



Arolygiaeth Ei Mawrhydi dros Addysg a Hyfforddiant yng Nghymru
Her Majesty's Inspectorate for Education and Training in Wales

Attendance Management Policy and Procedures

Information sheet

Information box

For further advice contact: Human Resources

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Equality impact assessment

- A business rationale assessment has been carried out and this policy contributes to Estyn's strategic objectives and delivery principles.
- An equality impact assessment has been carried out and this policy is not deemed to adversely impact on any people on the grounds of age, disability, gender reassignment, pregnancy and maternity, race, religion or belief, sex and sexual orientation.

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Attendance Management Policy

Policy principles

- 1 Estyn recognises the benefits of staff health and wellbeing whilst at the same time having a robust, clearly understood procedure for managing sickness absence. This policy outlines our approach to managing attendance.
- 2 Estyn understands that people will sometimes be unwell and respects that employees will need to be absent when they are not well enough to work. In line with good practice, Estyn has developed a policy and procedure for managing sickness absences that is pro-active, focused on wellbeing and sensitive to the needs of the individual.
- 3 However, high levels of sickness absence make it difficult to deliver our services and meet our business priorities. It can also increase the burden on other employees who have to provide cover for the absences. Estyn aim to reduce sickness absence by, wherever possible, helping to prevent health problems occurring in the first place through a culture that proactively promotes health and wellbeing, including prevention and early intervention.
- 4 Being ill or injured does not always prevent an employee from getting to, or undertaking some, work and can positively aid recovery, providing it will not be detrimental to the health and wellbeing of the individual concerned. Estyn is committed to supporting people with a disability and long-term health conditions to stay at work or return to work by removing disadvantages that people with a disability or long-term health issue may experience. We take a work-focused approach to help minimise the impact of ill-health on an employee's attendance. This involves:
 - early intervention to enable any help and support to be identified
 - a greater emphasis on the manager and employee working together to remove barriers to work
- 5 Estyn want to create and maintain a culture that promotes and supports the physical and mental health of employees, in which managers can hold productive conversations with employees to find the best ways to support them and make early interventions. Managers will support employees in achieving a satisfactory level of attendance by helping them to remain at work when they experience ill-health, or return to work as soon as possible following a period of sickness absence.
- 6 During continuous sickness absence (absence of 14 days or more), supportive review meetings will take place to provide an opportunity for the employee and manager to keep in touch and identify any help needed to enable the employee to return to work as soon as they are well enough.
- 7 Where levels of sickness absence cause concern, managers will provide support and take appropriate steps to improve attendance, which may include formal action. Managers will use Written Improvement Warnings to address unsatisfactory

attendance, but they will consider all the circumstances of the case before taking action.

- 8 Dismissal or demotion will only be considered as a final option where the level of sickness absence cannot be supported and appropriate medical advice will be obtained to inform decisions.
- 9 The following principles and aims underpin the Attendance Management policy and procedure:
 - generally, being in work is good for physical and mental health and wellbeing
 - Estyn is committed to promoting a culture of attendance where employees feel valued, supported and committed to the business and to their colleagues
 - managers should consider the wellbeing of an individual when decision making and role model the behaviours that create an environment that promotes positive wellbeing in the workplace
 - attendance will be managed fairly and effectively in a clear and transparent way. Managers will use discretion, considering the circumstances of all absences, including disability and long-term health conditions, taking action when there are concerns about health and wellbeing or when absence levels are unsatisfactory
 - attendance discussions will focus on what the employee can do rather than what they cannot, enabling them to remain at work wherever possible instead of taking sickness absence
 - Estyn is committed to reducing the number of working days lost through sickness absence and the impact this has on the business and other employees through focusing on prevention and early intervention
 - to integrate the policy and procedure with health and wellbeing principles and support managers in working constructively with the individual
 - Managers should take appropriate occupational health advice when managing attendance under the policy.

Scope of policy

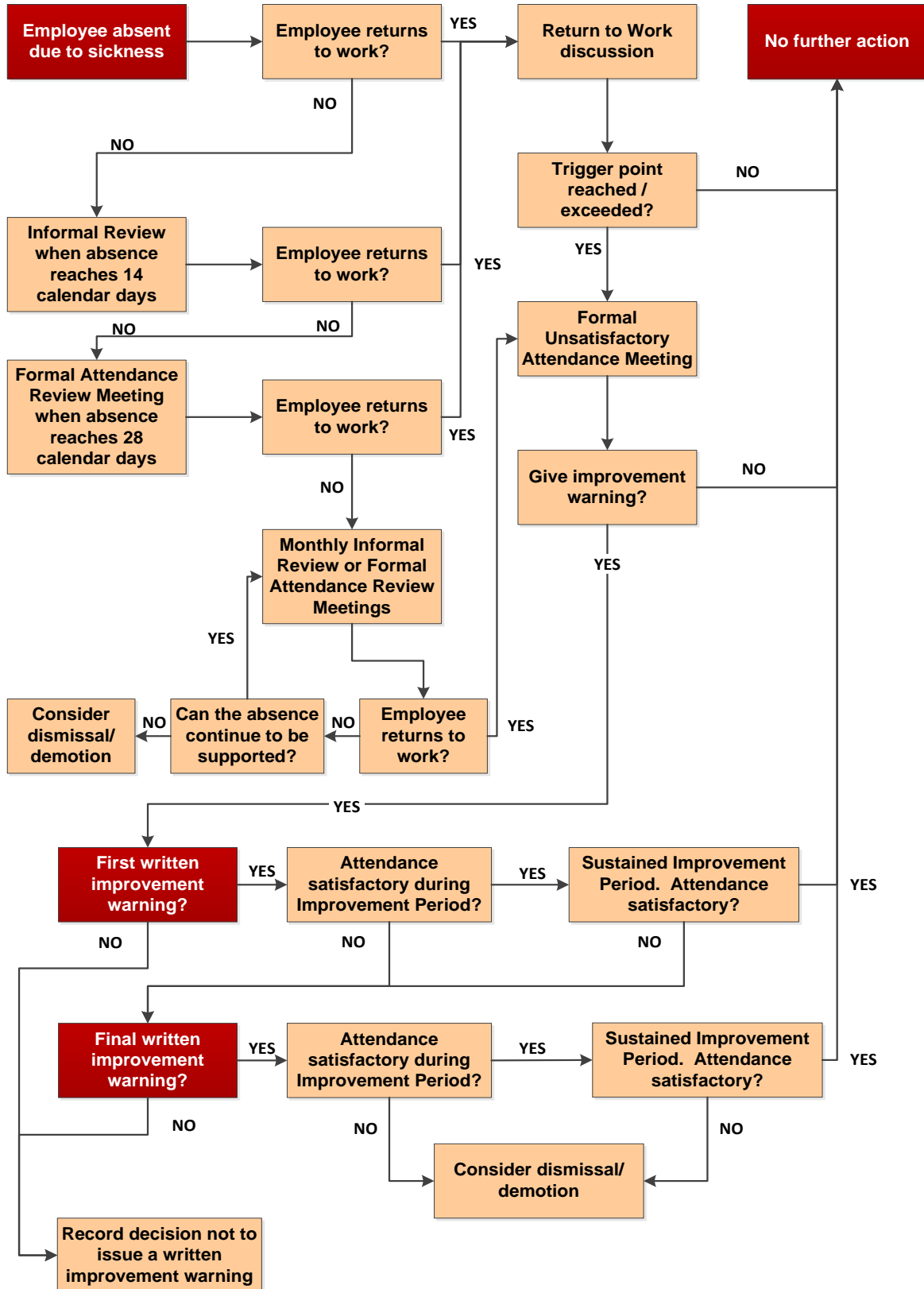
- 10 This policy applies to all employees including those on a fixed term appointments. Employees who are on loan to Estyn and on secondment out of Estyn are also included in the scope of the policy. It does not apply to agency workers or contractors. Please refer to the Probation Policy and Procedure for advice on how to manage sickness absence for employees during their probation period and the Temporary Workers Guide for advice on how to manage sickness absence for Temporary Workers.

