



**CPS**

# **Crown Prosecution Service Managing Attendance Policy**



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# Policy Objective

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Sickness absence is a significant cost to the CPS, which detracts from the achievement of its business objectives. The purpose of the managing attendance policy is to maximise attendance at work to enable smooth business delivery. The CPS aims to achieve improvements in attendance levels through balancing the needs of the organisation, the needs of staff who are ill and staff who remain at work. This policy provides a framework for the consistent management of cases where employees are absent from work due to sickness.

The CPS values the health and well-being of staff and understands that staff attendance can be affected by a variety of organisational factors, as well as individual issues, which contribute to absence, ill-health and poor performance. The CPS is committed to supporting staff to maintain their health and if sick, to regain their health and return to work. The CPS will take appropriate, preventative, supportive and investigative action to help create and maintain a work environment that allows staff the opportunity to maximise their personal contribution.

Regular and punctual attendance is a contractual condition for all employees and thus the CPS expects all staff to attend work when they are well. The CPS is committed to preventing and reducing absence and will manage sickness with sensitivity. However, nothing in this policy will prevent or restrict CPS rights to terminate employment before entitlement to sick pay is exhausted. The CPS recognises that action taken under the managing attendance policy should normally follow informal discussions between managers and employees. This policy is designed to ensure appropriate support is identified and put in place to achieve improvements in unacceptable attendance records, and to ensure appropriate formal action is taken when necessary.

## Scope

The policy applies to all CPS employees who have completed their probation. Issues relating to poor attendance for probationary employees will be dealt with in accordance with the Probation Policy. However, the provisions set out in this policy regarding the responsibilities of managers and employees, the notification and certification requirements and the section on considerations will also apply to employees on probation.

## Review date

The policy will be reviewed by the Human Resources Directorate (HRD) after the first year of publication and thereafter every two years, or sooner where new developments in employment legislation or organisational needs necessitate such a review. Reviews will be carried out in consultation with our trade unions, managers and staff networks, working in partnership with the Equality and Diversity Unit and other key stakeholders. The next review will be undertaken in October 2008.

# 1. Introduction

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- 1.1** The managing attendance procedure provides a framework for dealing with cases where, despite informal management support, an employee's attendance falls short of the required standards. **All employees involved in any capacity within this procedure must ensure that confidentiality is maintained at all times. However, this does not restrict the employee who is the subject of this policy from discussing their absence with others as appropriate.**
- 1.2** Records will be kept of any attendance improvement notices (see section 7) which will remain on an employee's personal file until the time limit has elapsed. The employee will be informed in writing when their attendance improvement notice has expired and when attendance improvement notices have been removed from their personal file.
- 1.3** Records kept will include, details of poor attendance, any medical advice, the employee's response; any action taken, including reasonable adjustments, whether an appeal was lodged and its outcome, and any subsequent developments. All records will be kept confidential and in accordance with the requirements of the Data Protection Act 1998.
- 1.4** Employees who abuse this procedure or the provisions of the sick pay scheme, may be subject to disciplinary action, as a result of which they may have their sick pay withheld. Without reasonable cause, the following would constitute examples of abuse, not reporting absence due to sickness to the designated manager, not participating in the Return to Work discussions or providing medical certificates as required, failing or refusing to attend meetings with management or the Occupational Health Adviser (OHA), and engaging in activities which in the opinion of the OHA are inconsistent with the alleged illness or which may aggravate the illness or delay recovery such as undertaking employment or participating in sport.
- 1.5** Where the OHA has advised and it is agreed that an employee should be redeployed to alternative work, regular monitoring and review under this procedure should continue.
- 1.6** Employees are expected to meet their managers when required, as part of their responsibilities under this procedure. However, in exceptional circumstances, e.g., where there are significant difficulties between the line manager and the employee, it may be appropriate for the purposes of this procedure, that another manager (designated by the Area/HQ Business Manager) rather than the immediate line manager is the main contact for reporting and discussing sickness absence (informally as well as formally).
- 1.7** Where an employee's illness is sufficiently serious, and the employee is unable to return to work within a reasonable timescale as determined by the Area/HQ Business Manager in terms of the needs of the business, there may be no need to go through all the stages of the procedure. In such cases, it may be possible to agree with the employee to proceed straight to a Final Stage meeting following a referral to OHA, so that options such as a medical retirement or a termination of employment can be explored.

