

# MANAGING ATTENDANCE

(INCLUDING MANAGING  
HEALTH AT WORK)



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This policy supersedes all previous policies, circulars and agreements connected with Equality & Diversity within the States of Jersey.	

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## 1 Policy Statement for Managing Attendance

- 1.1 The States of Jersey (SoJ) is committed to providing a working environment where individuals are treated with fairness, dignity and respect: the Managing Attendance (including managing health issues at work) Policy is designed to ensure that there are fair and objective arrangements for managing sickness absence and attendance.
- 1.2 The Policy should be viewed primarily as a way of helping and encouraging employees to improve their attendance and/or manage long-term sickness absence. It is intended to ensure that absence issues are dealt with promptly, fairly and consistently in accordance with employment legislation and best practice.
- 1.3 The SoJ is committed to ensuring that appropriate support is provided to employees including those with a disability or long term condition.

## 2 Policy aims

The purpose and aims of this policy are to:

- Provide clear guidance to managers and employees about managing health and attendance and how the associated absence procedures will operate;
- Ensure equality and consistency relating to managing an employee's health and attendance;
- Support a culture where regular attendance is the norm.

## 3 Key principles

A standard set of underpinning principles has been developed for this Policy and will apply to all States of Jersey Human Resources Policies, and terms and condition of service. (see Policy Principles)

## 4 Links to other policies and guidelines

Although this list is not exhaustive the following policies may need to be considered:

- Health, Safety & Wellbeing
- Special Leave
- Capability
- Disciplinary
- Equalities and Diversity
- Policies relating to parental leave
- Formal Hearing & Appeal Procedure
- Disciplinary Rules

- Investigation Guidelines
- Code of Conduct

## 5 Who this policy applies to

- 5.1 This policy applies to all employees<sup>1</sup> of the States of Jersey on permanent and non-permanent contracts of employment.
- 5.2 It does not apply to those workers listed below; however they are required to notify their Line Manager if they are unable to attend work, to ensure that services can be covered.
- Workers who are engaged on a zero hours agreement who are not entitled to receive sick leave or pay because of the nature of their agreement;
  - Workers who work for the States of Jersey through a contract for services on an interim, locum, self-employed, or agency basis;
  - Voluntary staff;
  - Those on honorary contracts.

## 6 Specific roles and responsibilities under this policy

All parties involved in the process of Managing Attendance are required to maintain confidentiality at all times.

- 6.1 **Employees** are responsible for:
- Notifying their Line Manager on the first day of their absence, in line with the reporting required and keeping them informed as to the reason and likely duration of their absence;
  - Providing a medical certificate after 3 days of absence, or earlier if required by their Line Manager as part of the Managing Attendance monitoring process;
  - Notifying their Line Manager if they are leaving the island, whilst absent from work when sick;
  - Keeping in touch with their Line Manager at a reasonable frequency, agreed with their Line Manager, during their absence, ideally by mutual consent;
  - Not engaging in any activity which may delay their recovery;
  - Taking proactive steps likely to aid their recovery;

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<sup>1</sup> Throughout this policy the term 'employee' is used to include all employees and all office holders of the States of Jersey.

- Attending and participating in Occupational Health Service appointments when required to do so by their Line Manager;
- Attending return to work meetings and all meetings and hearings relating to monitoring of their attendance with their Line Manager.

## 6.2 **Line Managers** are responsible for:

- Ensuring that all their team are aware of the standards expected of them in relation to notification of all absence and acceptable levels of attendance;
- Ensuring that employees are aware of the support that is available including Occupational Health on line support;
- Accurately recording and reporting all sickness and other absence;
- Monitoring and managing attendance and taking action to address unacceptable levels of absence;
- Attempting to resolve concerns about sickness absence and/or attendance as they arise (this may include referral to Occupational Health before 'indicators' are reached);
- Ensuring that medical certificates are provided as required and forward copies promptly to Payroll;
- Advising Payroll and providing all necessary information to ensure each employee is correctly paid especially when employees enter into a half pay and no pay situation;
- Ensuring that Payroll are notified of an employee's return to work where pay has been affected;
- Managing employees who have health related problems and facilitating where possible any reasonable adjustments in the workplace that may be required;
- Maintain regular contact with employees on sick leave, ideally by mutual consent;
- Notifying the employee of any concerns about their sickness absence and/or attendance;
- Ensuring that the employee's work is covered during their absence;
- Conducting and making a record of return to work meetings, after every occasion of absence ;
- Consult with HR before proceeding to the formal stage of the procedure.

