



NOTTINGHAMSHIRE
POLICE
PROUD TO SERVE

PG 023 Attendance Management – Managers Guide

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Authorised (Head of Dept/FEB)

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Post:

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SECTION 1 VERSION CONTROL

Version No.	Date	Post Holder/Author	Post	Reason for Issue
1.0	Oct 2012	Sue Peckham	Senior HR Partner	New guide to supplement PS 147 and PD 610
1.1	24 Oct 2012	Sue Peckham	Senior HR Partner	Amendment to s4.13.2 - Stage 3 outcome of reduction in rank removed
1.2	5 Jan 2013	Sue Peckham	Senior HR Partner	s4.2.4 Care First replaced by Confidential Care CiC
1.3	Jan 2014	Steve Mitchel	Senior Manager- Workforce Relations	Review with GMB/Unison/ Federation
1.4	Mar 2016	David Lawley	HR Advisor	Removes the mandatory requirement for a mandatory referral to Occupational Health
1.5	Dec 2016	David Lawley	HR Advisor	Removes 6 months protection period on return from Maternity
1.6	Nov 2017	James Lunn	Senior HR Manager - Strategy	Amendment to reflect requirement for Third Stage meeting to be tape recorded

SECTION 2 AIMS / OBJECTIVES

This guide is intended to provide practical guidance for managers to address issues of attendance management and must be read in conjunction with the attendance management procedure and policy.

The Attendance Management Manager's Guide provides a framework of guidance

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to managing attendance in the workplace.

SECTION 3 DETAILS

4.1 INTRODUCTION

The management guide must be read in conjunction with PD 147 Attendance Management Policy and PD 610 Attendance Management Procedure. The management guide is applicable to police officers and police staff.

Nottinghamshire Police is committed to promoting a good attendance culture and supportive working environment. Good attendance at work is expected to be maintained by the entire workforce.

The attendance management policy and procedure will provide a framework that sets a consistent standard for all to follow. The aim of the management guide is to provide helpful and useful information on managing individuals during what can be a difficult process. A key factor in managing absence successfully is to manage it fairly, consistently and recognise individual circumstances.

How people feel about their working environment can impact on attendance at work. Research has demonstrated that individuals with a positive commitment to their working environment can have a beneficial impact on attendance. 'A major influence on the creation of commitment has been identified as the line manager and the quality of their relationship with their staff'.¹ This management guide is to support managers with managing attendance.

4.2 RESPONSIBILITIES

As an organisation Nottinghamshire Police does not accept that all absence is unavoidable and inevitable. It is recognised that people do take time off from work due to genuine illness. A key component of managing absence successfully is to facilitate a speedy return to work.

4.2.1 Line managers:

Line managers are primarily the first contact point when an individual is unwell and unable to attend work.

Please see the HR Intranet for a checklist of what to do on the first day of sickness.

The line manager is also one of the most important people in supporting individuals in coming back to work. With early intervention after absence begins, there is the greatest chance in preventing unnecessary long-term absence. 'To be effective at supporting an individual in returning to work, you do not necessarily have to be knowledgeable about their illness condition. It is more important that you show good people management skills including effective communication, sensitivity to and understanding of the individual and awareness of the context.'²

Management of absence locally has the advantage that line managers and supervisors know their people and can manage all cases of poor attendance on an individual basis. This ensures that all people are treated as individuals and cases are managed appropriately.

¹ www.employment-studies.co.uk

² CIPD

It is recognised as important that line managers have a close working relationship with their team but it must not detract from the management of poor attendance. Supportive and informed management is key to successfully achieving an attendance culture.

It must be acknowledged that the line manager is responsible for following / implementing the attendance management policy should one of their team's attendance fall below the standards set by Nottinghamshire Police.

The Attendance Management policy highlights the keys responsibilities of the line manager as follows:

- Line managers are responsible for ensuring that their team members are aware of the levels of attendance expected of them and supporting them to maintain the expected level of attendance.
- Line managers must also promptly log the sickness absence and reason for absence of their team member on the HRMS system.
- Line managers will conduct a Return to Work Interview with their team member on the first day of their return to work or as soon as is reasonably practical.
- Line managers will maintain reasonable contact (as agreed between both parties but not less than weekly) with their team member who is absent due to sickness.
- Line managers are empowered to manage attendance by reconciling the interests of the individual with the operational needs of Nottinghamshire Police. Where informal management interventions have not achieved the required level of attendance, this policy requires the line manager to invoke formal procedures to support their team member to achieve the required level of attendance.

The role is one of management by ensuring your team are aware of the policy and procedure; supporting them at work and, should they fail to attend work regularly, instigating the formal attendance process. This sounds fairly simple, but in reality it is the challenge of supportive management moving into a formal phase should the informal process fail to achieve regular attendance.

An area which causes line managers concern is the Disability Discrimination Act (DDA) and whether their team are covered. A good question to ask is; if this person were DDA protected, are there any adjustments it would be reasonable for the force to make? Reasonable adjustments support individuals in returning and sustaining attendance at work. Please see section 4.6.