## 2. Roles and Responsibilities

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2.1 The roles and responsibilities of Directors, line managers, the HRD and employees include, but are not limited to, the following:

### Directors/CCPs/Area or HQ Business Managers

- Providing a strategic framework for sickness management, including setting agreed national and area attendance improvement targets across the CPS
- Reviewing sickness absence management performance and contribution to national targets at the Area/HQ Performance Review meetings
- Fully supporting the implementation of the policy and procedure consistently throughout the organisation
- Creating and maintaining a safe, healthy and supportive work environment that enables employee involvement, engagement and commitment
- Being supportive of employees if they are absent due to sickness

### Line Managers

- Promoting a safe, healthy and supportive work environment to prevent sickness absence as far as possible
- Being supportive of employees if they are absent due to sickness
- Ensuring that appropriate expectations are established and communicated to employees about attendance at work and the impact of sickness absence on the business
- Being aware of the policy and any changes to it
- Explaining the procedure to be followed at every stage of this policy, including medical referrals
- Regularly reviewing the level of sickness absence and trends and applying this policy when attendance levels are unsatisfactory or health concerns are impacting on performance
- Contacting employees on their return from sickness absence in order to discuss their absence, ensure that Return to Work forms are completed and submitted (normally within 5 working days of the employee's return to work) and take any other action as appropriate
- Contacting employees who have not reported their absence as required.
- Maintaining regular contact with those on long term sickness absence including carrying out personal visits at an agreed location (e.g. home, CPS office, etc), as appropriate
- Referring employees to the OHA for a medical assessment at any time via the HRA.
- Taking appropriate action within this procedure to deal with health and attendance issues and implement agreed reasonable adjustments at the earliest opportunity
- Implementing the policy and procedure equitably and in line with current legislation and best practice
- Updating the Area/HQ Business Managers on developments relating to sickness absence in their areas of responsibility

### Employees

- Attending work when fit to do so and not using sickness absence provisions unless medically unfit to attend work or remain at work
- Attending appointments arranged with management or the OHA, as part of this procedure

- Reporting their sickness in accordance with this procedure (see Appendix 1) and keeping in regular contact with their manager
- Informing their manager as soon as possible of any changes in their condition that affects their ability to do their job or alters the timescales for their return to work
- Leaving contact details when off work due to sickness.
  - Submitting medical and fitness certificates promptly (see Appendix 1).
- Participating in Return to Work discussions following each period of sickness absence
- Meeting their manager when requested to discuss their absence.

## Human Resources Directorate (HRD)

- Communicating the policy and the procedure
- Ensuring that appropriate training and updating programmes are implemented across the organisation
- Advising managers on all aspects of the policy and procedure to ensure they operate it in a fair and effective manner
- Advising employees on all aspects of the managing attendance process
- Providing a central resource for monitoring and reviewing the effectiveness of the policy and procedure
- Reviewing corporate and departmental sickness absence records and statistical reports
- Following up action with line managers, regarding employees whose absence has reached trigger points
- Monitoring poor attendance cases to identify trends and ensuring that any disproportionate impact on any particular group is highlighted and addressed

### 2.2 Other Sources of Advice and Support

Trade Unions – First Division Association (FDA) & Public and Commercial Service (PCS)

Occupational Health Adviser (OHA)

Care First Support Services – confidential counseling service for employees

HR Advice Centre, Cardiff

Disabled Staff Network – the support network for disabled employees

LGBT – support network for Lesbian, Gay, Bisexual and Transgender employees

National Black Crown Prosecution Association (NBCPA) – a support network for Black and minority ethnic staff

## 3. Discussions with Employees

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- 3.1** Early management action before the formal procedure is invoked can range from brief discussions through to meetings, the outcomes of which are confirmed to the employee in writing, that clarify or restate attendance expectations, and the possible consequences of the employee failing to reach them. This may include informing the employee about the possibility of formal action.
- 3.2** In recognising the duty of care to employees, managers are expected to address concerns as soon as they arise. Informal reviews including personal visits and referral to the OHA may therefore take place before the trigger points are reached.

### **3.3** Return to Work Discussion

**3.3.1** Line managers should contact employees as soon as possible, following every return from sickness absence. This may take the form of a relatively quick discussion or it can be a more structured meeting, depending on individual circumstances. If there is concern about the pattern of absence or health, this should be raised with the employee at the earliest opportunity. The meeting should focus on:

- welcoming the employee back to work and confirming their reason for absence (employees do not have to share all the medical details);
- confirming with the employee that s/he is fully recovered and fit to work;
- ensuring the employee's Return to Work form is completed and submitted within 5 working days (and collect any medical certificates if appropriate);
- identifying whether there are any underlying causes for their absence, in order to provide any appropriate assistance;
- identifying any support the employee may need, which may include Care First, the counselling service;
- checking whether the employee may be disabled, which might require reasonable adjustments in the workplace following OHA advice;
- discussing, if appropriate, the employee's general sickness record and whether a separate formal meeting under this procedure is required; and
- updating the employee on any work issues or changes which have occurred in their absence.