Policy summary

- 11 Employees are responsible for managing their own attendance and should attend work unless they are unfit to do so. Good management can lead to good health, wellbeing and improved performance. This policy supports managers in managing attendance effectively and encourages employees to work with their manager to achieve and/or maintain a satisfactory level of attendance.

Attendance Management Procedure

Process overview



Data Protection Statement

- 12 Personal data collected as part of this policy will be processed in accordance with the [Estyn's Access to Information Policy](#) and [Privacy Notice](#). The Privacy Notice explains what personal data Estyn holds about you, how we collect it, and how we will use and may share information about you. Inappropriate access or disclosure of employee data constitutes a data breach and should be reported in accordance with Estyn's Access to Information Policy immediately. It may also constitute a disciplinary offence, which will be dealt with under Estyn's disciplinary procedure.

Introduction

- 13 This procedure should be used for managing sickness absence and unsatisfactory attendance.
- 14 The Attendance Management procedure contains links to guidance for managers and employees. The guide supports line managers in managing attendance issues, and gives further details to employees. Where necessary, managers and staff should consult Human Resources for advice.
- 15 A summary of this procedure can be found in the [process overview](#).

Key information for managers and employees

Roles and responsibilities

Managers

- 16 Managers should:
- focus on early intervention and be proactive in addressing health issues which may affect attendance or performance
 - support employees in achieving a satisfactory level of attendance by helping them to continue to work when they experience ill-health or return to work as soon as possible following a period of sickness absence
 - hold a Formal Unsatisfactory Attendance Meeting with all employees who reach a Trigger Point and make a decision on whether to take formal action; see [Managing unsatisfactory attendance](#).

Employees

- 17 Employees should:
- attend work unless they are not well enough to do so and return to work as soon as they are able
 - talk to their manager at the earliest opportunity about any health issues which might affect their attendance or performance
 - be aware of the standard of attendance expected of them i.e. the Trigger Points and the consequences if they reach or exceed a Trigger Point
 - work with their manager to achieve or maintain a satisfactory level of attendance; this means exploring ways to enable them to work when they experience

ill-health or return to work as soon as possible following a period of sickness absence

Managing health at work

- 18 The manager and employee should work together. They should explore what the employee can do, or might be capable of doing with help and support to continue to work or return to work whilst they recover. This is called a work-focused approach (see Managing Attendance Guide for further information). This approach should also be adopted if an employee becomes ill at work.

Workplace adjustments

- 19 Workplace adjustments are used to remove barriers, or a disadvantage, for people with a disability. They can also help people who don't have a disability enabling them to develop and fulfill their potential. A workplace adjustment could be a change to a policy, working arrangement or providing equipment. Many adjustments don't require a physical change.
- 20 Employers are required under the Equality Act 2010 to make reasonable adjustments to enable employees with disabilities to attend work and carry out their roles effectively.
- 21 In addition to adjustments that employers are legally obliged to make, it is good practice to consider all requests for adjustments. This includes adjustments which could positively impact the engagement, productivity and morale of employees who do not have a disability. For this reason, we refer to workplace adjustments as the steps taken to remove, to reduce or to prevent the obstacles faced by all employees. In all of the Attendance Management guidance we refer to workplace adjustments in the wider sense and we specify where the action is only applicable to employees with a disability.
- 22 Any adjustments should be regularly reviewed to ensure they continue to be effective or to identify whether further adjustments are needed. It is recommended that adjustments are recorded on a [Workplace Adjustment Passport](#). The purpose of the Passport is to capture all agreed workplace adjustment requirements (physical and non-physical). This minimises the need to renegotiate workplace adjustments every time an employee moves post/moves between departments or is assigned a new manager.
- 23 Further guidance on workplace adjustments can be found in the Managing Attendance Guide.

Occupational Health

- 24 Occupational Health give specialist advice on preventing or resolving health problems that can affect the employee's ability to attend work or do their job effectively.
- 25 A referral to Occupational Health can be made at any time if the manager is concerned about the impact of the employee's health on their attendance or

performance. They do not have to wait until the employee has reached a [Trigger Point](#) or until they are absent from work before seeking advice. Managers should contact HR to begin the referral process. See the Managing Attendance Guide for further information.

- 26 A referral to Occupational Health cannot be made without the employee's consent. If the employee does not consent to the referral the manager should make decisions about action to take based on the information available.