4.2.2 Individuals:

Not all responsibility sits with the line manager. The policy also highlights the responsibilities of their officers and staff who work for Nottinghamshire Police. Individuals working for Nottinghamshire Police have a responsibility to be aware of the policies and processes within the organisation. They are also responsible for advising their manager if they are unable to attend work and when they are likely to return. The policy states the following:

- Individuals are responsible for maintaining the standard of attendance expected of them and must take reasonable steps to uphold consistent attendance at work.
- If they are unable to attend work through sickness, individuals are responsible for advising their line manager (or if unavailable an equivalent manager) prior to the shift start time or at the earliest opportunity and when reasonably practical. Contact is expected in person, by telephone. Text or an email message is unacceptable, except in exceptional circumstances.
- If the absence continues, individuals have an obligation to maintain regular (as agreed between both parties but no less than weekly) contact with their line manager, to provide an update on their situation and expected length of absence or expected return date.
- To ensure accurate recording of absence, individuals must advise their line manager when they are fit to work, even if this is a rest day or annual leave.
- When requested to do so, individuals must attend the Occupational Health Unit for an assessment.

4.2.3 Human Resources Department

Employment legislation has grown over the last 20/30 years, but interestingly there is no employment law directly covering attendance management. There is however legislation on discrimination, unfair dismissals and health and safety and these pieces of legislation provide the legal framework for attendance management. The role of the Human Resources Department is to provide guidance, advice and support as required. It is advisable to liaise and consult with a HR Advisor prior to meeting an individual regarding their attendance so that you can explore any employment/ legal issues in advance. Support from a HR Advisor can be very helpful in managing attendance successfully.

4.2.4 Occupational Health Unit (OHU)

Occupational health practitioners can assist individuals to return to work. The primary role of the OHU is to support the organisation and individuals to enable the most effective use of resources. OHU primarily provide advice and guidance to line managers to support an individual's ability to carry out their role, and advise on any reasonable adjustments or interventions required to assist a return to work or full duties. OHU can additionally provide guidance for individuals.

The Occupational Health Advisor will only make contact with individuals upon referral by line managers / HR. The Occupational Health Advisor will provide feedback regarding any relevant management information which may be required to assist in management of attendance. Where appropriate the OHU will liaise with medical practitioners outside of the force to gain medical reports which will assist an individual to return to work.

Upon referral OHU will investigate any underlying causes to sickness, and advise the line manager as appropriate. The line manager should carefully consider the merits of the initial referral to OHU and use discretion when to initially refer, once there are specific medical questions required for OH consideration. In assessing the most appropriate time for the initial referral to OHU, the line manager can consult HR to consider this further.

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It is expected that if an individual is referred to the OHU then they will make every effort to attend. Failure to attend may have implications on the receipt of sick pay and individuals must be made aware that their sick pay could cease if they do not attend an appointment with OHU.

Occupational Health Advisors are bound to maintain medical confidentiality and will at all times preserve the balance between the individual's and the force's need.

4.2.5. Counselling service (CiC) – Employee Assistance Programme

CiC are an external organisation which the Force contracts with to provide a confidential support service 24 hours a day, 365 days a year to all police officers and police staff free of charge. They can provide:

- counselling – by phone, face-to-face and online
- financial and debt advice
- legal advice
- information services for family care and everyday matters
- managerial advice line for new and existing managers giving advice on coaching, coping with pressure and stress, dealing with difficult situations and decisions, etc
- online resources - CiC Well-On-Line and MIND Blue Light Programme – How to manage your mental health wellbeing.

Individuals may contact CiC on **0800 083 2810**. CiC will not advise Nottinghamshire Police if an individual has contacted them.

Managers may also ring if they wish to discuss a complex case regarding one of their team. CiC will not confirm or deny if the individual has been in contact with them.

Managers may also, with the consent of the individual request a management referral by calling CiC. CiC will then contact the individual direct.

4.2.6 Senior Management

The senior officers and managers in Nottinghamshire Police fully support the fair and equitable attendance management policy and process within the force. Should an individual be managed through each of the three stages of the formal attendance management policy without the required improvement in attendance, senior managers are responsible for the ultimate sanctions during a Stage 3 meeting, which includes any decision to dismiss an individual from the police service.

4.3 CONTACT

4.3.1 General contact during absence

Regular contact with people whilst they are absent due to sickness is important. The critical aspect is the balance between supportive and caring contact to intrusive, over bearing contact. It is important to recognise that individuals who work for Nottinghamshire Police may be contacted and visited at home whilst they are absent due to sickness. This must be managed sensitively; however there is not an option for individuals to withdraw from communicating with the force. As mentioned previously, early contact after the start of an absence often means there is a greater chance of preventing unnecessary long-

term absence, even in cases of stress, anxiety or depression.

The line manager should:

- Regularly communicate with the individual via telephone or email.
- Regularly update the individual on work issues to keep them in the loop.
- Focus the conversation on the individual's well-being.
- Encourage work colleagues to keep in touch with the individual (if the individual who is absent is happy with that).
- Ensure that the individual is made aware of the support available to facilitate their return to work.

Individuals should:

- Contact their line manager on the first day of sickness within one hour of their normal start time, unless there are exceptional circumstances. It is not acceptable to leave a message with a colleague or to send a text message.
- All contact should be taken personally unless exceptional circumstances prevail.
- Advise the length of time the absence is expected to be.
- Advise the expected date of return to work or expected date absence will cease.