**3.4** Where stress, anxiety or depression is given as a reason for sickness, regardless of the length of absence, managers must take HR advice on the appropriateness of an immediate referral of the employee to the OHA so that agreed early interventions can take place to address any underlying work-related issues.

**3.5** If there are personal issues affecting the employee then the employee should be reminded of the services of Care First or other support services.

**3.6** Reasonable adjustments will be considered to help an employee achieve the required standards of attendance and employees are expected to co-operate with these. Where adjustments are agreed, the line manager must ensure these are implemented at the earliest opportunity and that the adjustments are given time to work.

**3.7** If a line manager considers that informal attempts to improve attendance have been unsuccessful and that formal action is now necessary, they will inform the Area/HQ Business Manager setting out the reasons for this decision. The employee will also be informed.

**3.8** Where short-term intermittent absence or a particular pattern of absence is a concern (see 4.2) and the employee has been issued with an Attendance Improvement Notice (see section 7), managers may require employees to produce a medical certificate for each future period of absence. Costs incurred by the employee for doing so will normally be reimbursed.

### **3.9** Underlying Medical Conditions and Reasonable Adjustments

If it emerges that the cause of poor attendance is an underlying medical condition, the employee will be referred for an occupational health assessment in the first instance. The employee will be expected to attend any medical appointments arranged in these circumstances. For disabled employees and those with an underlying medical condition, in conjunction with advice from the OHA, the CPS will consider as far as is reasonable and

practicable job redesign, temporary adjustment to duties or workload and/or a phased return to work.

### **3.10 Part Time Attendance on Medical Grounds (PTMG)/Phased Return**

This may be considered where it is supported by medical advice from the OHA and authorised by the Area/HQ Business Manager to ease employees back into work. Employees will build towards their full contractual hours over a maximum 12 week period (other than in exceptional circumstances such as ME, where it may be extended beyond this or where the OHA advises a longer period). Staff working PTMG will be paid their normal pay for the hours worked with the remaining hours paid at the appropriate level of sick pay (i.e. full, half, pension rate or no pay). Phased returns should be planned before the employee returns to work, with the pay implications explained in writing to the employee.

## **4. Monitoring and Reviewing Sickness Absence**

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**4.1** Trigger points act as a prompt to review absence on a regular and consistent basis and will initiate formal consideration under Stage One of this procedure. The trigger points are:

- 10 working days sickness absence over a 12 month rolling period; or
- Sickness absences on 4 occasions over a 6 month rolling period; or
- 8 occasions over a 12 month rolling period; or
- continuous absence of 4 weeks or more.

**4.2** Any patterns/trends of absence, e.g. before and/or after weekends, bank holidays or booked annual leave, on sporting events, etc or other concerns about health will also trigger a review under this procedure.

## **5. Formal Meetings to Discuss Poor Attendance**

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**5.1** The line manager will conduct the meeting unless they do not have the required level of authority or it has been agreed that in a particular case another designated manager will hear it (see 1.6). For information on levels of authority see Appendix 2.

**5.2** The line manager will invite the employee, in writing, to attend a formal meeting to discuss poor attendance/health concerns. Employees have the right to be accompanied by a trade union representative or workplace colleague at all formal meetings.

### **5.3 Key Points**

- The employee must be given at least five working days' notice in writing of the meeting date. The letter will inform them of their right to be accompanied by a trade union representative or workplace colleague (representative). All relevant information on their sickness record and any previous actions taken to improve the poor attendance will be attached.
- If an employee or their representative is unable, for good reason, to attend the formal

meeting on the date proposed, the manager will reschedule the meeting, to take place as soon as possible but not later than five working days after the original date. No further rescheduling will be considered unless the reason for non attendance is considered exceptional.

- The employee's representative may address the meeting to put the employee's case, sum up and respond on the employee's behalf to any views expressed at the meeting. The representative may not, however respond to specific questions as to facts that have been put to the employee. Reasonable steps must be taken to ensure the employee and/or their representative is able to participate fully in the meeting.
- A meeting to discuss poor attendance can proceed in the absence of the employee, where the employee is too ill or has refused to or does not attend without good reason. Advice will be sought from the OHA following a referral where necessary, to assess whether an employee is fit to attend the meeting. Exceptionally, an employee's representative can speak for the employee where there is medical evidence supplied which specifically establishes that the employee is incapable of answering questions or issues either by correspondence or by attendance at a meeting. In the case of the latter, it is normally expected that a written submission will be available from the employee.
- If an employee refuses to, or does not attend a meeting with management or with the OHA without good reason under this procedure, or is otherwise obstructive, action will be taken under the disciplinary procedure for not following reasonable management instructions. A decision will be made on the basis of the evidence available.
- A note taker must be present to note the key points. A copy of the notes will be sent to the employee within five working days after the date of the meeting. Any significant disagreements on the content of the notes should be notified by the employee within five working days of the notes being sent, and this will be attached as a separate note.