## 6.3 **Human Resources** (HR) are responsible for:

- Interpreting and providing attendance data for managers;
- Briefing, advising and supporting managers/employees through the Managing Attendance process.

## 6.4 **Chief Officers** are responsible for:

- Ensuring that health and attendance in their department is managed in a timely, consistent and sensitive way.

6.5 **Occupational Health Service** is responsible for:

- Providing support to employees and medical guidance to Line Managers;
- Providing confidential medical advice to Line Managers on the fitness of employees to undertake their role;
- Advising Line Managers of any reasonable adjustments or modifications that they need to consider to allow the employee to remain in their current post;
- Identifying medical criteria which would allow an employee to return to a different post;
- Making recommendations relating to ill health retirement when requested to do so by Line Managers;
- Implementing health surveillance programmes and ensuring that follow up appointments are made and sent to employees.

## 7 Policy provisions

### 7.1. **Sickness absence**

The States of Jersey recognises that most sickness absence is genuine and will support employees who are genuinely ill and unable to attend work, but absence (both short and long term) needs to be managed effectively.

Effectively managed absence will help reduce the impact of absence on the employee, services and colleagues e.g.

- By reducing levels of stress and low morale;
- Reducing additional workload on colleagues, minimising added pressure with impact on morale;
- Avoiding disruption to service and service users;
- Minimising additional cost to departments to cover sickness absence;
- Reducing the likelihood of failure to meet performance targets.

Any concerns the employer may have as to employees abusing sickness arrangements or failing to report absence may be dealt with under the States of Jersey Disciplinary Policy.

### 7.2 **Other**

7.2.1 If the absence is not due to sickness (see glossary) then the provisions in the Special Leave Policy may apply (see Special Leave Policy). If the reason for absence is not covered under either this policy or the Special Leave policy and/or the employee does not take annual or flexi leave (subject to the agreement of their Line Manager) then the absence will normally be treated as unpaid leave.

7.2.2 Absence due to sickness excludes non-essential medical treatment or surgery e.g. cosmetic procedures which are not required for medical reasons. Such absences must be covered by annual leave, unpaid leave or flexi leave.

7.2.3 Absence due to sickness does cover one cycle of IVF treatment but any subsequent cycles must be covered by annual leave, unpaid leave or flexi leave.

### 7.23 **Sick Pay**

Employees should refer to their terms and conditions of employment for full details of sick pay. (see appropriate Terms and Conditions)

### 7.24 **Removal of Sick Pay**

In the following circumstances the Chief Officer or nominee has the discretion to not grant sick pay. (See Management Guidelines):

- When the sickness absence is not supported by a Jersey Medical Certificate, and/or.
- When Occupational Health advise that that the employee is fit to attend work
- When employees are not complying or engaging with this policy

## 7.4 **Notification of Absence**

7.4.1 Where employees are unable to attend work, or will be late, they must contact their Line Manager by telephone where possible prior to the commencement of their working day or shift and no later than one hour following their normal start time. It is not acceptable for an employee to leave a message with a colleague or send a text, or email. In exceptional circumstances, such as hospitalisation, it is acceptable for a third party to make the initial contact with the manager.

7.4.2 Failure to follow the notification procedure means that an employee's absence may be considered as unauthorised and may result in the period of absence being unpaid.

## 7.5 **Medical Certificates**

7.5.1 A medical certificate is required to cover the whole period of absence after 3 days of absence or earlier if required by their Line Manager, as part of the Managing Attendance monitoring process.

7.5.2 Medical certificates must run consecutively and be forwarded to the employee's Line Manager as soon as possible. Employees should not submit them directly to the Social Security Department unless required by their manager to do so.

7.5.3 Failure to provide a medical certificate may result in unauthorised absence which is unpaid.

## 7.6 **Absence Monitoring**

7.6.1 It is the responsibility of the Line Manager to ensure that all absence, regardless of duration, must be accurately recorded and attendance levels regularly monitored and analysed by them in order to identify:

- The appropriate management action; and/or,
- Where appropriate, referral to Occupational Health.