4.3.2 Home visit

Please see the HR Intranet for a:

- *checklist for a home visit*
- *Home Visit Confirmation letter template*
- *Home Visit Outcome letter template*

If an individual is absent on long term sickness then a home visit is appropriate. The home visit should be an extension of the general contact that has occurred since the individual went off on long term sickness absence. It is expected that a home visit should be arranged after 14 calendar days of absence. The home visit should be arranged in advance at a mutually convenient time. The majority of individuals will not mind their manager visiting them at home, although if an individual does not want the manager to visit their home, then a mutually convenient location should be agreed.

If an individual declines a home visit, another means by which the manager can make contact and keep in touch must be agreed.

Home visits allow the manager to:

- Update the individual on work issues and ensure that they are kept abreast of what is happening in the organisation and with their colleagues.
- Focus the conversation on the individual's well-being and what they are doing to facilitate a return to work.
- Be updated by the individual on their progress.
- Give the individual the opportunity to ask questions about the organisation and any areas that may be giving them cause for concern.
- Ensure that the individual is made aware of the support available to facilitate their return to work.
- Discuss and agree any supportive measures or reasonable adjustments that will be made prior to a return to work.

- Make the individual aware of the Employee Assistance Programme provider (CIC) should they wish to use the services.
- Advise the individual personally if their pay is to be reduced. (This would be followed up by a letter but advance conversations should help the individual plan for the reduction in pay or prepare an appeal if appropriate).

4.4 TYPES OF ABSENCE

4.4.1 Short Term Absence

Short term absence is defined as absence lasting less than 28 continuous calendar days.

4.4.2 Ad Hoc Absence

Ad hoc absence is defined as intermittent sickness that may be due to sickness absence of a similar or related nature or regular sickness absence of a dissimilar nature.

It is reasonable to discuss absence with an individual where it is suspected that there is a pattern to the sickness absence. This may be where sickness absence consistently falls next to rest days, annual leave or on certain shifts e.g. nights.

4.4.3 Long Term Absence

Long term absence is defined as absence lasting 28 continuous calendar days or more. Contact between the individual and the line manager is critical to supporting a realistic return to work timeframe and plan. Returning to work can represent a return to a sense of normality for the individual and this brings with it a number of benefits including self-esteem, mental well-being and social inclusion. Failure to return to work has been linked to poorer health outcomes and it has had the potential for relapses into secondary cases of long term sickness absence. Therefore getting individuals to return to work is critical to their ongoing well being. It is the individual's responsibility to contact their line manager on a regular basis. It is also expected that line managers will maintain regular contact with individuals who are unable to attend work due to sickness.

4.5 SUPPORTING THE RETURNING TO WORK INDIVIDUAL

The most appropriate person to support the individual is their line manager. However, if the individual perceives their line manager to have been part of the reason for their long term absence then it may be appropriate to nominate another line manager. This is not to say that individual's can pick and choose the line manager, but it may facilitate a return to work in the interim.

Research³ has indicated positive manager behaviours are needed when a individual returns to work from a long term sickness absence particularly if the individual has been absent due to stress, anxiety and depression, back pain, heart disease or cancer.

³ British Occupational Health Research Foundation

4.5.1 Ongoing support

Once an individual has completed their phased return to work, it should be considered whether additional ongoing support is required. It is possible that support from the line manager is required for a longer period. To ascertain whether this is required discuss this personally with the individual and discuss this further with your HR Advisor. It should be recognised that supportive action must be offered prior to any formal procedure being commenced.

4.5.2 Return to Work Interviews

After all periods of absence, irrespective of duration, an individual's return to work must always be acknowledged and a Return to Work Interview (RTWI) conducted. Return to work interviews have been shown to be one of the most effective interventions in managing sickness absence. They also provide an opportunity to engage in a conversation with an individual about any underlying issues which may be contributing to the absence. The RTWI gives the line manager the opportunity to show the individual that they were missed. This should be a sympathetic yet effective interaction which occurs after every period of absence. The simple, but vital, act of talking to one of your team after absence can improve attendance without the need for further action.

Conducting a RTWI

It may seem obvious, but it is not a quick conversation in the corridor. The RTWI should be held in private and be conducted in a sensitive and professional manner. Each RTWI should be personal to the individual and should not be a 'tick box' exercise. Research has indicated that supportive RTW interviews facilitate improved attendance.

The purpose of a Return to Work Interview is to:

- welcome the individual back to work.
- ensure the individual is fully fit to return to work.
- identify the reason for the absence and confirm the length of absence.
- identify and address any problem(s) (work-related or otherwise) that may be causing or contributing to the absence. If a work place issue then be sensitive to the concerns of the individual and take advice from a HR Advisor if appropriate.
- discuss and/or identify any adjustments to the workplace/hours/duties that may reduce/eliminate absences (with appropriate adjustments to pay).
- agree the priorities for the post absence period and to up-date the individual on what has been happening at work.
- advise any changes in the workplace and any key force messages.
- explain to the individual that the purpose of the RTWI is to manage and understand their absences so that any problem areas can be identified and support offered where appropriate as early as possible;
- listen to what the individual has to say.
- ask the individual about the reason(s) for their absence, ensuring that the question is asked in a sensitive and supportive manner.

Areas to review

It is important that during the meeting you review previous absences and place current absence in the context of previous absences.

You must also check if the individual has completed the self-certification form on HRMS via self-service.