For further information on conducting formal meetings to discuss poor attendance see Appendices 3 and 4.

The manager conducting the meeting will be advised during the process by an HRA.

## **5.4** Considerations

**5.4.1** In implementing this procedure, managers will give due consideration to:

- responsibilities under the Disability Discrimination Act and the need to consider reasonable adjustments for disabled employees, including those who have a terminal illness (see 5.4.3), as advised by the OHA;
- employees who are: pregnant or have recently given birth (see 5.4.2);
- employees undergoing gender reassignment;
- a period of absence which is due to a one-off operation, illness or bereavement;
- absence due to a recognised industrial injury sustained whilst working for the CPS; and
- employees' previous work record and attendance history.

## **5.4.2** Pregnancy Related Absence

Any pregnancy related absence occurring during pregnancy up to the start of the maternity leave period will be recorded separately but will be counted for the purposes of contractual sick pay. Any pregnancy-related sickness absence that occurs during the 'protected period', i.e. from the beginning

of the pregnancy up to the end of a woman's maternity leave period will be disregarded in terms of formal action under this procedure.

### **5.4.3 Disability Related Absence**

The CPS is committed to the fair and flexible treatment of disabled employees and compliance with its responsibilities under the Disability Discrimination Act 1995 (DDA). In managing sickness and ill-health relating to disabled employees (as defined by the DDA), the manager with support from Human Resources will:

- look to identify employees who have an impairment or are likely to be covered under the provisions of the DDA;
- consider any reasonable adjustments which can be made to reduce absence and/or assist disabled employees to undertake their work more effectively and easily;
- record disability-related absences separately from other sickness absences;
- where the sickness triggers are met, consider as part of the formal procedure, with support from the OHA and HR, to what extent a higher trigger is appropriate as a reasonable adjustment;
- grant disability special leave of up to 15 working days (which can be converted to hours for maximum flexibility; pro rata for part time employees) in any twelve-month rolling period as a reasonable adjustment, on advice from the OHA and HR. This is to cover rehabilitation, treatment and other hospital appointments, but it is not intended to cover extensive absence. Such leave is recorded separately and is not classified as sickness absence. The Area/HQ Business Manager may extend disability special leave up to three months, in consultation with the HRA where: a) it is recommended by the OHA with input from the employee, because of the complexity of the rehabilitation, treatment and type of hospital appointments needed or the employee is awaiting adaptations that are fundamental to their day to day operations and ability to work or b) the CPS fails to provide the agreed reasonable adjustments to help the disabled employee. In the case of the latter, if the adjustment is not implemented by the end of the three months, the Area/HQ Business Manager may decide to extend the period of disability special leave up to another four weeks. If the CPS fails to provide agreed adjustments for disabled employees that are effective, practicable and reasonable given the financial and other implications under the DDA and the employee has been cooperative with efforts to enable their full effectiveness in their job, no formal sanction will be taken against the employee.

### **5.4.4 IVF Treatments**

Up to a maximum of 5 days special leave with pay in any 12 month rolling period with pay may be granted to an employee undergoing an IVF (In vitro fertilisation) treatment.

## **5.5 Stage One Meeting**

**5.5.1** If an employee reaches a 'trigger' point as defined previously (that is, for short term absence, a total of 10 working days' absence or 4 occasions of sickness absence during the previous 6 months; for long term absence, a total of 4 consecutive weeks of absence; or there is a pattern/trend in the absences or there are other health concerns, a formal meeting should be conducted by the line manager.

**5.5.2** At the Stage One meeting, depending on the circumstances of the case, it may be appropriate to take no further action and/or discuss some or all of the following:

- the frequency and reason for the absences along with any medical evidence;
- the level of concern over the employee's absence record and illness;
- review of any medical support and any reasonable adjustments that may support the employee;
- the likelihood and timescale for the employee's sustained return to work/improved attendance;
  - trying to establish any work-related problems, e.g. working relationships, job content, and assessing what can be done to improve such problems;
  - any new or further reasonable adjustments, including job modifications or work changes to support the employee's return to work or improved attendance;
  - consideration of a referral to the OHA (if not already done), for advice as to the fitness of the employee to carry out their duties; and
  - agree a time scale (normally of up to three months) to review whether there is to be a sustained return to work or improved attendance.

**5.5.3** If the manager, having considered the factors in 5.4, deems it appropriate, an attendance improvement notice will be issued (see section 7). If such a notice is not issued, the reasons for this will be communicated in writing to the employee.