## 8. Managing absence

### 8.1 Return to work meeting

8.1.1 The purpose of a return to work meeting is for the manager to update the employee on any workplace issues which have occurred during their absence, and discuss any on-going health issues or concerns.

8.1.2 The meeting should cover as appropriate:

- Any underlying issues (medical or otherwise) that may have caused the absence;
- Any issues which may continue to affect the employee's health or attendance;
- Any support that is available including Occupational Health or any reasonable adjustments that may need to be made;
- Any useful work updates;
- Any concerns about their sickness absence and/or attendance;
- Whether referral to Occupational Health is appropriate or follow up appointments are required;
- Impact on business and operations;
- Impact on colleagues;
- Any actions to be agreed.

### 8.2 Absence Review

8.2.1 An absence review will take place where an employee's attendance level becomes a concern which will normally result from one or more of the following example indicators:

- Where a number of absences in a short period warrant immediate action (e.g. 3 occasions or 9 days in 6 months);
- 5 separate occasions of absence in any 12 month period;
- 9 days of absence or more during any rolling 12 months;
- 5 occasions of un-certificated absence in any 12 month rolling period;
- A pattern of absence which is causing concern, for example regular Friday or Monday absences or absences regularly occurring on a particular day/week/shift, pre or post annual leave, school holidays, public holidays, pay day or when the absence coincides with deadline dates or peaks in workloads;
- Any sickness absence of employees during the first 6 months of employment (new appointee, transfers or promotions).

The indicator points listed in 8.2.1 apply to all employees at all times.

- 8.2.2 Where an employee has an unacceptable level of attendance, a review will be carried out by the appropriate Line Manager. This should include consideration of:
- Any pattern to the absence;
  - What proportion of the absence is certified or uncertified;
  - The reasons that have been given for the absence;
  - All the information that has been gathered from previous 'return to work' interviews;
  - How the absence impacts on other members of the team;
  - The employee's previous attendance record.

8.2.3 In appropriate circumstances an absence review may be necessary before an indicator point is reached (e.g. where having reported sick, an employee has been seen undertaking activities which appear incompatible with the reason given for absence).

8.2.4 Following a review, if it is established that an employee's attendance level is unacceptable the Line Manager must proceed with the formal stage of the management process.

### 8.3 **Absence Review Meeting**

8.3.1 In most circumstances the first instance of an employee failing to meet the expected level of attendance will be dealt with informally by the Line Manager during return to work meetings.

8.3.2 The emphasis of this Absence Review Meeting should be one of mutual co-operation and support to improve attendance. The particular circumstances, facts of each case and any underlying issues should be taken into account in determining action. The manager will determine a period during which an employee's attendance will be monitored.

Following the Absence Review Meeting, the Line Manager must ensure that the employee is given written confirmation of the expected acceptable level of attendance and the specified duration of any monitoring period. A copy of the written confirmation will remain on the employee's personal file in accordance with the Data Protection legislation.

8.3.3 If, after the monitoring period, an employee's attendance has improved, the management process will be placed on hold until their attendance reaches an acceptable level. It is expected thereafter that the employee will continue to maintain an acceptable level of attendance.

8.3.4 If, during or after the monitoring period, an employee's attendance has not improved or deteriorates further the Line Manager may conduct a Formal Absence Meeting (See 8.4 below).