Employee absence

Notifying absence

- 27 The employee should telephone their manager to report their absence from work by 10am on the first day of their sickness absence. Where the employee's manager is unavailable, another manager of the same or higher grade, or Human Resources should be contacted. In exceptional circumstances if it is not possible or practicable for the employee to make direct contact, a third party (e.g. partner, colleague, friend or relative) may telephone the manager.
- 28 Other forms of contact to notify sickness absence, such as a text message or an e-mail, should only be used if a telephone call is not possible. In these situations the manager should make a follow up telephone call to the employee.
- 29 The manager should complete the First Call Checklist, unless it is inconvenient or inappropriate to do so at this time. If this is the case, a further discussion to complete the checklist should take place as soon as possible.
- 30 The manager should agree 'keep in touch' arrangements with the employee during the initial conversation.
- 31 During the telephone call, the manager should express concerns about the employee's wellbeing and the manager and the employee should adopt a work-focused approach as detailed in the Managing Attendance Guide. There may be occasions, however, when this is not appropriate, for example if the employee is in hospital. In this case it should be delayed until a more appropriate stage in their recovery.
- 32 Following the initial contact with the employee the manager should:
- record the sickness absence on the Sickness Absence Notification Form and forward the form to Human Resources who will record the sickness absence
 - record the sickness absence on Tensor, further instructions can be found here
 - consider whether a referral to [Occupational Health](#) is appropriate. An early referral during week one of the absence is strongly recommended if the sickness absence is due to stress or a musculoskeletal condition
 - carry out an individual stress risk assessment if the reason for the sickness absence is stress-related. See the Managing Attendance Guide and the [Policy and Guidance for Managing Stress in the Workplace](#) for further details

- consider the [Health and Wellbeing Policy](#) which focuses on some key issues including smoking, exercise, nutrition, alcohol drugs and substance misuse and work life balance.

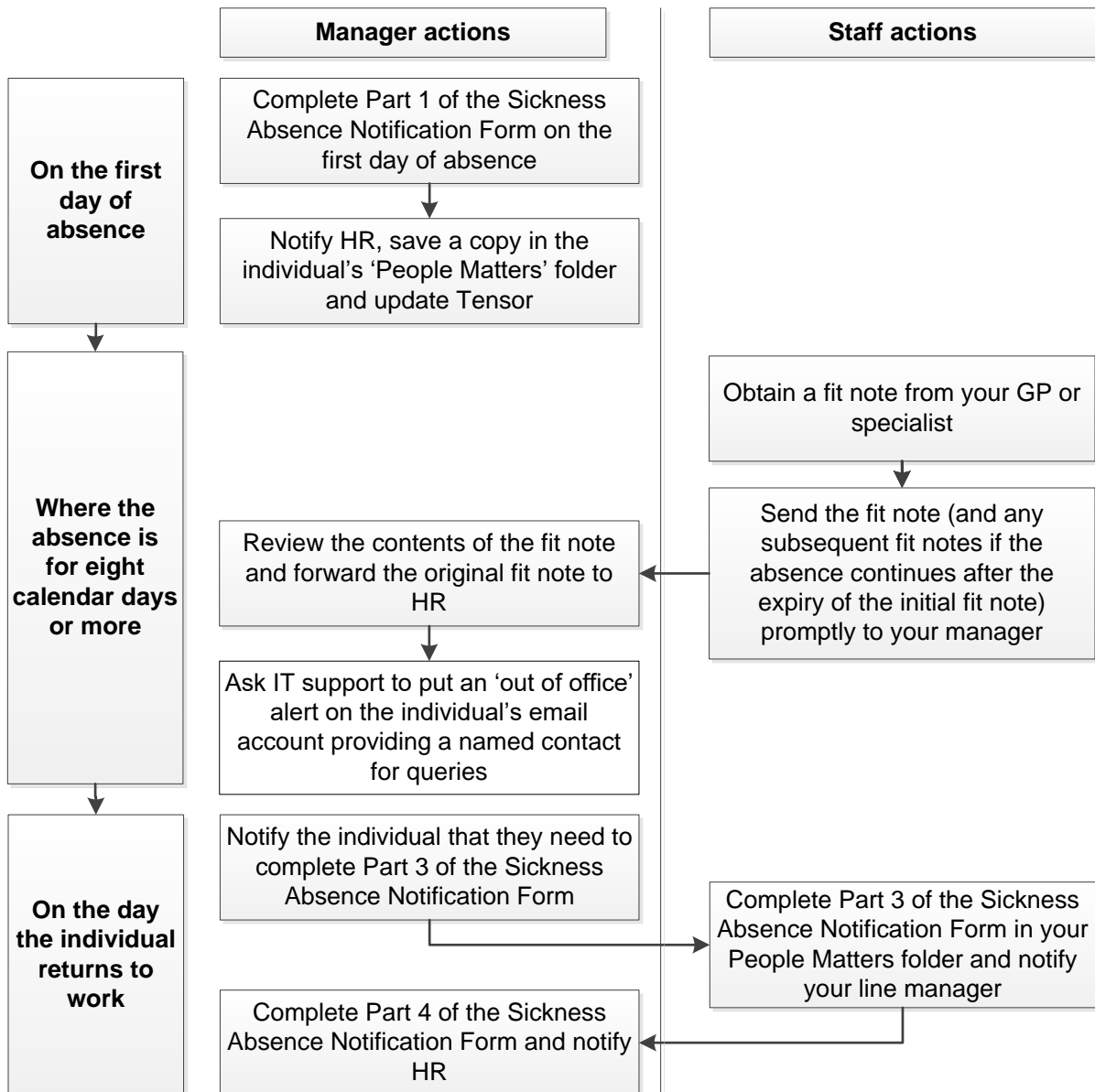
Possible unauthorised absence

- 33 If the employee does not attend work and does not make contact with the manager, the manager should try to get in touch using the most appropriate means on the first day of absence.
- 34 If the manager is still unable to contact the employee, they should contact Human Resources for guidance on unauthorised absences. This may mean contacting their next of kin or visiting the employee at their home address.