## **5.6** Stage Two Meeting

**5.6.1** A Stage Two meeting will be held by the manager if a) the standard of attendance has not improved within the review period set at the first stage, or b) in the case of long term sickness absence, if the employee does not have a date to return to work or does not return by the set date at the end of the review period, or c) after an initial improvement in attendance or return to work, there is a deterioration in attendance in the 12 months following the attendance improvement notice.

**5.6.2** The manager would be expected to have obtained an up to date medical assessment from the OHA and acted on the recommendations prior to this meeting. The meeting should include a discussion on the factors previously covered (see 5.5.2).

**5.6.3** If the manager considers it appropriate, a final attendance improvement notice will be issued (see section 7), giving a final review period in which improvement in attendance or a return to work is expected. The employee should be informed that if the absence level continues or there is no sustained return to work, a Final Stage meeting will be held to determine the likelihood of improved and sustained attendance/return to work and the employee's capability to meet the requirements of their job. It should also be stressed that this could potentially lead to their dismissal.

## **5.7.** Final Stage Meeting

**5.7.1** If, after the review period set at the Stage Two meeting, a) the employee still fails to meet the required attendance standard or, b) in the case of long term sickness absence if the employee does not have a date to return to work or does not return by the set date at the end of the review period, or c) after an initial improvement in attendance or return to work, there is a deterioration in attendance in the 12 months following the final attendance improvement notice, a manager with the requisite authority will arrange a Final Stage meeting with the employee.

**5.7.2** The employee's manager is required to produce a case management summary for the meeting. This must include up-to-date written advice from the OHA.

**5.7.3** The meeting will consider the Case Management Summary and any evidence submitted by the employee, and the decision regarding termination of employment will take into account the following, in conjunction with the considerations outlined in 5.4:

- the overall attendance record;
- the report from the OHA;
- based on advice from the OHA, the likelihood of an improved attendance record in the future (in the case of short term sickness absence) or the likelihood of a return to work in the foreseeable future (in the case of long term sickness absence) or the likelihood of an improvement in health (when absence is not necessarily an issue);
- the needs of the service and the effect of the employee's ill health or absence on the service;
- consideration of adaptations to the work and/or working environment, including any further reasonable adjustments;
- options for redeployment or other alternatives to dismissal, if appropriate; and
- opportunities given for improvement and actions taken to date to both support and caution the employee.

**5.7.4** If the manager (at Area/HQ Business Manager level or above) considers it appropriate, having considered the factors in 5.7.3, a decision may be taken, following advice from the HRA, to dismiss the employee with notice, normally on the grounds of capability.

**5.7.5** The decision to dismiss will be taken only after any medical advice available has been taken into consideration. However, the decision to dismiss is ultimately a management one, made in the light of the considerations mentioned above, particularly the needs of the business, given the impact of the employee's absence/health.

**5.7.6** For employees dismissed under this procedure, the Area/HQ Business Manager, in conjunction with the HRD and Finance, will need to decide in each case whether any compensation is payable under the Civil Service Compensation Scheme and if so, the extent to which the compensation should be reduced because the employee has contributed to their own dismissal, e.g. by being obstructive. The level of compensation payable will be reduced accordingly. Also see 16.2.

## **6. Decision at Each Stage**

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**6.1** The decision on whether to award an attendance improvement notice or another sanction, or take no action, will depend upon the manager's assessment of the poor attendance identified and the extent to which it is demonstrated that sickness is above the acceptable standard, bearing in mind the factors affecting each case, including the considerations in 5.4.

**6.2** An attendance improvement notice (see section 7) must not normally be given until the manager holding the meeting has given the employee an opportunity to respond to the concerns regarding their poor attendance and to state their own case at the formal meeting.

**6.3** The employee may be notified of the outcome at the end of the formal meeting, and in any event, in writing within five working days of the meeting after the manager has had an opportunity to assess the information presented.

- 6.4** An employee who receives an attendance improvement notice or other formal sanction must always be notified in writing of the right of appeal and the appeals process, including the name of the person to whom an appeal should be made.
- 6.5** Dismissal will not normally be an outcome of a first formal meeting to discuss poor attendance.

