice should be sought from People Management and a referral made to Occupational Health.

Further information on accidents at work is available from the Health and Safety team.

# Sources of Support

Other resources that are available to managers in supporting employees in the prevention of sickness, absence and disability are:

* [Health & Safety](http://www.intouch.ccc/healthandsafety/default.asp) (departmental and corporate)
* Occupational Health referral (via managers)
* Face to face [counselling service](http://www.intouch.ccc/elibrary/Content/Internet/536/5901/6049/43143135215.docx) (via manager and Occupational Health service or self-referral
* People Management
* National helplines and websites on [inTouch](http://www.intouch.ccc/intouch_landing_page/employeesupport.asp) or on the [County Council website](http://cumbria.gov.uk/employeeinformation/copingwithchange.asp)
* Trade Union Representatives
* [Employee Passport](http://www.cumbria.gov.uk/elibrary/Content/Internet/536/5901/6049/43483112843.docx)

Where employees do not have access to Intouch managers should print off the requested information for them.

# Occupational Health

Occupational Health are available to advise managers at any time about how best to support an employee who is off sick. Managers are encouraged to contact Occupational Health as soon as possible to agree the appropriateness of a referral to investigate clinical options.. Managers can seek advice from Occupational Health.

When an employee reports absent from work and informs the manager that they are likely to be absent from work for 3 weeks or more the manager should contact Occupational Health for advice and if necessary make an immediate referral. For a mental health/stress related illness/condition, work related injury, or musculoskeletal injury the manager should make an immediate referral. Managers are expected to discuss the referral form with the individual before submission and should be aware that the individual will see the referral form at their visit.

If a manager feels that a referral may not be necessary, for example where an employee has a broken limb with no complications and a clear recovery timescale ahead, they should seek advice from Occupational Health and People Management on whether a referral is appropriate.

The manager will complete a referral form and must provide as much information as possible, asking any specific questions they want answering to ensure the Occupational Health service can then provide a sufficient response. Occupational Health will arrange an appointment with the individual upon receipt of the referral, and will also notify the manager of the date via email.

The Occupational Health Service may deem it necessary to refer the employee for counselling or physiotherapy. The employee will initially be given access to 4 sessions of counselling or physiotherapy, however the Occupational Health Service will advise if they need more sessions.

Where necessary, the Occupational Health Service will arrange for the individual to consent to complete the Access to Medical Records declaration form and make a request to the employee’s doctor for a medical report.

Employees are entitled to see the medical report written by the doctor/specialist before it is sent to the Occupational Health Service. If employees wish to see the report, they should contact their doctor and arrange to do so as soon as possible as this will ensure that the Council can assess what can be done to help from the earliest opportunity. If the individual has not seen the report within 3 weeks of the doctor/specialist preparing the report, it will be sent to the Occupational Health Service without the individual seeing it. An employee may request a copy of the doctor report from the Occupational Health Service at any time.

Employees may be asked to attend a variety of medical assessments in addition to seeing the Occupational Health Service (e.g. Independent Medical Examination). Travel expenses will be met by the relevant directorate and may be claimed in the normal way. The employee will be given reasonable notice of any appointment.

The line manager and employee will all receive a copy of the report from the Occupational Health Service. If a People Management Advisor has been named on the Occupational Health referral, they will be notified that a report has been completed but will not receive a copy. The manager should then arrange to meet with the employee to discuss the outcomes of the report and any recommendations; following the process outlined below.

Failure to co-operate with a referral to the Occupational Health Service, completion of the Access to Medical Records declaration form, or to attend medical assessments would mean that the Council would have to make decisions based on the information available. This could have a detrimental effect on the level of support that could be given. Repeated failure to attend appointments without a satisfactory reason may result in employees losing their entitlement to sick pay and may result in disciplinary action (which could include dismissal).

If the employee’s absence, to which the appointment relates, is disability-related then consideration should be given to any reasonable adjustments that may be appropriate to facilitate the employee’s attendance.

When an employee is absent due to work-related stresses, the absence management meetings should be used to facilitate a discussion about the exact cause/s of the stress and how these could be mitigated. Further guidance for managers on stress-related absence is given in Appendix 4, point 7, including guidance on the use of the stress risk assessment. Once the employee returns to work, the manager must organise to meet with the employee no later than 7 days after the absence has concluded in order to complete their return to work meeting; the discussion should include the reasons for the absence and to plan support as appropriate.