Certifying the sickness absence

- 35 The employee must complete a self-certificate for sickness absences of seven calendar days or fewer, using the Sickness Absence Notification Form as soon as possible following their return to work, unless a 'Fit Note' is provided from the start of the sickness absence.
- 36 For sickness absences of eight calendar days or more, the employee must provide a 'Fit Note'. The employee should send their manager any 'Fit Notes' they receive during their sickness absence promptly to ensure continuation of pay.
- 37 Human Resources will use the self-certificate or 'Fit Note' to update the sickness absence record; line managers should also ensure they update Tensor.
- 38 Failure to notify the manager, or provide a self-certificate or 'Fit Note' may result in disciplinary action and/or action to stop pay. See Estyn's Discipline Policy for further information.

Sickness absence certification procedure



During sickness absence

- 39 The manager should keep in touch with the employee, as agreed, during their sickness absence. See Managing Attendance Guide.
- 40 The manager should adopt a work-focused approach during all discussions with the employee throughout their sickness absence, as detailed in the Managing Attendance Guide.
- 41 If the employee reaches or exceeds a Trigger Point during their sickness absence, the manager should carry out a Formal Unsatisfactory Attendance Meeting when the employee returns to work. See [Managing unsatisfactory attendance](#) for further information.

- 42 If the sickness absence reaches 14 consecutive calendar days, the manager should follow the guidance on [continuous sickness absence](#).

Part day absences

- 43 A part-day sickness absence is where an employee attends work for part of the day before going home due to illness or injury. Part-day sickness absences are rounded up to the nearest half day and are treated differently for sick pay and Attendance Management purposes.

Sick pay

- 44 Where an employee attends work and carries out any of their work at all, this will count as a full day of attendance for sick pay purposes and will not count towards any calculations for half or nil sick pay.

Attendance Management

- 45 For Attendance Management purposes, where an employee works for:
- one hour or less; this will count as one day's sickness absence and will count towards a Trigger Point for formal action
 - more than one hour but less than half of their daily contracted hours; this will count as a half-day sickness absence towards a Trigger Point for formal action
 - more than half of their daily contracted hours; this should be treated as a full day's attendance and not recorded as a sickness absence – therefore it will not count towards the Trigger Point for formal action

Sickness absence during annual leave

- 46 If an employee is ill whilst on annual leave they can choose whether to have the days that they are unwell treated as annual leave or sickness absence.
- 47 If an employee chooses to have them treated as sickness absence they must follow the normal rules on notifying their manager of their sickness absence, keeping in touch and providing medical evidence. Annual leave cannot be converted to sickness absence retrospectively e.g. on return to work.
- 48 Exceptionally, the employee may be unable to notify their manager on the first day they are unwell, for example if they are abroad and it is impractical for them to communicate immediately with their manager. The employee must obtain documentary evidence of their incapacity from a local medical practitioner and submit this to their manager on their return. A 'Fit Note' supplied retrospectively by an employee's own doctor cannot be accepted as proof of incapacity whilst abroad.
- 49 If sickness absence is taken instead of annual leave, no deduction should be made from the employee's annual leave entitlement for the period covered by medical evidence. This means the annual leave can be taken at another time.

Annual leave during sickness absence

- 50 An employee can take annual leave during a period of sickness absence. They should submit their request for annual leave to their manager, in advance, in the normal way.
- 51 This means an employee will receive full pay for any periods of annual leave regardless of their entitlement to sick pay.
- 52 The annual leave does not break the total length of the sickness absence. The annual leave and sickness absence will run concurrently and the period of sickness absence will count towards the Trigger Point level and for half/nil sick pay calculations.

Returning to work

- 53 The manager should hold a Return to work discussion following every period of sickness absence, on the day the employee returns to work. The Return to work discussion should include a review of all sickness absences in the rolling 12 month period. See Managing Attendance Guide for further information.
- 54 Following the Return to work discussion the manager should ensure they close the sickness absence promptly by completing Section 4 of the Sickness Absence Notification Form and forwarding it to Human Resources.
- 55 If the employee has reached or exceeded a Trigger Point their sickness absence level is considered to be unsatisfactory. The manager should hold a separate Formal Unsatisfactory Attendance Meeting to decide whether to take formal action. See [Managing unsatisfactory attendance](#).

Taking informal action

- 56 The manager should consider taking informal action if the employee's sickness absence level gives cause for concern but is below a Trigger Point. Informal action may include discussions about [part-day sickness absences](#), a possible pattern of sickness absence or concerns that the employee's health is affecting, or might affect, their attendance. See Managing Attendance Guide for further advice.
- 57 Informal action should focus on trying to help the employee maintain a satisfactory level of attendance. The manager should:
- tell the employee that they are concerned about their level of sickness absence and remind them of the attendance standard expected of them
 - give the employee the opportunity to discuss any issues which they feel are affecting or might affect their attendance
 - adopt a work-focused approach to reduce the likelihood of further sickness absences;
 - consider whether Occupational Health advice is needed to understand the impact of the employee's health on their attendance

- 58 Managers should keep a brief note of the discussion. It is recommended that the employee completes a Workplace Adjustment Passport if an adjustment is required on return to work.

Managing unsatisfactory attendance

- 59 Attendance is unsatisfactory if an employee's sickness absence level reaches or exceeds 10 working days (less, pro-rata, for employees who do not work every day of the normal working week) or five spells of sickness absence in a rolling 12 month period. These are called Trigger Points. The rolling 12 month period is the 12 months up to the last day of the most recent sickness absence.
- 60 The employee may reach or exceed a Trigger Point by taking frequent, short sickness absences or a continuous spell of sickness absence. Part day sickness absences count towards a Trigger Point, including Trigger Points during the Improvement and Sustained Improvement Periods.
- 61 If the sickness absence level reaches or exceeds a Trigger Point, the manager should arrange a Formal Unsatisfactory Attendance Meeting when the employee returns to work, and follow the procedure for managing unsatisfactory attendance (taking into consideration the circumstances of the absence and the employee's absence history).
- 62 Managers should obtain advice from Human Resources.
- 63 [Annex A](#) sets out all of the steps to follow when holding a formal meeting.

Decision points during formal action for unsatisfactory attendance

- 64 Formal action for unsatisfactory attendance consists of the following decision points:
- first Written Improvement Warning
 - final Written Improvement Warning; when the employee reaches or exceeds their Trigger Point following a first Written Improvement Warning
 - consideration of dismissal/demotion; when the employee reaches or exceeds their Trigger Point following a final Written Improvement Warning or when a continuous sickness absence can no longer be supported; see [Considering dismissal or demotion](#) for further information
- 65 The employee has the right of appeal at each decision point. See [Appeals](#) for further information.