## **7. Attendance Improvement Notice**

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- 7.1** An attendance improvement notice (resulting from a Stage One or Stage Two meeting) will remain 'live' for a period of 12 months from the date that it is issued. The purpose of the attendance improvement notice is to caution the employee about their poor level of attendance and its potential consequences in terms of their continued employment. The employee's total attendance record will be considered at all stages.
- 7.2** Where an attendance improvement notice is decided on, the letter will set out the attendance record over the previous 12 months, what improvement is required initially over the next three months and to be sustained thereafter, the potential consequences of insufficient improvement or improvement that is not sustained within the timescales and the right of appeal. An attendance improvement notice may be accompanied by a requirement for the employee to provide a medical certificate for all subsequent periods of absence regardless of their duration.
- 7.3** A copy of the attendance improvement notice will be sent to the HRA to be placed on the employee's personal file.
- 7.4** At the final stage the employee will be informed that failure to improve attendance could ultimately result in dismissal.
- 7.5** After an attendance improvement notice is issued, the employee will have a review period (normally three months) in which to demonstrate that they can reach the required levels of attendance. For further information see section 8 below.

## **8. Attendance Improvement Period**

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- 8.1** As part of an attendance improvement notice, an employee will be given a three month period within which to reach the required attendance standards/return to work. Within five working days of the formal meeting to discuss poor attendance, the line manager will meet with the employee to set the next steps; this will include but will not be limited to:
- action plans to identify any specific actions agreed at the formal meeting to discuss poor attendance;
  - in cases of long term sickness, a time limited rehabilitation programme to facilitate a return to work, based on advice from the OHA and the HRA; and
  - dates of review meetings (usually at least monthly) and the targets for each review date during the attendance improvement period, a record of which will be kept.

- 8.2** An employee who requests it, may be accompanied by a representative at the initial (or follow up) attendance improvement meeting where the improvement plan is being developed (or reviewed).
- 8.3** At the end of the attendance improvement period, the line manager will meet with the employee to review overall attendance and decide whether sufficient improvement has been made.
- 8.4** If sufficient improvement has been demonstrated, the employee will be so informed and advised that this must be maintained for at least the duration of the attendance improvement notice (which remains 'live' for 12 months from the date it is issued).
- 8.5** If insufficient improvement has been demonstrated or if the improvement is not sustained throughout the duration of the attendance improvement notice (see 7.1), the line manager will inform the employee that they will be invited to a further formal meeting under this procedure.

## **9 Transfer to Other Duties**

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- 9.1** In exceptional circumstances, provided that business needs are met, an employee may be permanently or temporarily transferred to other duties. This is where it is considered that the poor attendance or any associated reason is likely to have a serious impact on CPS business activities or their personal circumstances/non-health related issue is affecting their attendance or where such a transfer would be beneficial to their health. Any proposed transfer should be discussed with the Area/HQ Business Manager and the HRA in the first instance. Temporary transfers will be reviewed after six months. For those who had been transferred to a lower pay band, this may be with a view to reinstating the employee's substantive role and pay.

## **10 Redeployment**

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- 10.1** As an alternative to dismissal, where an employee is unable to undertake the duties of their current role due to health reasons despite consideration of reasonable adjustments/temporary transfer to other duties and it is recommended by the OHA, the CPS may decide to redeploy an employee to another role. Such redeployment will normally be at the same level of pay or lower. Where an employee is medically redeployed into a lower graded post there may be no protection of earnings and the employee may be paid the rate for the new role with effect from the date of the change. If the employee recovers their health, consideration will be given to whether the employee can go back to their original job and pay band.

## 11. Dismissal

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- 11.1** An employee must be advised in writing of the reason(s) for the dismissal, the date on which the employment will terminate, any notice arrangements and details of their right to appeal. See Appendix 2 for levels of authority.

## 12. Ill Health Retirement

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- 12.1** While an employee or management may apply at any time for ill health retirement subject to medical evidence being provided to support the criteria for such retirement, an employee can only be retired on ill-health grounds if the medical adviser appointed by the Principal Civil Service Pension Scheme (PCSPS) confirms that they meet the criteria for medical retirement.
- 12.2** If the PCSPS medical adviser confirms medical retirement, the employee must be informed in writing within two working days and a meeting should be convened under the Final Stage of this procedure. In exceptional cases of acute or terminal illness it may not be possible to meet with the employee and the Final Stage meeting may have to be conducted in the employee's absence but with their representative present.(See 5.3)
- 12.3** At the Final Stage meeting, the reasons for the ill-health retirement should be confirmed, along with the effective date of the ill-health retirement and details of payment in lieu of the notice due under their contract of employment and any financial benefits due to the employee on retirement on ill-health grounds. They should be advised of their right to challenge the medical adviser's decision.
- 12.4** If an employee wishes to challenge the medical adviser's decision on their medical retirement, they must write to the OHA within three months of being advised of the PCSPS decision. On receipt of the written challenge the OHA will arrange for the case to be referred to PCSPS appeals process.
- 12.5** Action may be taken to dismiss the employee on the grounds of capability without the medical retirement or the medical retirement appeals process being completed. The employee may still qualify for medical retirement, but that is decided through a separate process.
- 12.6** In accordance with the PCSPS Medical Guidance Notes, at any stage of the medical retirement appeals process, the CPS can consider whether or not to accept the medical assessments at different stages. Full reasons will be provided to the individual if the assessment is rejected.