Questioning

- It is suggested that it is best to avoid asking intrusive medical questions of the individual, while at the same time seeking to establish the basic underlying cause of the absence;
- Check whether the individual believes that the cause of absence is work related?
- Are there adjustments to the workplace/hours/duties that could reduce/eliminate absences? Explain any associated impact on pay.
- Check whether there any other issues contributing to the absence.
- Where there is conflicting evidence/statements, ask for an explanation.
- Discuss the effect of the absence on the individual's work colleagues.
- If appropriate, ask whether or not they consulted a doctor or attended hospital;
- Be sensitive to the individual's feelings where personal problems and illnesses are involved
- If there is any discrepancy between the individual's stated reason for the absence and the information given when notification of absence was originally provided, ask the individual to explain the discrepancy.
- Advise the individual that frequent intermittent absence may trigger a formal Stage 1 attendance meeting.

If the line manager has any grounds to reasonably conclude that the individual's absence was not genuinely for the reason given, the line manager should put the evidence to the individual directly so that he/she has the opportunity to respond and provide an explanation.

At the end of the RTWI it is important to complete the RTW form. Should an individual be on the formal process then the RTWI may be important to the decision making process. A timely, well planned and well-executed RTW I process will have substantial positive benefits for an individual's well-being and rehabilitation.

4.5.3 Return to Work after Long Term Absence

The RTWI should take place as per normal although it would be expected to be of a longer duration as the individual may have concerns regarding returning to the workplace. The normal RTWI process should be followed with an emphasis on any adjustments they may need to support sustained attendance. In addition to the RTWI process the following should also occur:

- Arrange regular meetings to discuss the individual's well-being and how the RTW is going. (How regular is a matter of agreement between the line manager and the individual. Considerations are: length and reason for absence, role being undertaken etc.).
- Listen to the individual's concerns and adopt a sensitive approach to the RTW.
- Have a positive approach to the rehabilitation into the work place and discuss how it is supporting the individual.
- Consider the person you are meeting with, their working style and the reason for their absence and act accordingly.

4.6 DISABILITY RELATED ABSENCE

From 1 October 2010, the Equality Act replaced most of the Disability Discrimination Act (DDA). However, the Disability Equality Duty in the DDA continues to apply.⁴

The Equality Act provides rights for people not to be directly discriminated against or harassed because they have an association with a disabled person. This can apply to a carer or parent of a disabled person. In addition, people must not be directly discriminated against or harassed because they are wrongly perceived to be disabled.

It is important that the line manager takes into account any disability when considering an individual's absence. It would be good practice to discuss concerns with a HR Advisor.

It is not for the organisation to determine if an individual is disabled. It is a legal test.

A person has a disability if s/he has a physical or mental impairment which has a substantial or long term adverse effect on his/her ability to carry out normal day-to-day activities. 'Long term' means lasting, or likely to last, at least a year. In assessing what activities are impaired, consideration should be given to whether these are activities carried out by most people on a daily or frequent and fairly regular basis. An impairment will be treated as affecting an individual's ability to carry out normal day to day activities if it affects at least one of the following:

- Mobility
- Continence
- Manual dexterity
- Memory or ability to concentrate, learn or understand
- Physical co-ordination
- Speech, hearing and eyesight
- Perception of risk of physical danger

Cancer and multiple sclerosis are classified as constituting a disability immediately from the point of diagnosis, and are not subject to the condition of lasting or expected to last for a year.

⁴ www.direct.gov.uk

In any case of managing unacceptable levels of sickness absence in line with this policy, where an individual (or clinician) confirms that they have any form of disability (whether related to physical or mental ill health), it should be reasonably considered that the disability may be a determining factor in their ability to meet the normal standards of acceptable attendance.

The reasons for absence and any links to the disability should be considered and the standards of acceptable attendance that may be more reasonably applied may need to be reviewed in view of individual circumstances. Before any formal action can be taken against an individual with a disability, the line manager must refer the matter to a HR Advisor to seek advice. Advice must also be sought from the Occupational Health Unit to ensure that the individual is treated fairly, appropriately and in the best interests of him/herself and the force.

4.6.1 The definition of 'disability' under the Equality Act 2010

In the Act, a person has a disability if:

- they have a physical or mental impairment
- the impairment has a substantial and long-term adverse effect on their ability to perform normal day-to-day activities

For the purposes of the Act, these words have the following meanings:

- 'substantial' means more than minor or trivial
- 'long-term' means that the effect of the impairment has lasted or is likely to last for at least twelve months (there are special rules covering recurring or fluctuating conditions)
- 'normal day-to-day activities' include everyday things like eating, washing, walking and going shopping

People who have had a disability in the past that meets this definition are also protected by the Act.

Progressive conditions considered to be a disability

There are additional provisions relating to people with progressive conditions. People with HIV, cancer or multiple sclerosis are protected by the Act from the point of diagnosis. People with some visual impairment are automatically deemed to be disabled.

Conditions that are specifically excluded

Some conditions are specifically excluded from being covered by the disability definition, such as a tendency to set fires or addictions to non-prescribed substances.

Where to get more guidance on the definition of disability

The government has published statutory guidance, to assist adjudicating bodies like courts and tribunals in deciding whether a person is a disabled person. This guidance is called "Guidance on matters to be taken into account in determining questions relating to the definition of disability".

It was published for the purposes of the Disability Discrimination Act, but continues to apply under the Equality Act 2010, where appropriate.