Discussions must include:

* Stress causes, including the definition between personal stressors and any work-related issues causing stress.
* Action which can be taken to support the employee and minimise the likelihood of further stress episodes
* An agreed review date to identify whether a reduction in stress has been achieved – this date should not exceed 4 weeks. If concerns remain thereafter the manager must contact People Management for advice.

Details of this meeting must be recorded in writing and a copy shared with the employee. This document must be uploaded on iTrent.

In cases where the manager is immediately concerned about the reasons which have been quoted by the employee as factors which have caused stress, advice must be sought from People Management in order manage the case appropriately.

# Sick Pay Entitlements

An employee on authorised sick leave shall be entitled to full pay for six months in any twelve-month period. Thereafter the fire and rescue authority may reduce pay by up to half for six months.

An employee on authorised sick leave as a result of an illness or injury arising out of authorised duty shall be entitled to full pay for twelve months. Thereafter the fire and rescue authority may reduce pay by up to half for six months. Fire and rescue authorities have the discretion to extend the period of sick pay in exceptional cases. For On Call fire fighters, and in accordance with a Local Agreement, a single day’s pay for the purposes of sick pay is calculated at a day rate of 1/365th of the previous 12 months earnings; regardless of the days lost due to sickness absence in the preceding 12 months. A day’s pay for On-call staff includes the following elements:

* *Turn out*
* *Attendance*
* *Disturbance*
* *Gartan (other paid duties) e.g. medicals*
* *Gartan training*
* *Sick pay (previous twelve months)*

The following elements make up the fixed monthly payment:

* *Retainer*
* *Annual leave*
* *Core training payments*
* *CPD*

Occupational sick pay may be withheld if the notification and certification procedures are not adhered to. Sick Pay exclusions include:

* If an employee abuses the sickness scheme
* If the sickness absence is due to or attributable to deliberate conduct which is harmful to the employee’s recovery.
* If the employee’s absence has been caused by their own misconduct or neglect
* If the employee’s absence is due to active participation in professional sport
* If a wholetime employee is injured while working in their own time on their own account for private gain or for another employer
* If an employee fails to attend the Occupational Health service and medical appointments or maintain contact without good reason.

Where an employee is absent and approaching the end of their full pay entitlement, the line manager should seek advice from People Management where a possible extension to sick pay may apply.

People Management advice must be sought in circumstances where an employee who is off sick may be suspended as a result of a disciplinary procedure.

## 7.1 Service Related Absence

When employees believe their absence is due to injuries or illness sustained at work they must report this to their manager in accordance with service procedures. In this instance advice must be sought immediately after the incident from the Occupational Health Service. The service must be satisfied that the absence is service related and therefore any accidents should be reported and an investigation carried out, where necessary. In some cases, the investigation may take some time, therefore the service reserves the right to temporarily treat an absence as service related, and to revert to treating it as non-service related (including in relation to sick pay entitlement) should any investigation conclude as such.

It is the responsibility of the line manager to accurately record the reason for absence on iTrent. Absence in respect of illness or injury arising out of authorised duty should be recorded as: ‘Accident on Duty’.

# 3rd Party Accidents

If an employee has an accident outside of work and where a third party is liable for the absence and an insurance contract payment will be made, the Council reserves the right to ‘loan’ Occupational Sick Pay (OSP) until a settlement is reached from the third party and this could mean the arrangement of a ‘loan agreement.’

Where it is evident that the employee has or will receive a compensation payment (e.g. in receipt of insurance policies for accidental injury, income or mortgage protection), the Council reserves the right to ensure that pre-sickness income is not exceeded. In all cases, subject to the rules, SSP will be paid to employees but OSP will be adjusted to take into account other sources of money. Employees in receipt of such monies are required to declare it to the Council.

Any such accident should be recorded as sickness in the normal way but their manager shall have due regard for the fact that liability has been acknowledged by a third party when reviewing the overall sickness record, including an assessment of any previous triggers set. Managers are encouraged to seek support from People Management when reviewing triggers and utilising the absence process, as in some circumstances it may be appropriate for managers to adjust their approach to take into account third party involvement. Managers and employees should be aware that identification of liability could take a significant amount of time therefore accurate records should be kept.