Written Improvement Warnings

- 66 Where an employee's sickness absence level has reached or exceeded a Trigger Point, it is likely that a Written Improvement Warning will be given. In all cases the manager must hold a Formal Unsatisfactory Attendance Meeting before making a decision.
- 67 The warning encourages an employee to improve their attendance levels and reminds them of the attendance standard expected of them. Managers should work

with the employee to identify any support which may be needed to help them achieve this.

- 68 When absence is related to disability managers should generally consider and put in place all workplace adjustments before issuing a warning.
- 69 In some circumstances, the manager may use their discretion to decide not to give a Written Improvement Warning; see the Managing Attendance Guide for further detail. The manager should consider the circumstances of the absence and the employee's absence history. If they decide not to give a Written Improvement Warning, they should record their decision and the reasons for it.
- 70 If the sickness absence is related to pregnancy the manager must not give a Written Improvement Warning. If the absence relates to surgery, post-operative care or ongoing medical treatment related to gender reassignment the manager should not give a written improvement warning and this will be regarded as a short term reasonable adjustment. If the absence becomes more lengthy HR advice should be sought.
- 71 A warning should not be given if the sickness absence is due to an injury sustained, or disease contracted, in the course of the employee's duties. The employee may be able to claim injury benefit. Further information is available in the 'Injury benefits scheme' information sheet available from the [Civil Service Pensions website](#). If injury benefit is awarded, Estyn will provide up to a maximum of six months' injury absence on full pay before normal sick pay arrangements are applied. Any subsequent sickness absence should be treated in the same way as other sickness absences.

Improvement and Sustained Improvement Periods

- 72 A Written Improvement Warning is followed by an Improvement Period, during which the employee should aim to meet the attendance standard expected of them. The Improvement Period lasts for three months but can be extended up to six months, if appropriate.
- 73 The manager should inform the employee of the attendance standard they are expected to meet during the Improvement Period. This will be a proportion of their normal Trigger Point. During a three month Improvement Period this will be 25% of their Trigger Point.
- 74 Pro-rating spells for use during the Improvement Period can produce very low triggers. For example, a trigger point of 8 days and 4 spells pro-rated over a 3 month Improvement Period would give a new trigger point of 2 days and 1 spell. This would mean that a single day's absence would bring the employee back into the formal attendance action process. In these circumstances managers should use a new trigger point of 2 days without any reference to spells.

Attendance is satisfactory at the end of the Improvement Period

- 75 If attendance is satisfactory on completion of the Improvement Period, the manager should arrange a formal meeting with the employee to tell them they have met the attendance standard expected of them. [Annex A](#) sets out all of the steps to follow when holding a formal meeting.
- 76 During the meeting the manager should follow all of the steps in the Annex and:
- acknowledge that the employee's attendance has improved
 - inform the employee they are now subject to a 12 month Sustained Improvement Period; the Sustained Improvement Period starts immediately following the end of the Improvement Period
 - tell the employee they are expected to maintain a satisfactory level of attendance during the Sustained Improvement Period; attendance will be unsatisfactory if their absence level reaches or exceeds their normal Trigger Point
 - explain to the employee that absences are monitored during the Sustained Improvement Period over a rolling 12 month period, which starts from the date the Written Improvement Warning was given and therefore any absences during the Improvement Period will be included.

Attendance remains satisfactory at the end of the Sustained Improvement Period

- 77 If the employee maintains a satisfactory level of attendance throughout the Sustained Improvement Period, the manager should arrange a formal meeting with the employee to tell them they have met the attendance standard expected of them. [Annex A](#) sets out all of the steps to follow when holding a formal meeting.
- 78 During the meeting, the manager should follow all of the steps in Annex A, acknowledge that the employee's attendance has improved and inform the employee that formal action has now ended.

Attendance is unsatisfactory during the Improvement Period or Sustained Improvement Period

- 79 If attendance is unsatisfactory during the Improvement Period or Sustained Improvement Period, formal action may move on to the next decision point. The manager does not need to wait until the employee has completed the Improvement Period or Sustained Improvement Period before taking formal action.
- 80 The manager should arrange a Formal Unsatisfactory Attendance Meeting with the employee to tell them they have not met the attendance standard expected of them.
- 81 During the meeting the manager should follow all of the steps in [Annex A](#) and:
- tell the employee their attendance has been unsatisfactory during the Improvement Period or Sustained Improvement Period
 - give the employee the opportunity to present any new information

- consider whether, in light of all the available evidence, formal action moves to the next decision point
- 82 After the meeting the manager should inform the employee in writing of their decision to either:
- move to the next decision point of formal action; or
 - take no further action at this point, in which case their Improvement Period or Sustained Improvement Period continues to its original end date.
- 83 If the employee does not meet the attendance level expected of them following a final Written Improvement Warning, dismissal or demotion should automatically be considered.

Continuous absence

- 84 A continuous period of sickness absence is one which reaches 14 consecutive calendar days.
- 85 During any continuous sickness absence period the manager and employee should work together to explore what the employee can do or might be capable of doing with help and support, to return to work as soon as they are able. See the Managing Attendance Guide for advice.
- 86 When an employee returns to work following a period of continuous sickness absence the manager should follow the procedure for managing unsatisfactory attendance. They should hold a Formal Unsatisfactory Attendance Meeting if their Trigger Point has been reached or exceeded.

Linking periods of continuous sickness absence

- 87 Periods of continuous sickness absence can be linked together for Attendance Management purposes.
- 88 If a period of continuous sickness absence is followed by another, the absences may be linked for monitoring purposes and treated as a single absence. This means the manager can continue the attendance monitoring action from the point they had previously reached. This would only happen if:
- the sickness absences are for different, unrelated reasons but the gap between the sickness absences is two weeks or less (unless the absence was due to a particularly long or serious illness in which case the gap could be up to two months)
 - the sickness absence is for the same reason; the manager should consider how long the employee was back at work relative to the length of the absence
 - the employee returns to work Part Time on Medical Grounds and is unable to sustain the increase in their hours and is absent due to sickness again.