8.3.5 During the monitoring period any further absences may require the employee to submit a medical certificate.

## 8.4 **Formal Absence Meeting**

- 8.4.1 If an employee has a history of unacceptable levels of absence or, if during the monitoring period an employee fails to demonstrate and maintain an improvement in their attendance; their continued unacceptable level of attendance will be dealt with at a Formal Absence Meeting.
- 8.4.2 Employees may be accompanied or represented by a workplace colleague (see Glossary) or by a recognised Trade Union representative at all Managing Attendance Formal Meetings. The unavailability of a particular representative will not delay the meeting date.
- 8.4.3 In appropriate circumstances, where the employee's continued absence is at an unacceptable level, there is no requirement for the determined monitoring period to be completed before conducting a Formal Absence Meeting.
- 8.4.4 Following a Formal Absence Meeting the Line Manager must ensure that the employee is given written confirmation of the expected acceptable level of attendance and the duration of any further monitoring period which will apply, a copy of which will be kept on the employee's personal file in accordance with the Data Protection legislation.
- 8.4.5 The monitoring period will start from the date of the Formal Absence Meeting.
- 8.4.6 Failure to meet the required level of attendance may lead to a Final Formal Absence Hearing. (see paragraph 8.5 below)
- 8.4.7 If, after the monitoring period, an employee's attendance has improved, the formal procedure will be placed on hold until the attendance reaches an acceptable level. It is expected thereafter that the employee will continue to maintain a satisfactory level of attendance.
- 8.4.8 If the employee's attendance once again falls below the required standard, the Employer retains the discretion to manage the employee at the stage in the Managing Attendance procedure which is considered appropriate. This may mean a Managing Attendance Final Formal Absence Hearing could take place which may lead to dismissal. (See Employee and Manager' Guidelines).

## 8.5 **Final Formal Absence Hearing**

- 8.5.1 If the required improvement has not been achieved and sustained, a Managing Attendance Final Formal Absence Hearing will be arranged.

8.5.2 The purpose of the Final Formal Absence Hearing is to consider what sanction should be applied, which may include termination of the employee's contract. (Dismissal in these circumstances is with pay in lieu of notice at the rate of remuneration being paid at the date of dismissal).

8.5.3 Employees may be accompanied or represented by a workplace colleague (see Glossary) or by a recognised Trade Union representative at all Managing Attendance Final Formal Absence Hearings. The unavailability of a particular representative will not delay the Final Formal Absence Hearing date.

8.5.4 Police Officer Final Formal Absence Hearing

The Final Formal Stage of the Hearing for Police Officers will be in line with Schedule 1 (Article 2(1)) Discipline Code (6) Performance of Duties and the Police (Complaints And Discipline Procedure) (Jersey) Order 2000.

8.5.5 It is the responsibility of the Line Manager to ensure that the employee has written confirmation of the outcome of the Final Formal Absence Hearing normally within 5 working days (see Glossary) of the hearing.

8.5.6 Employees have the right of appeal against the Final Formal Absence Hearing (see Formal Hearing and Appeal Procedure).

8.5.7 Appeals should be put in writing, stating their grounds in full to their Line Manager within 10 working days (see Glossary) from the date of the Final Formal Absence Hearing.

8.5.8 An employee's disagreement with having their attendance monitored or with the Managing Attendance process itself will not be considered as a suitable basis for an appeal or grounds for raising a grievance.

8.5.9 If an employee is not dismissed and the employee's attendance once again falls below the required standard, the Employer retains the discretion to manage the employee at the stage of the Managing Attendance procedure which is considered appropriate.

## **9 Managing long term absence**

9.1.1 Long term absence for the purpose of this Policy describes a situation where an employee has either:

- Any period of continuous absence of more than 4 weeks (20 working days); or,
- An underlying medical condition which causes frequent short term absences.

- 9.1.2 Long term absence will be assessed on a case by case basis.
- 9.2.1 The following principles underpin the management of employees who have been identified as having long term absence:
- Regular communication will be maintained, between the employee and their Line Manager;
  - Appropriate referrals will be made to Occupational Health Services;
  - The employee's return to work will be managed with a reasonable and supportive approach;
  - A reasonable and appropriate approach will be taken in managing the consequences should an employee be unable to return to work.
- 9.2.2 In long term sickness cases a manager may request an employee to attend an Absence Review Meeting or a Final Formal Absence Hearing depending on the circumstances of the case and the likely date of return.
- 9.2.3 In the event of an employee on long term sickness absence who is in nil pay and who is not engaging with the employer (i.e. not attending meetings when invited or not attending Occupational Health appointments) the employer retains the right to go to the Final Formal Absence Review Meeting under this policy.