# Sickness Absence Management

It is essential that the Council deals with absence promptly, fairly and consistently to demonstrate to all employees that it regards absence as a serious matter. If there is no acceptable reason for the absence, the matter should be treated as a conduct issue and dealt with as a disciplinary matter. It is appropriate to use the formal process where an informal approach has failed to achieve the desired improvements in attendance, or where informal action is deemed not to be appropriate in the circumstances of the case.

It should be noted that sickness absence issues are often complex and unique. Whilst it is important that issues are dealt with in fair way, the specific interventions used and the timing of those interventions may differ from case to case.

Long term absence should also be managed via the formal 3 stage process as detailed below, however, it may be appropriate to hold regular review meetings in between the formal stages and managers should maintain in regular appropriate contact with the employee.

On occasion, employees may have a combination of both long term and short term absences as defined by the policy. In this scenario the principal remains that the absences shall be managed within the three stage process, however, the triggers set in response to each individual absence should appropriately reflect the medical circumstances of the particular absence.

Where an employee reaches an acceptable level of attendance following one of the formal stages but the level of absence becomes unacceptable again, the Council reserves the right to re-enter the formal process at the point it ended previously.

## 9.1 Support Meeting

Where an employee’s absence has reached a trigger point (3 occasions or a total of 8 days in a 12-month rolling period or 28 calendar days) or become a cause for concern, then arrangements should be made to hold a support meeting. When appropriate, meetings will be held with employees whilst they are absent. Employees are expected to be available to attend meetings at such times as they would normally be in work. The employee’s manager will make contact by letter to arrange a meeting to see what can be done to help. This meeting is intended to support the employee and discuss any matters relevant to the absence(s).

Normally this meeting should take place in the workplace, as this helps the employee to keep in touch with the workplace and prevents isolation. In exceptional cases, where it is not possible for the meeting to occur in the workplace (e.g. where the medical condition prevents this or travel is prohibitive) a meeting at another suitable venue should be arranged. If this is at the employee’s home the manager could be accompanied. The employee should be advised that this meeting is informal, however employees may arrange to be accompanied by a trade union representative or work colleague of their choosing, provided this does not unduly delay the meeting.

Items to discuss:

* Update on absence
* Update from Occupational Health if relevant
* Any reasonable adjustments or additional support required
* Advise them of the National helplines and websites on [inTouch](http://www.intouch.ccc/hr/attendance_wellbeing/default.asp) or on the [County Council website](http://cumbria.gov.uk/employeeinformation/copingwithchange.asp)
* Provide a copy of the Absence Management procedure and discuss the next steps of the process.
* Set appropriate improvement targets (e.g. no more than 8 days or 3 occasions of absence in a 12 month rolling period or return to work in 6/8 weeks)

The manager should accurately record the content of the support meeting and any improvement targets set in the discussion on the employee’s Action Plan (PA10).

The employee should be made aware that escalation from informal through to the relevant formal stage will occur without delay if the level of non-attendance reaches an unacceptable level as determined by the Council; examples of this may include a breach of previous triggers set or an emerging pattern of absence.

## 9.2 Formal Process – Stage 1 Absence Meeting

A formal stage 1 meeting should be set up if the employee does not meet the targets or breaches a trigger set at the informal support meeting stage or any subsequent review meetings, depending on the circumstances of the individual’s absence. This meeting will re-confirm the issues discussed at the support meeting where appropriate, they should review the level of sickness absence, and seek to identify the reasons for the employee’s failure to achieve the required level of attendance. There should then be a discussion about how the employee can improve their attendance level and identify what, if any, support the manager can provide to assist the individual with this.

A station manager will chair the meeting; however, a watch manager may be present to detail how the absence has been managed up to that point.

The employee will be given 7 working days’ written notice of the stage 1 meeting and informed of their right to be accompanied at the meeting by a Trade Union Representative or work colleague.

The manager should try to identify the cause of the absence and discuss ways to reduce further absence with the employee. This would normally include:

* A review of the employee’s attendance record and the reasons for their sickness absence
* An opportunity to discuss whether the absences are linked to an underlying medical condition
* Discussion about whether the employee has asked for or received any support e.g. from their GP, consultants/specialists, counsellors
* Discussion about whether any sickness problems may be work-related and if so, any adjustments that would help the employee to achieve an acceptable level of attendance at work.
* If a referral to the Occupational Health Service has not already been completed then a referral may need to be made as an outcome to the meeting.