Meetings during continuous sickness absence

- 89 There are two types of meeting that should take place between the manager and the employee during a continuous sickness absence:
- an informal review – to keep in touch with the employee and explore the support needed to help the employee return to work
 - a Formal Attendance Review Meeting – to explore the support needed, but also to consider whether the employee is likely to return within a reasonable time frame, and therefore whether the business can continue to support the absence; this is a formal meeting where the employee has the right to be accompanied
- 90 These meetings should take place at the following points:
- an informal review after 14 consecutive calendar days of sickness absence, and every month thereafter
 - a Formal Attendance Review Meeting after 28 consecutive calendar days and three months of the sickness absence, and every quarter thereafter; there is no need to hold an informal review in a month where a Formal Attendance Review Meeting is scheduled

Informal reviews

- 91 During an informal review the manager should:
- ask the employee how they are feeling and where they are in their recovery
 - discuss any medical advice, for example; from the GP, consultant or Occupational Health
 - consider whether a workplace adjustment is appropriate
 - ask the employee when they think they may be able to return to work and what support they need to achieve this (see Managing Attendance Guide for advice)
 - remind the employee of the attendance standard expected of them and inform them if they have exceeded a Trigger Point
 - bring the employee up to date with any key developments in their work area and/or the organisation
- 92 Following the review with the employee, the manager should consider whether the sickness absence can continue to be supported, except when the sickness absence is pregnancy-related (see the Managing Attendance Guide for advice). If the manager believes that the sickness absence cannot be supported they will need to arrange a Formal Attendance Review Meeting.

Formal Attendance Review Meeting

- 93 The first Formal Attendance Review Meeting should take place when a sickness absence reaches 28 consecutive calendar days, unless the employee is due to return to work in the next few days.

- 94 Further Formal Attendance Review Meetings should be held:
- when an employee has been absent for three months, and then every three months thereafter, as a minimum
 - if, following an informal review, a manager considers an absence cannot continue to be supported
- 95 [Annex A](#) sets out all of the steps to follow when holding a formal meeting.
- 96 During the meeting the manager should:
- undertake the same actions as in the [informal review](#)
 - discuss with the employee whether a return to work is likely within a reasonable timescale
 - consider whether there may be underlying disability and if any workplace adjustments may be appropriate
 - consider whether the sickness absence can continue to be supported
 - explain that dismissal/demotion may be considered if their level of sickness absence cannot be supported
- 97 If a return to work is likely within a reasonable timescale and/or the absence can continue to be supported, the manager should arrange an informal review with the employee to be held in a month's time.
- 98 If a return to work is not likely within a reasonable timescale and the absence cannot continue to be supported, the manager should consider whether the employee is likely to meet the criteria for [Ill-Health Retirement](#) or whether dismissal/demotion is appropriate.

Considering dismissal or demotion

- 99 Decisions on dismissal or demotion are normally taken by the manager, who will not be less than HEO Grade, in consultation with Human Resources. HR will check that appropriate steps have been taken to support the manager's decision.
- 100 Dismissal or demotion should be considered when the Attendance Management procedure has been followed and:
- attendance has not improved to a satisfactory level following a final [Written Improvement Warning](#)
 - a return to work in their current post is not expected within a reasonable time frame during a period of continuous absence
 - where the employee is absent for a reason related to disability, the department has explored all options to make workplace adjustments which would enable an employee to return to work
- 101 If the manager does not meet the grade requirement to consider dismissal/demotion, they should gather all the relevant information and refer the case to a Decision Manager. [Annex B](#) contains a Checklist for referring a case.

- 102 The manager or Decision Manager should conduct a formal meeting with the employee before making a decision about dismissal or demotion.
- 103 When arranging the formal meeting the manager or Decision Manager should follow the relevant steps in [Annex A](#).
- 104 At the meeting the manager or Decision Manager should:
- explain why they are considering dismissal or demotion
 - give the employee the opportunity to present any new information which might affect their decision
- 105 After the meeting the manager or Decision Manager should consider the information and make a decision. See the Managing Attendance Guide for further advice.

Decision is demotion

- 106 The manager or Decision Manager may decide to demote the employee if:
- the pressure of the duties of a higher grade is likely to have been the major reason for the unsatisfactory attendance
 - they believe that the employee will achieve the required level of attendance again in the lower grade
 - a suitable vacancy is available.
- 107 Failure to agree to the demotion may result in the employee's dismissal.

Decision is dismissal

- 108 The manager or Decision Manager should dismiss the employee if **all** of the following apply:
- the business can no longer support the employee's level of sickness absence
 - demotion is not appropriate
 - where appropriate, there are no further workplace adjustments that can be made which will help the employee return to satisfactory attendance
 - Occupational Advice has been received within the last three months, unless the employee withheld their consent to an Occupational Health referral
 - an application for [Ill-Health Retirement](#) would not be appropriate or has been refused
- 109 If the decision is to dismiss, the manager or Decision Manager should consider whether compensation is appropriate. Guidance on considering compensation is available from Human Resources. The Corporate Services Director must authorise the final compensation payment for efficiency departures.

Decision is no further action

- 110 If the manager or Decision Manager decides not to dismiss or demote, the Attendance Management process will continue. This means that:
- the Improvement Period or Sustained Improvement Period will continue to the original end date; any additional absences may lead to dismissal or demotion being re-considered

- Formal Attendance Review Meetings will continue during a period of continuous sickness absence; the decision to dismiss or demote may be reconsidered if the sickness absence can no longer be supported

Following the decision

111 After making their decision the manager or Decision Manager should:

- make a full written record of the discussion and the outcome; this should include the reasons for the decision
- write to the employee within five working days of the meeting to advise them of the decision taken and the reasons for it, including a summary of the key points from the meeting; if the decision is to dismiss, include the effective date of dismissal, details of the notice period and any compensation payment (where applicable)
- tell the employee that they have a right to appeal against their dismissal within 5 working days of receiving the letter
- inform the employee of their right of appeal to Civil Service Appeal Board regarding the amount of compensation paid on dismissal on efficiency grounds for unsatisfactory attendance
- liaise with Human Resources to send a copy of the letter and the completed Compensation Certificate to MyCSP, and begin last day of service preparations if the decision is to dismiss
- update the employee's absence record on Tensor

Appeals

112 There is one right of appeal at each decision point in the Attendance Management procedure.

113 The employee has five working days from the date of receipt of the decision to submit their appeal to the Appeal Manager. The appeal should clearly state the grounds for the employee's appeal and their desired outcome.