This means that whilst the force will not necessarily discount all absences that were directly related to a disability there would be a need to make a reasonable adjustment under the Disability Discrimination Act 1995 and consider discounting some of the absences. When making such a consideration, it would be reasonable to take account of earlier attendance records. However disability related absence does not mean an individual is automatically exempt from the application of attendance management procedure. This is a complex area and you should seek advice from a HR Advisor.

All reasonable steps should have been taken to support an individual to remain at work.

4.6.2 Reasonable Adjustments

Under the Equality Act 2010 an employer has a duty to make reasonable changes for disabled applicants and individuals working for them. These are known as 'reasonable adjustments'. Adjustments should be made to avoid the person with a disability being put at a disadvantage compared to a non-disabled person.

The need to make reasonable adjustments can apply to the working arrangements or any physical aspects of the workplace. For example, this could be adjusting an individual's working hours or providing them with an adapted piece of equipment to help them to do the job. The important term is 'reasonable'. The manager must consider what adjustments are reasonable and it is advisable to discuss this with an HR Advisor.

It is good practice to ensure reasonable adjustments have been made to facilitate an individual's attendance at work; this is best practice in all cases. Occupational Health can provide information to help you make an informed decision on adjustments in the workplace.

The types of reasonable adjustments that an employer like Nottinghamshire Police might be required to consider include:

- Making physical adjustments to the workplace.
- Allocating some of the disabled person's duties to another person.
- Transferring the disabled person to another vacant post with or without reasonable adjustments being made.
- Altering the disabled person's working hours through, for example, part-time working, job sharing or other flexible arrangements (with appropriate adjustments to pay).
- Providing special equipment to assist the disabled person to perform their tasks and giving training in the use of the equipment.

As well as the need to make permanent adjustments in light of recognised disabilities, temporary adjustments to working arrangements can also be an effective investment in preventing further absences or avoiding long term absence for individuals who do not have recognised disabilities. Temporary adjustments to facilitate a return to work do not need to become permanent. This can be particularly useful to assist an individual back to work from a long term absence.

The types of changes could be to reduce the depth and breadth of tasks allocated, short term reduction in hours worked, reduce supervisory duties, and reduce travel during office hours. Work conditions can have an impact on attendance therefore this should be a further consideration.

4.7 FIT NOTES

In April 2010, fit notes replaced medical certificates known previously as 'sick notes'. This provides the doctor with two choices;

- Not fit for work
- May be fit for work

If the doctor selects 'may be fit for work' then one of the following must also be selected:

- Phased return to work
- Amended duties
- Altered hours
- Workplace adaptations

Additional comments may be added by the Doctor.

The fit note places greater responsibility on the line manager to provide appropriate support to the individual to minimise the challenges facing the individual on their return to work. If an individual presents a fit note which indicates that they 'may be fit for work' then the line manager should have a conversation to discuss appropriate ways to manage the return to work process.

It is a misconception that an individual with a fit note cannot be managed through an attendance management programme. Regulation 28 and contractual sick pay are financial provisions and indicate an entitlement to sick pay and in no way indicate the amount of sickness absence to which an individual is entitled.

Fit notes are required to be submitted to Nottinghamshire Police for absence in excess of 7 days. Continued absence is required to be covered by additional fit notes. It is the individual's responsibility to provide fit notes to cover absence. Failure to provide a fit note to cover absence may lead to loss of sick pay. When the line manager contacts their team member it is useful to ask that fit notes are sent in promptly so that an individual does not suffer any loss of pay unnecessarily.

The Line Manager should send the 'fit note' to HR Operations.

4.8 PAY

Regulation 28 Annex K in the Police Regulations 2003 contains all the information regarding police officer entitlements to sick pay. A copy of the Regulations can be found on the Home Office internet pages.

The Police Staff Handbook contains all the information regarding police staff sick pay entitlements. For police staff this is a contractual entitlement.

4.9 RECUPERATIVE DUTIES (PHASED RETURN)

"A phased return to work using recuperative duty arrangements can aid an early return to work."⁵ Recuperative duties are an option if the individual is expected to be able to return to full duties in the short term. Recuperative duties should be time limited and any change to tasks and hours worked should be temporary and a planned return to normal hours and tasks must be managed and achieved in the shortest possible time frame. Temporary adjustments should not continue without a time defined return to normal duties.

4.10 RESTRICTED DUTIES

“Where the condition is likely to be permanent, a return to work on the basis of restricted duties should be considered. Restricted duties are used in order to retain the skills and expertise of police officers and prevent unnecessary and costly early retirement.”⁶ It is expected in these circumstances that full hours will be worked as it is the tasks that should be adjusted to facilitate using the police officer’s skills and experience.

4.11 REPRESENTATION

Police staff have the right to be accompanied at a formal meeting by a trade union representative or work colleague. Police officers are afforded the right to be accompanied by a work colleague or staff association representative. Nottinghamshire Police allows all individuals working within the force to be accompanied at all stages of the process.

The role of the representative or work colleague is to support the individual, not to respond to questions on their behalf. It is expected that individuals will provide responses to questions during the meetings.

Role of the representative

The representative may:

- Put the case forward on behalf of their colleague.
- Sum up on behalf of the individual.
- Respond on the individual’s behalf to any view expressed at the meeting although not to answer direct questions to the individual.
- Confer with their colleague during the meeting.