Where the Occupational Health Service has suggested that the absences are linked to an underlying medical condition that meets the definition of a disability under the Equalities Act 2010, the manager and employee should discuss any reasonable adjustments that could be put in place to support the employee to achieve an acceptable level of future attendance at work. Advice should be sought from People Management on how to set appropriate triggers in these circumstances, based on the reasons for absence and possible links to the employee’s disability and whether this could increase their absence levels.

Sanctions given for non-compliance with absence triggers and unsatisfactory levels of attendance will be dealt with in accordance with the Grey Book. The table below provides detail of which level of management has the authority to issue each level of sanction, when appropriate to do so.

|  |  |
| --- | --- |
|  | Sanctions |
| First Stage  Station Manager | Up to a First stage Improvement Notice (live for 6 months) |
| Second Stage  Group Manager | Up to a Final Improvement Notice (live for 18 months) |
| Third Stage  Area Manager | Up to Dismissal with notice |

During the stages of the absence management meetings, the manager will advise the employee of the improvements required in relation to their attendance and the consequences of failing to achieve these. A reasonable target (e.g. 4 days or 2 occasions in 6 months) will be set and a review meeting will be scheduled to assess progress against the required improvements. In relation to long-term absence, timescales for returning to work and triggers should be set in consideration of medical advice and based on the details of the particular case. In all cases, managers are encouraged to use an Action Plan (PA10 template) to detail actions discussed at the meeting for both the employee and manager to undertake.

The manager may also consider the following actions:

* Requesting the employee to submit a medical certificate from their GP for every instance of absence
* Other support mechanisms as identified in the meeting such as reasonable adjustments or other forms of support
* The employee may be issued with a sanction, such as an Improvement Notice. This addresses the fact that the employee has an unacceptably high level of sickness absence and details the discussed actions for both the manager and employee to take in order to improve the individual’s level of attendance. Managers may seek advice from People Management when considering the possibility of issuing a sanction.

The manager will send written confirmation of the outcome of the meeting using the Grey Book templates. A copy should be placed on the employee’s personnel file through the [Service Centre portal.](https://servicecentre.cumbria.gov.uk/)

Where a First Stage Improvement Notice has been issued, this will be ‘live’ for a period of 6 months and may be taken into consideration at a further stage in the process during that time, particularly where there has been no improvement to attendance levels. The employee has the right of appeal against this Improvement Notice. The appeal should be made in writing to the manager stating the reasons for the appeal within 7 working days of the written notification. The appeal will be heard by the next level of manager.

## 9.3 Formal Process – Stage 2 Absence Meeting

A stage 2 meeting should be set up if the employee does not meet the targets or breaches a trigger set at the stage 1 absence meeting or any subsequent review meetings. The second meeting will re-confirm the issues discussed at the stage 1 meeting and seek to identify the reasons for the employee’s failure to achieve the required level of attendance.

The employee will be given 10 working days’ written notice of the stage 2 meeting and informed of their right to be accompanied by a Trade Union Representative or work colleague.

The manager will advise the employee of the improvements required in relation to their attendance and the consequences of failing to achieve these. A reasonable target (e.g. 8 days or 3 occasions within each of the next 18 months) will be set and a review meeting will be scheduled to assess progress against the required improvements.

In relation to long-term absence, timescales for returning to work and triggers should be set in consideration of medical advice and based on the details of the particular case. In all cases, managers are encouraged to use an Action Plan (PA10 template) to detail actions discussed at the meeting for both the employee and manager to undertake.

The manager may also consider the following:

* Requesting the employee to submit a medical certificate from their GP for every instance of absence
* Other support mechanisms as identified in the meeting such as reasonable adjustments or other forms of support
* The employee may be issued with a sanction, such as a Final Improvement Notice. This addresses the fact that the employee has an unacceptably high level of sickness absence and details the discussed actions for both the manager and employee to take in order to improve the individual’s level of attendance. Managers may seek advice from People Management when considering the possibility of issuing a sanction.
* The manager should discuss the Alternative Employment Programme with the employee and if appropriate place on the programme.
* It may be appropriate to refer the employee to the Occupational Health Service for an assessment for ill health retirement.

At this stage the manager must also advise the employee that no significant improvement in their level of absence will result in a stage 3 absence meeting that may lead to their dismissal.

