
Revised Sickness Absence Procedure

Committee considering report:	Personnel Committee on 7 March 2018
Portfolio Member:	Councillor Graham Bridgman
Date Portfolio Member agreed report:	22 February 2018
Report Author:	Rebecca Bird
Forward Plan Ref:	PC3396

1. Purpose of the Report

- 1.1 To seek approval from Personnel Committee to amend the Sickness Absence – Reporting and Management: Policy, Procedure and Guidance to improve the management of long term sickness absence and reduce the risk of claims at Employment Tribunal.

2. Recommendation

- 2.1 Personnel Committee is asked to approve the revised Sickness Absence – Reporting and Management: Policy, Procedure and Guidance.

3. Implications

- 3.1 **Financial:** The revised procedure includes the use of settlement agreements as an option but this would be cost neutral to the Council because sums will be equivalent to costs of notice and remaining sick pay in cases of long term absence.
- 3.2 **Policy:** This is a proposed revision to current policy.
- 3.3 **Personnel:** Trade Unions have already been consulted on the draft procedure. The intention is that the new procedure will be effective for new absence cases from 1st April 2018.
- 3.4 **Legal:** None
- 3.5 **Risk Management:** Risk of claims at ET will be reduced.
- 3.6 **Property:** None
- 3.7 **Other:** None

4. Other options considered

- 4.1 Not applicable.

Executive Summary

5. Introduction / Background

- 5.1 The purpose of this report is to seek approval to amend the Sickness Absence – Reporting and Management: Policy, Procedure and Guidance, to improve management of sickness.
- 5.2 HR are acting on legal advice that the Council is currently at risk of tribunal claims when dismissing staff because of absence. One of these risks that staff with long term absence may be considered disabled under the Equality Act 2010.
- 5.3 Other proposed changes have arisen from legal advice and feedback from managers on a case that the Council lost at Employment Tribunal.

6. Proposal

- 6.1 The key changes to the policy are:
 - (1) Inclusion of settlement agreements as an option for resolution of formal cases. The aim is to increase the range of options open to managers and Heads of Service and to provide a compassionate and pragmatic alternative to dismissal on grounds of capability, which would also eliminate risk of disability discrimination claims. In cases of long-term absence, this may be where the timescale for a successful return to work is unknown and the employee has already been absent for more than six months, or has exhausted their entitlement to full sick pay. The terms of any settlement agreement will not exceed any remaining entitlement to sick pay and notice. The Head of Service will agree the terms of any settlement agreement and will agree to fund the legal fees of the employee (maximum of £350 plus VAT).
 - (2) The term “Decision Hearing” will be used for the final stage of the procedure which may lead to dismissal. These were previously called “Dismissal Hearings” which implies pre-judgement of a case.
 - (3) More information and guidance about disability and responsibilities to make reasonable adjustments. Feedback from managers was that there wasn’t sufficient information available in the procedure about these topics and their responsibilities.
 - (4) More detail about Ill Health Retirement and entitlements. HR have received legal advice which states that an Ill Health Retirement is a dismissal in law because it is a decision made by the Council, therefore staff are entitled to paid notice. The proposed amendments clarify that entitlement and describe a process for decision-making which wasn’t clear previously.

7. Conclusion

It is proposed that the revised procedure should be implemented for new cases from 1st April 2018.

Personnel Committee is asked to approve the changes to the procedure.

8. Appendices

- 8.1 Appendix A - Draft Sickness Absence – Reporting and Management: Policy, Procedure and Guidance.
- 8.2 Appendix B – Equalities Impact Assessment