## 13. Appeal

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- 13.1** An employee who decides to appeal against a decision resulting from any formal meeting under this procedure to discuss poor attendance must do so in writing within five working days of receiving the decision. The employee must set out clearly their grounds for appeal. The employee has the right to be represented throughout this process.
- 13.2** The appeal hearing generally and, in particular, will cover the following issues:
- whether there were any procedural flaws which materially affected the decision;
  - whether the decision reached was appropriate to the level/type of poor attendance identified; and
  - any new information, particularly medical evidence that was not available at the time of the original meeting.

## 14. Appeal Hearing

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- 14.1** An appeal will be heard normally within 15 working days of the appeal letter, by a manager (normally at Area/HQ Business Manager level or above) more senior than the manager who carried out the poor attendance meeting and who has not previously been involved except in cases where this is not possible due to the seniority of the post holder involved. Please see Appendix 4.
- 14.2** In appeals against dismissal, a member of the HRD will be present for advice. However the decision will be that of the manager.
- 14.3** The HRA will ensure that all documentation from the poor attendance meeting is passed to the manager hearing the appeal, to the employee and/or their representative in advance of the hearing.
- 14.4** Any documentation that the employee wishes the manager to take into account must be submitted at least two days prior to the appeal hearing.
- 14.5** All appeal hearings should be held in accordance with the key points outlined in section 5.3.

## 15. Appeal Decision

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- 15.1** The employee may be notified of the outcome at the end of the appeal hearing or in any event in writing within five working days of the hearing after the manager has had an opportunity to assess the information presented.
- 15.2** The decision is final and there is no further internal right of appeal other than in cases of dismissal as set out below.

## 16. Appeals to Civil Service Appeal Board (CSAB)

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- 16.1** An employee with continuous service of 12 months or more who has been dismissed has the right of appeal to the CSAB. The letter of dismissal will inform the employee of their right of appeal and the procedure to be followed. Contact address: Room G34, 22 Whitehall, London, SW1A 2WH.
- 16.2** An employee may also appeal to the CSAB about a decision not to pay compensation or the extent to which compensation should be paid.

# Appendix 1:

## Standard Procedure for Reporting Sickness Absence

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Local variations, as agreed with HR, may apply where this procedure is not practical e.g. for some staff on alternative work patterns, shift work, weekends or at remote locations. Employees who have been issued with an Attendance Improvement Notice may be required to provide a medical certificate for each period of sickness absence, even where the absence is less than 8 days.

**1st Day of absence:** Staff must contact the line manager by telephone to report absence, **as near to their usual starting time as possible but no later than 9.30 a.m.**, (including if they are sick while on annual leave) giving the nature and probable duration of the absence. Staff must always report absence themselves rather than asking someone else to do it, unless there is a good reason, which is explained to the line manager or other nominated manager.

If the line manager is not available, staff should call the nominated manager in the Area/Directorate to inform them of their absence and give contact details. **Details about sickness should not be left with colleagues.**

**4th calendar day.** If staff are still absent (or for longer than first indicated) they must telephone the line/nominated manager to provide them with an update on health and the likely date of return.

**8th calendar day:** Staff must telephone the line/nominated manager. They must also obtain a signed, dated medical certificate from their doctor stating the nature of the illness, to cover absences of 8 days or more. This must be sent in to reach the Area/HQ Business Manager or line manager as soon as is practicable following the 8th calendar day of absence, but should reach no later than the 13th calendar day of absence. Further medical certificates must be sent in regularly and must cover the entire period of absence. **Failure to provide a certificate may result in loss of pay and may be subject to the disciplinary procedure.**

**Absence longer than 8 days:** Every working week OR as agreed, staff should make contact with their line manager to report on their health and to indicate when they expect to return to work. In cases of serious illness, different arrangements will clearly need to apply.

**On return to work:** Employees will be expected to participate in a return to work discussion for each period of sickness, and a return to work form will be completed to cover the absence from Day One. **Failure to cooperate with the completion of this form may result in loss of pay.**

If they have been absent for more than 14 calendar days, or have submitted more than 1 medical certificate, they may be required to submit a medical certificate confirming fitness to return.

Where exceptional circumstances (e.g. an accident on the way to work) prevent staff reporting absence within the normal timescales they should contact their line manager as soon as they are able to do so.

Exceptionally, if required by the line/nominated manager, staff should report absence each working day for the first week. This may be considered appropriate for operational reasons or where an employee has a history of not reporting their absence.