The manager will send written confirmation of the outcome of the meeting using the Grey Book templates. A copy should be placed on the employee’s personnel file through the [Service Centre portal.](https://servicecentre.cumbria.gov.uk/)

Where a Final Improvement Notice has been issued, this will be ‘live’ for a period of 18 months and may be taken into consideration at a further stage in the process during that time. The employee has the right of appeal against this Improvement Notice. The appeal should be made in writing to the manager stating the reasons for the appeal within 7 working days of written notification of the warning. The appeal will be heard by the next level of manager.

## 9.4 Formal Process – Stage 3 Absence Meeting

A stage 3 meeting is the final formal meeting in this process and could potentially lead to the dismissal of the employee. This meeting should be set up if the employee does not meet the targets or breaches a trigger set at the stage 2 absence meeting, or any subsequent review meetings. Where an employee’s absence has been long term, a stage 3 meeting should be convened once all possible options have been explored, these are detailed below under point 10. The purpose of the meeting is to determine whether there are further actions that can be taken by the Council to assist the employee in continuing their employment.

The employee will be given 21 working days’ written notice of the meeting and advised of the right to be accompanied by a trade union representative or work colleague. The employee should be notified of the nature of the concerns and possible outcome, and provided with all relevant documentation in relation to their sickness absence and any documentation requested that the individual deems relevant to their sickness absence.

This meeting will be chaired by an Area Manager, or above where appropriate. The manager who has managed the employee through the earlier stages of the process should attend this meeting to present the case, this should be done in the format of an absence report which includes the following information:

1. A chronology of the absences and actions taken by the manager
2. Details and copies of Occupational Health Service referrals and reports
3. Copies of all correspondence/communication relating to the absence
4. Details of all interventions applied to resolve or reduce absences

A People Management advisor will also attend to provide advice.

In reaching their decision, the Area Manager will consider such issues as:

* The impact of the employee’s absence on service delivery
* The employee’s absence record
* The actions that have been taken to support the employee in trying to improve their attendance
* Advice received from the Occupational Health Service and, where applicable, the employees own GP or specialist.
* The needs and resources of the Council in relation to the work which the employee is employed to undertake
* The effect of the employee’s absence upon other employees and in particular those who are engaged in the same section
* The likely duration of the employee’s illness
* Redeployment opportunities

If the Area Manager concludes that the employee and the process have been managed fairly, that the required level of attendance is fair and achievable and that the employee has been given all reasonable opportunity to improve to an acceptable standard but failed to do so, they will be able to consider formal action, including the termination of the employee’s employment for failure to meet an acceptable level of attendance.

The Council will only consider dismissing an employee on the grounds of capability due to ill health when it has considered all the available facts and medical reports, and where the appropriate options of returning to their post (with or without adjustments), redeployment, phased return to work have been examined and found not to be possible or applicable.

[Section 10.6](#_10.6_Application_for) provides further information on circumstances where ill-health retirement has been authorised. A stage 3 meeting should still be arranged as per this procedure, following consideration of IHR under the [IHR Fire Service Procedure](http://www.cumbria.gov.uk/eLibrary/view.asp?ID=62919).

The Area Manager will confirm the decision in writing within 5 working days of the hearing and the employee will have the right to appeal within 7 working days of written notification of the decision. The letter will set out the employee’s contractual entitlement to notice pay and details of the right of appeal against dismissal.

The employee must set out the reasons for their appeal in writing to the hearing manager and the appeal will be heard by an appeal panel.

# Considerations for long term absences

Long term sickness absence is normally absence which lasts for 28 calendar days or more. Long term sickness cases are often linked to an underlying medical reason; however this may not always be the case.

In cases of long term sickness absence, managers should make a management referral to the Occupational Health service, following receipt of a report from the Occupational Health service, the manager should then arrange a formal meeting with the employee in line with the three absence management stages above.

Given the time that it may take for a clear diagnosis of the employee’s condition, or for a review of the effectiveness of any treatment, it may be that a number of formal meetings need to occur before final advice can be implemented. Whilst the Council will take all reasonable steps to assist the employees return to work, it is not possible to wait indefinitely for an employee’s condition to improve. The formal stage meetings should therefore set a date for return, subject to an employee’s fitness to do so. Whilst each case will be judged on its particular circumstances, managers should endeavour to ensure that appropriate action in line with the below options is actioned as soon as possible. Should the triggers applied to the absence be reached then progression through the formal stages must apply.