It is good practice to allow the work colleague/trade union representative/staff association representative to participate in the meeting fully as this can facilitate resolution of any issues.

Where a police officer is required to attend a third stage meeting, under the provisions of Regulation 28, the police officer has the right to be legally represented at such a meeting by a lawyer of his/her choice.

4.12 PREGNANCY RELATED ABSENCE

Sickness absence due to pregnancy related illness, from the start of pregnancy, until the new mother returns to work, must not be included in calculations of absence when considering action under the attendance management procedure.

If the sickness absence is unrelated to the individual’s pregnancy then it should be managed according to the process and procedure.

Pregnancy is not an illness, it is a condition and therefore individuals who are pregnant should be given due consideration so as not to have an adverse impact on their health or that of their unborn child during this time.

⁵ NPIA

⁶ NPIA

4.13 FORMAL PROCESS

When informal management interventions and supportive actions have not led to regular attendance and the trigger points have been reached then the formal attendance management procedure must be invoked.

4.13.1 Trigger points

Trigger points are a defined level of absence at which an attendance review meeting will be arranged. Frequent short-term absence is defined as “3 or more occasions of sickness absence within a rolling 12 month period or 10 calendar days in a rolling 12 month period.” These will be the trigger point for a line manager to effectively manage an individual’s absence through a formal procedure.

There may be occasions when the line manager notices that there is a pattern to an individual’s absence. Whilst the absence does not exceed the above trigger point, it is still a cause for concern. This could be a regular day of the week on which an individual is absent; it could be a particular shift on which an individual is absent or a particular holiday period. This should be the subject of a discussion with the individual.

It is important to recognise that there may be occasions when the triggers should not automatically be invoked. The exceptions can be found in the Attendance Management Policy. This is repeated below. The triggers should not automatically be invoked for:

- An individual in the terminal stages of an illness.
- Where the individual is able to return to work with reasonable adjustments and the reasonable adjustments have not yet been put in place.
- The individual is in the process of assessment for medical retirement.
- Any absence related to a disability under the Equality Act 2010, pregnancy or injury on duty will be recorded, although the absence may be discounted from the triggering procedure. Notwithstanding the disability, should the individual’s level of attendance cause the line manager concern, then after consultation with a HR Advisor, the line manager may invoke the formal procedure.
- Progression to Stage 2 will occur if 2 further absences or 7 calendar days in 12 months following the issuing of a WIN at Stage 1. The issuing of a WIN will be at line management discretion

The line manager must be satisfied that all reasonable and supportive action has been offered before arranging a first stage meeting. If in any doubt as to whether to invoke the formal process then a discussion should be held with a HR Advisor or HR Business Partner.

4.13.2 Framework

The framework provides for a 3 stage process which is to facilitate sustained regular attendance at work.

Police Officers

Stage	Meeting Chair	Appeal Meeting Chair	Possible Outcomes
First Stage meeting	First line manager	Second line manager	<ul style="list-style-type: none"> Written Improvement Notice No action
Second Stage meeting	Second line manager	Senior manager or Superintendent	<ul style="list-style-type: none"> Final Written Improvement Notice An extension of stage 1
Third Stage meeting	Panel of three members (This will include; a Police Officer at the rank of Superintendent and a Senior HR Partner).The panel chair will be a Superintendent or the Head of HR & OD)	Police Appeals Tribunal	<ul style="list-style-type: none"> Dismissal In exceptional circumstances an extension of a Final Written Improvement Notice or redeployment to alternative duties

Police Staff

Stage	Meeting Chair	Appeal Meeting Chair	Possible Outcomes
First Stage meeting	First line manager	Second line manager	<ul style="list-style-type: none"> Written Improvement Notice No action
Second Stage meeting	Second line manager	Senior manager	<ul style="list-style-type: none"> Final Written Improvement Notice An extension of Stage 1
Third Stage meeting	Chief Inspector or Manager grade M1 or above	Superintendent or Head of Department	<ul style="list-style-type: none"> Dismissal In exceptional circumstances an extension of a Written Improvement Notice or redeployment to alternative duties which may include a reduction in grade

Third Stage meetings for police officers and police staff will be tape recorded.

4.13.3 The formal meeting

Please see the HR Intranet for a

- *Checklist for managing a formal meeting*
- *Formal Meeting Confirmation letter template*
- *Formal Meeting Outcome letter template*

The individual should be invited to the formal meeting. If the individual or their representative is unavailable on the date and time of the meeting, the individual must propose an alternative date and time, which must be within 5 working days of the original date.

The purpose of the meeting is to discuss the unsatisfactory attendance and to provide the individual and their representative with the opportunity to put forward their views. The meeting also provides the chair with the opportunity to gain an understanding of what issues are affecting regular attendance at work.

Preparation can be the key to a successful formal meeting. Ensure that all the paperwork and information needed is available for the meeting. It can also be helpful to prepare some questions in advance to ensure that you maximise the information provided by the individual regarding their absence from work.

Questioning

To ensure that the formal meeting is conducted appropriately, the manager should focus on being compassionate and empathetic whilst ensuring that the individual is made aware of their responsibility to attend work regularly. Managers need to be firm and clear regarding the facts surrounding an absence but open minded and compassionate about what sits behind the absence. The purpose of the meeting is to achieve an improvement in attendance and it is not a punitive discussion. Therefore, good questioning and listening skills can be the key in managing the formal process to a successful conclusion where an individual attends work regularly. Open, closed, probing questions should be asked as appropriate. Leading questions should be avoided.