## Appendix 2: Levels of Authority

Wherever possible, actions or decisions affecting an employee will be taken by a higher level employee than the person being affected by the action/decision. In certain circumstances, set out below, decisions may only be taken by an employee at Level D or above.

<b>Nature of action</b>	<b>Level applied to</b>	<b>Minimum Authority Level</b>
<b>Temporary transfer to other duties</b>	A1-B3	ABM /level D
	C	ABM/ level D
	D-E	CCP /HQ Directors/Sector Director/SCS
	SCS/CCP	HQ Director/Sector Directors/ Group Chairs
	HQ Directors Sector Directors Group Chairs	Chief Executive
	Chief Executive	DPP
	DPP	Special Appointment
<b>First and final attendance improvement notice</b>		
	A1-A2	B1
	B1	B2
	B2	B3
	B3,C	ABM/Level D
	D	Level E
	E	CCP/ SCS
	SCS/CCP	HQ Directors/Sector Directors/Group Chairs
	HQ Directors/Sector Directors/Group Chairs	Chief Executive
	Chief Executive	DPP
DPP	Special Appointment	
<b>Dismissal</b>		
	A1-B3	ABM/Level D
	C-E	CCP/SCS
	SCS/CCP	HQ Directors/Sector Directors/Group Chairs/
	HQ Directors/ Sector Directors/ Group Chairs	Chief Executive
	Chief Executive	DPP
DPP	Special Appointment	

<b>Appeal Hearings (other than against dismissal)</b>		
	A1-B1	B3
	B2	ABM/Level D
	B3	E
	C -E	CCP/SCS band 2
	SCS/CCP	Chief Executive
	HQ Directors Sector Directors Group Chairs	DPP/ Special Appointments
	Chief Executive	Special Appointment
	DPP	Special Appointment
<b>Appeals against dismissal</b>		
	Level A1-Level B3	Level E
	Level C-E	CCP/SCS
	SCS/CCP HQ Directors Sector Directors Group Chairs	DPP/ Special Appointment
	Chief Executive	Special Appointment
	DPP	Special Appointment

# Appendix 3: Managing Attendance Meetings

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## General principles

Poor attendance meetings provide an employee with an opportunity to respond to concerns about their sickness record that have been put to them. The employee has a right to be accompanied by a trade union representative or workplace colleague.

A number of internal and external factors may affect an employee's attendance and it is important that these are identified. The manager will decide whether or not an attendance improvement notice should be issued.

## Managing the meeting

### Preparation

The manager should be familiar with and obtain a copy of all of the relevant facts and documents to be relied upon at the hearing, and send copies to the employee and their representative (including details of any attendance improvement notice against the employee that is still live).

## The meeting

*The manager will:*

- explain that the meeting is to consider whether an attendance improvement notice should be given to the employee;
- examine the actual information with the employee and explain any documents;
- allow the employee and their representative to ask any questions including seeking clarification on any documentation and to state their case. This may include raising any mitigating circumstances;
- ask questions as appropriate to clarify matters;
- summarise the main points and check there is nothing further that the employee wishes to be considered; and
- adjourn to consider a decision. While the decision can be made at the end of the meeting, if new information/evidence that needs clarification has been raised, the decision should be postponed until this has been done. In any event the decision will be confirmed in writing within five working days giving the basis for the decision, the consequences of further poor attendance and/or what improvement is required.

# Appendix 4: Managing Attendance Appeal Hearings

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## General

An appeal hearing is an opportunity for a different, normally more senior manager to review the original circumstances of the case (normally held within 15 working days of the appeal letter). The employee has a right to be accompanied by a trade union representative or workplace colleague.

## Managing an appeal

### Preparation

The manager should be familiar with and obtained a copy of all of the relevant facts and documents to be relied upon at the hearing, and send copies to the employee and their representative in advance of the hearing.

## Managing the appeal hearing

*The manager will :*

- Explain that the purpose of the hearing is to consider the employee's appeal;
- Ask the employee to explain in full the reasons for the appeal and to go through any new evidence that has come to light since the poor attendance meeting;
- Ask questions as appropriate to clarify matters;
- Allow the employee and their representative to ask any questions including seeking clarification on any documentation and to state their case. This may include raising any mitigating circumstances;
- Summarise the main points made and check there is nothing further the employee wishes to be considered; and
- Adjourn to consider a decision or to seek further information. The decision can be made at the end of the meeting, and will be confirmed in any event in writing within five working days giving the basis for the decision and advising that there is no further right of appeal except in the case of dismissal when the employee (with more than 12 months continuous service) has the right to appeal to the Civil Service Appeal Board.

# Appendix 5: Managing Attendance Procedure at a glance