The purpose of the meeting is to discuss the Occupational Health Service advice and from this, the prospects/timescale for the employee’s return to work and/or ability to maintain an acceptable attendance level in the future. This will include, if appropriate, the consideration of which of the options below are most appropriate for the employee in light of the Occupational Health Service advice. A reasonable timescale should be set to explore the appropriate options and sufficient time should be given for the employee to consider the options. The employee should be informed in writing of the actions to be pursued and the timescale over which they would be considered.

Normally the following options would be considered in the order that they are listed below:

1. Return to/continuation in existing post
2. Phased return to work
3. Return to/continuation in existing post with adjustments
4. Modified Duties
5. Redeployment to another post within the council (Alternative Employment Programme)
6. Dismissal on health grounds – where an employee is dismissed on the grounds of ill health and they meet the qualifying criteria in the relevant Fire Pension Scheme Regulations, then they may qualify for ill health retirement

More detailed advice on these options is contained below. Advice and support in pursuing these options is available from the People Management team. If option a – e above are not feasible and dismissal on the grounds of ill health may be the only option left to the Council, the manager should ensure that the employee is made aware of this fact at the earliest opportunity.

## 10.1 Return to Existing Post

This may be with a phased return to work – see below. In these circumstances, a manager may consider setting a monitoring period and have a formal meeting with the employee and their representative to consider this. When an individual has been off sick for 28 calendar days or longer the line manager must consider whether there is a need to organise an operational assessment once the employee returns to work.

On occasion and to ensure continuity of service delivery through the maintenance of skills and establishment, there may be a requirement to make cover moves for individuals that are off through long-term sickness absence. Managers may therefore make changes to balance shortfalls. If these moves are required then the service will attempt to ensure positions remain open, while all staff will return to the same role it cannot be guaranteed that individuals will return to their original workplace.

Absence may be due to a disability and managers should be aware of the provisions of the Equality Act 2010, particularly the duty of reasonable adjustments (see [10.3](#_10.3_Return_to)) when considering dealing with long term absence.

## 10.2 Phased Return

A phased return is an arrangement whereby the line manger can authorise a period of usually no more than 4 - 6 weeks whereby the employee may gradually build up their working hours week by week until they achieve their full contractual hours by the final week of the arrangement.

The purpose of the phased return is to support the employee to steadily build up their fitness or ability to attend work.

If the employee had pre booked annual leave during a phased return to work programme, the phased return arrangement will be reviewed on the employees return from annual leave and may be extended by a period of time equal to the period of annual leave if necessary.

If sickness absence occurs during a phased return to work programme sick pay entitlements will be triggered. On the employees return to work the phased return arrangement will be reviewed and continued, extended, or ended as appropriate.

## 10.3 Return to Existing Post with Adjustments

When considering implementing adjustments please see the separate General Guidance for further information and how to implement these effectively. There are two types of adjustments described below.

### 10.3.1 Reasonable Adjustments

These adjustments relate to protected characteristics associated with the Equality Act 2010. Adjustments may include changes to hours, duties or location of the role, the use of particular equipment or improving access or facilities. Such adjustments are usually be made on a permanent basis but will mutually be agreed with the employee and the line manager.

The manager will need to assess whether these changes can reasonably be accommodated without having a detrimental effect on the service.

As part of the consideration of such adjustments, further specialist advice may be sought from the Occupational Health Service or outside organisations such as the disability advisory service offered by Job Centre Plus, the RNIB or the Shaw Trust. This additional advice may be referred from the Occupational Health Service or approached directly by the manager. Further information can be sought from the People Management Team.

### 10.3.2 Temporary Adjustments

Temporary adjustments are usually made for employees returning from a period of absence in order to facilitate a return to work, particularly after long term illness or where a recovery period is required.

Temporary adjustments are a reduction or amendment to ‘tasks’ required in an employee’s role.

Temporary Adjustments should usually last no longer than 4 – 6 weeks and may be part of a phased return. Advice should be sought from People Management/relevant HR provider and Occupational Health provider if the temporary adjustments are likely to exceed 4 - 6 weeks.