114 There are three grounds of appeal:

- a procedural error has occurred
- the decision is not supported by the information/evidence available to the manager or Decision Manager
- new information/evidence has become available that should be taken into account when reaching a decision about dismissal/demotion

115 If the appeal does not satisfy the above grounds of appeal, the Appeal Manager should reject it and notify the employee in writing of this decision.

116 Employees may not raise a grievance where a right of appeal exists under any other Estyn procedures.

117 Appeals should be heard by an Appeal Manager who is:

- at least one grade higher than the manager who made the original decision (where possible)

- is independent, in other words they have had no previous involvement in the case

118 Managers must consult with the HR team to appoint an appropriate Appeal Manager.

119 The appeal process should continue in parallel with, and not delay, any ongoing action under the Attendance Management procedure, including the start of any notice period. The Appeal Manager's decision is final.

120 If the appeal meets the criteria, the Appeal Manager should conduct a formal meeting with the employee before making a decision within the appropriate timescales.

121 When arranging the meeting the Appeal Manager should follow the relevant steps for formal meetings in [Annex A](#).

122 Before the meeting the Appeal Manager should:

- check they have all the papers relating to the decision
- check that the procedure has been followed correctly
- ensure they understand the grounds of appeal
- refer to HR if they are unsure of any points, to ensure consistency
- fully consider all the points raised by the employee in their appeal
- consider the original decision and any new evidence provided by the employee

123 An appeal hearing should be conducted as a full re-hearing of the case. In some cases (but only where dismissal/demotion is not being considered), depending on the grounds of appeal, the Appeal manager may restrict their consideration to a review of specific matters, such as whether the original decision was made in accordance with the procedure.

124 Following the meeting the Appeal Manager should decide whether to uphold the appeal and consult with HR before notifying the employee. They should write to the employee notifying them of their decision within five working days of the meeting.

125 The decision letter should include:

- whether or not the appeal is upheld or rejected and the reasons for this decision;
- any recommended actions such as dispute resolution/mediation, further attendance reviews/meetings with the employee and workplace adjustments

Other things to consider

Confidentiality

126 Sickness absence records are confidential and should only be viewed by, or communicated to, other managers, Human Resources, the Welsh Government's HR Shared Service Centre or Occupational Health providers and in accordance with Estyn's [Information Assurance Policy](#). Disciplinary action may be taken for any inappropriate handling or processing of personal data.

Retention of documents

- 127 When keeping records relating to an employee's health, the manager should follow Estyn's [Information Assurance Policy](#) and [Access to Information Policy](#).

Disability leave

- 128 Disability leave is a form of paid special leave that may be offered as a reasonable adjustment under the [Equality Act 2010](#).
- 129 Employees with a disability can apply for disability leave if they are fit for work but need time off to attend appointments for treatment, rehabilitation or assessment relating to their disability.
- 130 There may be some cases where an employee with a disability is fit to work but is not able to work safely or effectively until workplace adjustments are put in place. The manager should discuss with the employee whether any temporary changes would enable them to continue to work while the adjustments are implemented. Where temporary changes have been considered but not deemed sufficiently effective, disability leave may be applied until the adjustments are implemented.
- 131 The manager should not apply disability leave if the employee is absent because they are not fit for work. Disability leave does not cover period of sickness absence, whether or not the ill health is directly related to the employee's disability. Disability leave does not cover periods of hospitalisation or recovery.
- 132 Disability leave is recorded separately to sickness absence and does not count towards Attendance Management or sick pay calculations.

Gender Reassignment Leave

- 133 Gender reassignment leave can be categorised as either paid special leave or sickness absence. It enables employees to take time off to attend appointments or undertake treatments relating to gender reassignment:
- paid special leave should be considered if the employee is fit for work but needs time off for gender reassignment appointments
 - sickness absence should be applied where an employee is unfit for work, e.g. following surgery or other treatments
- 134 The manager should meet the employee to discuss timeframes and gain an understanding of any concerns they may have regarding the transition process.
- 135 The manager should not take formal unsatisfactory attendance management action when an employee reaches or exceeds Estyn trigger points for gender reassignment related sickness absence

- 136 The manager should carry out an informal review see Managing Attendance Guide if sickness absence for gender reassignment lasts, or is likely to last, more than three months and refer to Occupational Health in liaison with the HR team as appropriate.

Workplace adjustment Passport

- 137 Managers may also wish to consider completing a workplace adjustment passport, where all workplace adjustment requirements can be captured. The aim of the passport is to minimise the need to re-negotiate workplace adjustments every time an employee moves post, moves between departments or is assigned a new line manager.

- 138 There are three functions within the passport:

- to support a conversation between an employee and their line manager about the disability, health condition or gender reassignment and any workplace adjustments that might need to be made
- to act as a record of that conversation and of the adjustments agreed
- to act as a record of any adjustments made for individuals as a temporary supportive measure

- 139 Further details can be found here.

Other health-related absences

- 140 Employees may occasionally need to take time off from work to deal with health-related issues, for example:

- to attend doctors/dentists/hospital appointments
- to receive treatment locally, for example kidney dialysis, infertility treatment
- rehabilitation after an injury, for example physiotherapy, hydrotherapy
- where the employee has medical advice that they should refrain from work following contact with a notifiable communicable disease¹

- 141 Where possible, employees should attend appointments in their own time. If they are unable to do so they should try to minimise any disruption to the business, for example by attending appointments at the beginning or end of the day outside core working hours. The employee should give their manager as much notice as possible of the appointment and provide evidence of their appointment time, if requested.

- 142 Where the employee has been unable to arrange an appointment in their own time, the manager can consider giving the employee paid time off, such as a flexi credit, for reasonable health-related absences. For guidance on recording flexi credit see Flexible Working Hours – Summary of Rules.

¹ Notifiable communicable diseases include: measles, mumps, rubella, meningitis, legionnaire's disease, malaria, SARS, tuberculosis.