Example scenarios:

In a situation where there is pattern to the absence, questions to ask the individual could include:

- (After showing the individual their absence pattern) Ask 'Is there anything you notice about your absence'? Rather than 'why are you always sick on a Friday'?
- If no response. 'Have you noticed that your last 3 occasions of absence have all been on a Friday. Rather than is there any reason that you are unwell on a Friday?
- 'Do you believe your absence of 3 occasions in 3 months is reasonable'? Rather than 'this is poor attendance. What are you going to do about it'?
- Ask 'is there any significance to the fact that you have been absent on 3 Fridays' in the last 3 months'? Rather than 'Friday sickness looks dubious to me. What's the reason that you are sick on a Friday'?

A further example is where there is ad hoc absence, in which case questions could include:

- Showing the individual the absence dates, ask 'You've had 3 occasions of 3 days sickness in 3 months. Is there an underlying cause to the absence?' Rather than 'Why have you been absent 3 times in 3 months?'
- 'The reasons shown for your last 3 occasions of sickness are cold/flu. Is there any reason why you are particularly prone to cold/flu?' Rather than 'Your last 3 sickness absences have been for cold/flu. That seems unlikely. Why have you been sick?'

Questions to ask the individual where there has been long term sickness and they are still absent, could include:

- 'What have you done to help prepare yourself to return to work' Rather than 'Have you done anything to prepare for a return to work'.
- 'Has your GP/Dr/Consultant suggested anything to support a speedier return to the workplace' Rather than 'Have you done anything to get back to work quicker'
- 'Is there anything we/I/the organisation can do to support you to return to work sooner' Rather than 'Do you want us to do anything to support you'.

Remember that the what, where, how, why, when questions can be very useful when conducting a formal meeting and getting the individual to acknowledge and accept that their absence is not reasonable or acceptable.

Listening

Nottinghamshire Police does not accept that all absence is unavoidable and inevitable but it also recognises that people do take time off from work due to genuine illness.

Therefore when conducting RTWI and formal stage meetings a key element of those meetings will be listening skills to establish which situation you are in.

Listen to the individual's responses so as to get a clear understanding of why they have been absent from work. Repeat back to clarify reasons and to confirm details. Be patient, allow pauses, to give the individual time to respond to question about may be a difficult situation for them.

A key aspect of the listening process is to pick up on key words that point you in a direction of understanding what the individual is actually saying in response to your questions. For example if you ask 'how is your back now' and the response is 'well, I can't do even the simplest of tasks such as picking up a kettle.' This could indicate that they may never be able to return to their current role or they are exaggerating, there is a need for OH intervention or a medical report or to look for alternative work. It is useful to understand from your questioning how their health is progressing and what the individual is actually doing to facilitate returning to work or improving their attendance at work. Listen for words such as 'no improvement', not progressing, no treatment, etc. to facilitate picking up on key issues and take the opportunity to challenge their responses constructively.

4.14 WRITTEN IMPROVEMENT NOTICES

- The formal process includes the outcome that a Written Improvement Notice (WIN) if the individual has unsatisfactory attendance and there has been no improvement can be issued. A line manager may issue a WIN for those individuals who are on long term sick, even if they have not returned to work, if the circumstances are appropriate to do so.

It should be noted that a WIN is not a punishment but the facility to encourage regular attendance.

Please see the HR pages on the Intranet for a Written Improvement Notice letter template

The Written Improvement Notice should include the following:

- The absence data which includes the first and last day of sickness episodes and reasons for absence.
- A record of the explanation provided to the individual as to why their attendance was unsatisfactory.
- The trigger that had been breached and the new target for attendance.
- What improvement is required – this may be more than just the target
- The timescales that the individual has to improve their attendance.
- The next stages of the formal process should the individual's attendance not improve to the required standard.
- The validity of the WIN.
- It must be signed and dated by the line manager.
- Advice as to the right of appeal.
- Advice that the individual has the right to submit written comments.

4.15 APPEAL

The individual has the right of appeal at all stages of the formal process. The individual can appeal on the basis of the outcome of the formal stage meeting and/or any of the details contained in the WIN.

Please see the HR Intranet for the following letter templates:

- *An Acknowledgement of Appeal*
- *An Invitation to an Appeal*
- *A Home Visit Outcome.*

4.16 GENERAL INFORMATION

4.16.1 Annual leave

An individual may request annual leave whilst on a period of sickness. It would be expected that this was to support their rehabilitation. If not, this period should still be classified as sickness. The annual leave allocation should be amended accordingly.

If an individual becomes sick whilst on annual leave it is the individual's responsibility to advise the organisation as soon as practically possible. The individual is required to produce a 'Med 3 Fit Note' from their GP if they wish for their annual leave to be reimbursed.

4.16.2 Annual leave and long term sickness

This is an area that has been the subject of a number of legal cases which has created case law which Nottinghamshire Police will apply.

The approach taken to the re-credit of outstanding leave in respect of police staff and police officers who do not return from long term illness will be as follows;

- For the current leave year, payment at 20 days (statutory as per the Working Time Directive (WTD)) or pro-rata for part year, taking into account any leave already taken.
- For the previous leave year, payment at 20 days (as per the WTD) or pro-rata for a part year, again taking into account any leave taken prior to commencement of sickness absence.