Each case should be considered on an individual basis, taking into consideration the medical grounds and impact on service delivery. All arrangements for temporary adjustments should be agreed with the employee and recorded on the PA10, including the objectives to be met at the end of the period, how the employee will be supported to achieve these and the arrangements for measuring and monitoring progress throughout. If at the end of the period of temporary adjustments, an employee is still unable to fulfil the requirements of their role, the employee may be required to remain absent until they are fit enough to return to full duties.

Temporary adjustments cannot last any longer than 6 months and at this point the adjustments would need to be reviewed. Any extension to a period of temporary adjustments can be considered in exceptional circumstances and must be authorised by a senior manager and a formal decision recorded. At this point there should also be a decision on whether the adjustments should be made permanent under the Equalities Act 2010.

## 10.4 Modified Duties

When an employee is returning to work from sickness absence the Occupational Health service may advise that they should return for a period of time on modified duties.

Modified duties means duties which have been changed to accommodate the limitations of a medical condition and are applied on a short term temporary basis only.

For Grey book employees who undertake operational duty, modified duties will be in place for a maximum period of 6 weeks (4 weeks on Category 2 and then moving to 2 weeks on Category 1). If the Occupational Health Service considers that these timescales cannot be achieved, employees will remain on sickness absence until such time the 6 week modified duty period can be achieved.

The application and appropriateness of modified duties must be directed through advice from the Occupational Health service.

The two categories of modified duties are:

Category 1

Fire fighters and managers on Category 1 are deemedfit to undertake all general duties including:

* Driving
* Carrying out operational training and exercises

*But not fit to respond to blue light incidents.*

Fire fighters can stay on category 1 for up to a period of 2 weeks at which point it would be expected they should be in a position to return to full operational duties

Category 2

Fire fighters and managers on Category 2 are deemed fit to undertake all general duties including

* Driving (where appropriate)
* Carrying out any rehabilitation programme advised by Occupational Health or the Fitness Advisor.

*But not fit to carry out operational Training or Exercises*

Fire fighters can stay on this category for up to a maximum period of 4 weeks after which point it would be expected they should be in a position to move to Category 1 duties.

Employees may stay on Category 2 for no longer than 4 weeks and no longer than 2 weeks on Category 1.

Occupational Health can provide advice on the transition from Category 2 to Category 1 to ensure that the individual is fit to return to operational duty within the two week timescale.

These timescales cannot be extended and employees who are unable to return to work within the specified time period will be notified of the requirement to return to their GP to be signed off sick.

Operational employees will also be required to undertake any training deemed necessary to refresh their key skills in order to maintain their competencies – the timescales for this will depend on their length of absence.

Regular operational employees will undertake modified duties at a suitable location as determined by management, in discussion with the employee, and for any number of hours up to their maximum contracted hours per week (subject to any restrictions recommended by Occupational Health). While on modified duties individuals will be required to work a day based working pattern which will also enable organisation to provide any required training.

On call employees will undertake modified duties in accordance with the availability they have given on their Availability Contract (Form 124a). This will ensure that their minimum contractual hours are met and that the manager is able to organise appropriate work in a suitable and productive way.

Where the employee is required to undertake training in order to return to full duties, the employee may be required to participate in a drill night at an alternative station or with a Regular Watch in order to complete the training.

When regular fire fighters undertake an agreed return to existing post with reasonable adjustments programme or modified duties, they will receive their normal salary. For On Call fire fighters, and in accordance with a Local Agreement, they will received a single day’s pay, calculated at a day rate of 1/365th of the previous 12 months earnings; regardless of the days lost due to sickness absence in the preceding 12 months.

## 10.5 Redeployment (AEP)

If it is not possible for the employee to return to their post either with or without adjustments, the manager should consider placing them on the Alternative Employment Programme (AEP) where it is mutually agreed. For Cumbria County Council employees this would relate to existing posts within the Council which become vacant but would not require the Council to create a post specifically for the purposes of redeployment.

When considering the AEP, advice from the Occupational Health Service can be obtained in relation to the tasks the employee is capable of undertaking and on the type of posts that the employee would be fit to be redeployed into. It is also important to consult the employee on such matters.

The manager would then set a timescale (usually up to 12 weeks) during which the employee would seek alternative employment. During the redeployment search the employee would have priority status and be considered before other applicants for a post (other than other candidates on the AEP for redundancy reasons), provided that they meet the minimum requirements of the role. For more information please see the AEP guidance.

All County Council vacancies can be accessed via the Council’s [jobs website](http://www.cumbria.gov.uk/jobs).