- 143 Paid time off should only be given where the employee would otherwise be fit to attend work. If the employee is unfit to attend work, the absence is recorded as sickness absence.

III-Health Retirement

- 144 An employee can apply for III-Health Retirement if a breakdown in their health prevents them from carrying out their duties and there is advice from Occupational Health that they are likely to meet the criteria. For further information see the Civil Service Pension Scheme [III-Health Retirement Guide for Members](#).
- 145 The employee should talk to their manager if they want to apply for voluntary III-Health Retirement.
- 146 Estyn can make an application for compulsory III-Health Retirement if a breakdown in the employee's health prevents them from carrying out their duties and their employment is to be terminated.
- 147 Compulsory III-Health Retirement can be pursued by Estyn where the employee has refused, or is too ill, to apply on a voluntary basis and there is advice from Occupational Health that they are likely to meet the criteria. Such cases should be referred to Human Resources for advice.
- 148 The manager should tell the employee if they intend making an application for compulsory III-Health Retirement. If all other Attendance Management procedures have been followed and the employee does not consent to an ill-health retirement application then the manager should consider dismissal.

Returning part-time on medical grounds

- 149 Returning to work part-time on medical grounds (PTMG) is a formal arrangement to help the employee return to work gradually, usually after a long or severe illness. The employee returns to work for some of their usual working hours and the remainder are recorded as sickness absence. The number of hours worked will increase over a period of time (usually a maximum of eight weeks) until the employee resumes their normal working pattern. Further guidance is available from Managing Attendance Guide.
- 150 The periods of sickness absence agreed as part of the PTMG arrangement will be subject to the usual rules on sick pay but will not count towards a Trigger Point or any formal action for unsatisfactory attendance. Any period of sickness absence taken during the agreed hours when the employee should be at work, will count towards a Trigger Point.
- 151 The manager should ensure parts 3 and 4 of the Sickness Absence Notification Form are completed and that they notify Human Resources of the period of PTMG so that it can be recorded.

- 152 Annual leave can be taken whilst working PTMG. If the employee takes annual leave during a period that was agreed as sickness absence, it will count towards calculating entitlement to sick pay.

Third Party Claims

- 153 In line with Chapter 9 of the Civil Service Management Code, employees should include an amount for loss of earnings where they make a claim for damages against a third party.

Annex A – Holding a formal meeting

The following steps apply to all formal meetings and should be followed carefully. Further guidance is available in Managing Attendance Guide. Any additional steps relating to a specific meeting are set out in the relevant part of the procedures.

Before the meeting

The manager should write to the employee inviting them to a meeting to discuss their attendance. Where possible the meeting should be face-to-face at their usual workplace. The letter should:

- give at least five working days notice
- tell the employee they are expected to attend the meeting as scheduled unless there are exceptional circumstances why they cannot, in which case they should inform the manager as soon as possible
- inform the employee a note taker from Human Resources will attend to keep a written record of the meeting
- advise the employee they have the right to be accompanied by a trade union representative or work colleague
- explain the reason for the meeting, what issues will be discussed and what the possible outcome could be
- enclose copies of any correspondence relating to the employee's sickness absence that will be referred to during the meeting; if the employee is on a continuous period sickness absence, send them a copy of the Attendance Management policy and procedure

The manager should also:

- make any workplace adjustments which are necessary to enable an employee with a disability to attend a formal meeting
- postpone the meeting once if the trade union representative or work colleague the employee has chosen, cannot attend; the meeting must be held within five working days of the original scheduled date and, if this is not possible, the manager should make a decision about the case taking into account all the available evidence
- review the available information about the employee's sickness absence history and consider the possible outcomes.; Human Resources can provide support/advice
- read the Attendance Management [policy](#) and [procedure](#) and make sure they understand what decisions or actions they will need to take following the meeting

In the meeting

The manager should take the following actions for all meetings:

- ensure notes of the meeting are taken
- notify the employee of the potential outcomes including dismissal/demotion

- give the employee the opportunity to raise anything they think is relevant prior to the manager making a decision about next steps
- remind the employee about the support available from the [Employee Assistance Programme](#)
- tell the employee about next steps.

The following actions are not applicable for Appeal Meetings. However, the manager should take these actions for all other meetings:

- review the employee's absence history
- explain the purpose of the meeting i.e. to help the employee to return to a satisfactory level of attendance, support them in their return to work or to determine whether the sickness absence can be supported
- ask the employee what steps they are taking to help themselves return to a satisfactory level of attendance
- explore whether there any temporary workplace adjustments or workplace adjustments that might enable the employee to achieve a satisfactory level of attendance or a return to work
- review any workplace adjustments which are already in place for employees with a disability and check whether they continue to be effective or necessary; the manager should also consider whether any further adjustments are needed to support the employee
- consider whether Occupational Health advice is needed to enable them to make a decision about next steps and discuss this with the employee.

After the meeting

The manager should take the following actions for all meetings:

- consider all of the available information and make a decision
- write to the employee within five working days of the meeting; advise the employee of the decision taken and the reasons for it, and include the record of the discussion, which should be signed by the employee
- take forward any agreed actions and update the employee on progress

The following actions are not applicable for Appeal Meetings. However, the manager should take these actions for all other meetings:

- talk to the employee about any Occupational Health advice received; consider any recommendations and how they can be implemented
- update HR on any action taken to ensure the employee's sickness absence record is updated on the HR system (Tensor).

Annex B: Checklist for referring a case to a Decision Manager

The manager should provide the Decision Manager with the relevant information to enable them to make a decision. This should normally include:

- the reasons why the business can no longer support the sickness absence
- a written summary of the case so far including all action taken to date, copies of any letters issued and notes of all discussions with the employee relating to their sickness absence
- a copy of all Occupational Health advice, including advice issued within the last three months, or details of when consent for an Occupational Health referral was asked for and refused
- information on any workplace adjustments which have been considered and made; if these have not been implemented the manager should include an explanation of the reasons
- a copy of a Stress Risk Assessment if appropriate
- a copy of the Return to Work plan where appropriate
- the employee's sickness absence records for at least the last two years
- any advice received from HR
- a copy of the employee's job description
- evidence that Ill-Health Retirement has been considered