The approach taken to the payment of outstanding leave in respect of police staff and police officers who do return to work from long term illness will be as follows;

- Leave allowance is considered at contractual level if return to work in current leave year.
- Leave allowance remaining from a previous leave year is calculated at statutory level.

4.16.3 Correspondence

Meetings should be followed up with a letter to confirm details of the discussion. Letter templates and check lists are available on the HR intranet page.

4.16.4 Return prior to expiration of the fit note

If an individual wishes to return to work prior to the expiration of their current fit note, the individual should return to their GP to obtain a fit note which states that they are fit for work. This ensures that individuals do not return to work unless fit to do so.

Should OHU believe an individual is fit to return to work and GP has not provided a fit note. OH can discuss with the individual's GP options for returning to work.

4.16.6 Data Protection

If a medical report from a health professional is required then the Access to Medical Records Act 1998 must be adhered to. Occupational Health will support the line manager if information on the individual's medical condition is required.

The Data Protection Act (DPA) 1998 must not be breached in respect of collecting, using and storing information about an individual's absence. Details of an individual's health, either physical or mental, are categorised as 'sensitive data' under the DPA⁷.

The Third Stage meeting will be tape recorded by Nottinghamshire Police. The tape recording of Third Stage meetings will be held within HR. The individual has the right to request and be granted access to a copy of the taped recording.

Further advice about data protection can be obtained from our Force Information Officer,
NOT PROTECTIVELY MARKED

Data Protection Section, Force HR Department or the website of the [Information Commissioner \(ICO\)](#).

4.16.7 Personal Injury claims/Employment Tribunal claims/Insurance claims

There is no reason to treat an individual absent with a pending claim any differently to an individual absent for any other reason. It is always advisable to discuss a case where there is a claim outstanding with a HR Advisor or HR Business Partner.

4.16.8 Management of Ill Health

Nottinghamshire Police is committed to the effective management of ill health and wherever possible will seek to retain the skills and services of an individual rather than retire them on ill health. The process for management of a medical retirement may be found in alternative documents.

4.16.9 Presenteeism

Line managers or supervisors who have concerns regarding an individual attending work when they are unwell should discuss their views with the individual. It may be possible that by doing so the individual will put colleagues at risk of infection and / or impact adversely on their own long term health. An individual may be sent home from work if the line manager or supervisor believes that they are unfit to be at work.

4.16.10 Elective Surgery

Elective surgery is surgery that is subject to choice. The choice may be made by the patient or the doctor. The time when the surgical procedure is performed may be elective. The procedure is considered beneficial to the patient but does not need to be done at a particular time or is not essential. Please contact HR for further advice if required.

4.16.11-Failure to attend formal meetings

Individuals have the opportunity to amend the meeting date if they are unable to attend on the date/time planned by the line manager. Therefore sickness absence does not necessarily preclude an individual from participating in the formal stage meetings. Sickness absence should not prevent the attendance management procedure being progressed.

Each case will be assessed on its merit and Occupational Health should be involved where appropriate. It should be noted that meetings will not be deferred indefinitely due to sickness.

It may be helpful to remind the individuals of the services of Occupational Health, staff associations, trade unions and CIC.

⁷ CIPD

4.16.12 A20 process

Please note that the UAP process is suspended until a) end of the process which includes Police Medical Appeal Board, b) Once the Force has made a determination to retain an individual.

ADDITIONAL SOURCES OF INFORMATION

Information on disability and the Equalities Act 2010 may be found at:
www.direct.gov.uk/en/DisabledPeople/index.htm

Guidelines on return to work after operations from Royal College of Surgeons:
www.rcseng.ac.uk/patient_information/return-to-work/

All things related to return to work:
www.healthyworking.co.uk/websiteleaflets/main

Back pain

ARMA (Arthritis and Musculoskeletal. Alliance): www.arma.uk.net

Pain Support: www.painsupport.co.uk

Back Care: www.backcare.org.uk

Scoliosis Association UK: www.sauk.org.uk

Chartered Society of Physiotherapy:
www.csp.org.uk

Cancer

Macmillan: www.macmillan.org.uk

Cancer Research UK: www.cancerresearchuk.org

Marie Curie Cancer Support:

www.mariecurie.org.uk Rarer Cancers:
www.rarercancers.org.uk

Coronary heart disease

Heart2Hearts: www.heart2hearts.co.uk

British Heart Foundation: www.bhf.org.uk

HEART UK: www.heartuk.org.uk

British Association for Cardiac Rehabilitation:
www.bcs.com/pages/page_bacr.asp?PageID=314&NewsCatID=852

Fit Note Guidance

www.dwp.gov.uk/docs/fitnote-employer-guide.pdf

Information on a variety of health subjects can be found on the NHS website
www.nhs.uk

The NHS Direct website provides health advice and information service.
www.nhsdirect.nhs.uk

SECTION 4 LEGISLATIVE COMPLIANCE

This document has been drafted to comply with the general and specific duties in the Equality Act 2010; Data Protection Act; Freedom of Information Act; European Convention on Human Rights; Employment Act 2002; Employment Relations Act 1999, and other legislation relevant to policing.