Should employees wish to apply for a vacancy, they can do so via the website above and they can telephone 01228 223 333 for advice regarding the process.

If a suitable alternative employment opportunity is identified, it may be appropriate to offer a trial period of up to 4 weeks. This will allow both the employee and the Council to see if the post is suitable.

Employees who refuse to consider or accept a suitable alternative employment opportunity should note that this may limit the Council’s ability to continue their employment.

## 10.6 Application for Ill Health Retirement

Where it has been identified at a formal absence management meeting that an employee is unable or unlikely to be able to return to full work duties within a reasonable timeframe, and there is no further support which can be implemented, the employee may be dismissed on the grounds of ill-health capability.

In circumstances where the individual is a member of the pension scheme then the service should initiate a process to identify whether ill health retirement will be awarded following an assessment of the criteria by Occupational Health.

In these circumstances, managers should read the [Ill-Health Retirement Procedure](http://www.cumbria.gov.uk/elibrary/view.asp?id=62919) and seek advice from People Management. Managers are also encouraged to provide the employee with the [‘IHR, What to Expect’ document](http://www.cumbria.gov.uk/elibrary/Content/Internet/536/5901/6049/6709/4388616323.docx) that is intended to help employees understand the steps involved in the process, including the regulations that must be applied.

In cases where an employee no longer has the capacity to communicate their views and wishes due to their medical circumstances, and therefore cannot consent to the consideration or Ill-Health Retirement or make any decisions themselves in respect of their employment, the line manager should contact People Management for advice and support.

Termination of employment is considered when other reasonable attempts to support the employee back to work are inappropriate due to health matters or have been proven unsuccessful.

If the application for ill health retirement does not meet the requirements of the pension scheme and all other options have been explored, the manager will continue to follow the Absence Management procedure.

# Appeals

Employees who have been issued with a sanction throughout the process will be given the opportunity to appeal. **The appeal should be made in writing to the manager stating the reasons for the appeal within 7 working days of written notification of the warning.**

The appeal shall be heard by a higher level of manager. Arrangements for the final appeal stage against dismissal should be determined locally but be consistent with the principle that the corporate level involved should be higher than the level which heard the previous stage.

Where an employee appeals against the action taken against them they must put their grounds of appeal in writing. The grounds of appeal will normally be one or more of the following:

* There was a defect in the procedure.
* The issue is not proven on the balance of probabilities.
* The disciplinary sanction was too severe.
* New evidence has come to light since the hearing which will have an impact on the decision.

Normally the appeal manager will conduct the appeal hearing as a rehearing (in full or part), where this is required. Otherwise the appeal hearing will be conducted as a review.

## 11.1 Re-hearing

A rehearing would normally be required in the following instances (this is not necessarily an exhaustive list):

* There was a procedural defect at the original hearing such that the hearing was unfair.
* New evidence has come to light which needs to be heard in full.
* There is a dispute about evidence given by one or more witnesses at the original hearing. In these cases it may be necessary to rehear the witness evidence at the appeal.

At the appeal hearing the employee and/or their representative will first put their case by explaining the grounds of appeal and presenting any relevant evidence. The management case will then be put, responding to the grounds of appeal, normally by the manager who conducted the original hearing. Relevant witnesses may be brought by either side, and be questioned by all parties

## 11.2 Review

Where the appeal hearing is conducted as a review, the appeal manager will have available all the documents presented to the original hearing. They will also have a copy of the record of the hearing, the letter confirming the outcome of the original disciplinary hearing, the letter of appeal and all other relevant information. The appeal manager will reach findings based on the documentation and the submissions at the appeal hearing from the parties.

The outcome of the appeal will be either:

* The case against the employee is upheld (in whole or part); the sanction will then be the same or a lesser penalty.
* The case against the employee is not upheld.

At the final appeal against dismissal, if the employer’s representative is legally qualified, the employee’s representative may, if the employee wishes, also be a legal representative.

In cases of dismissal, employees shall be given contractual notice of dismissal following the hearing. Every effort will be made to conclude any appeal process within the notice period. Where it has not been possible to conclude the appeal process within the notice period, notice may be extended for a reasonable period with a view to concluding the appeal process within the notice period. If the dismissal is not upheld on appeal, the employee will be reinstated.

In cases of sanctions other than dismissal, the sanctions should not be implemented until any appeal process has been concluded.