## **10 Referral to Occupational Health**

- 10.1.1 An employee may be referred to Occupational Health at any point during their employment where the Line Manager considers that this may be beneficial to the employee and or the management of an employee's attendance.
- 10.1.2. The purpose of a referral to Occupational Health is to enable the Line Manager to seek medical advice and guidance. The Occupational Health Service will provide the Line Manager with a management advice report which will contain information relevant and appropriate to the reason for the referral.
- 10.1.3. Although Occupational Health will give medical opinions and make recommendations to support employees in their return to work, they are not in a position to determine whether these recommendations are reasonably practical, this will be determined by the Line Manager in conjunction with HR.
- 10.1.4 It is expected that employees fully co-operate with Occupational Health and attend and participate at appointments when arranged. If an employee is unable to attend an appointment they should inform the Occupational Health Service and their Line Manager, give reasons and reasonable notice wherever possible, and in addition, arrange a new appointment. If an employee fails to attend Occupational Health, this may result in their health issues not being taken into account when managing their attendance.

- 10.1.5 Where an employee has more than one role with the States it is usual for contracts to be treated separately. However Line Managers are expected to liaise with each other and determine the best course of action when making a referral to Occupational Health. It is important to recognise that jobs may have different responsibilities and therefore different impacts on an employee's health, and any reasonable adjustments which may be required.

## **10.2 Medical Information**

- 10.2.1 If an employee fails to disclose relevant information, this may result in their health issues not being taken into account when managing their attendance.
- 10.2.2 All medical information will be treated in the strictest confidence and used in accordance with the Data Protection (Jersey) Legislation.

## **10.3 Medical Treatment**

- 10.3.1 If an employee knows they are likely to require time off work for medical treatment they should give their Line Manager as much notice as possible.
- 10.3.2 Once the employee knows their treatment date, they are expected to provide the appropriate supporting evidence and discuss with their Line Manager the likely length of absence from work, and possible return to work date.

## **11 Returning to work (see also Section 12)**

- 11.1 Employees must notify their Line Manager as soon as they are fit to return to work, even if they are not rostered to return to work immediately following the period of absence, otherwise the entire period will be classified as sickness absence until the employee physically returns to work.
- 11.2 Employees will generally be expected to return to work for a full day or shift to signify the end of a period of sickness absence. If they return for less than a full day or shift before going off sick again, this will be regarded as continuous absence for recording purposes.
- 11.3 Depending on the nature and length of their sickness employees may be required by their Line Manager to see their Doctor, or be assessed by the Occupational Health Service, to confirm their fitness to return.
- 11.4 When an employee returns to work following any sickness absence, regardless of the duration, they must attend a return to work meeting with their Line Manager.

## **12 Medical rehabilitation**

- 12.1 If an employee is assessed by the Occupational Health Service as fit to return to work, but not on full contractual hours or full range of duties, the Employer will consider offering the employee a return to work on a phased basis. This rehabilitation period is to allow an effective, sustained return to work and must be supported by a structured programme taking into account the advice of the Occupational Health Service.
- 12.2 It is the Line Manager's decision whether it is practicable and appropriate in each case, to implement a return to work plan to include phased return to work and adjusted duties. If the Employer cannot accommodate a phased return to work then the employee should remain off work under sickness arrangements. Acceptance of a phased return will depend on business and operational requirements.
- 12.3 During the phased return to work, regardless of any temporary changes to the duties or job description, the employee will continue to be paid at their existing grade and increment, and the normal rules on incremental progression will be applied.
- 12.4 The employee will receive full pay only for the hours actually worked, and the remaining hours will be paid in accordance with their level of sick pay, depending on how much sick leave they have already taken. Sick pay will continue to reduce by the hours not worked.

## **13 Managing health issues in the workplace**

- 13.1 If an employee who has continuing health issues or a disability after returning to work following a period of absence (and assuming they do not qualify for ill-health retirement), then appropriate reasonable adjustments to their workplace environment and/or their job/role will be made.
- 13.2 Following adjustments being made, if the employee is unable to sustain their normal job, they may request a move to an alternative role. It is the joint responsibility of the employee and the employer to find an alternative role, within the Department or within the States of Jersey (moves to alternative roles are not pay protected).
- 13.3 If the new role proves to be unsuitable, the employee may make a second request to be moved to an alternative role. If this proves unsuccessful and the role is again unsuitable even after reasonable adjustments have been made, then the employee will be referred back to Occupational Health for further consideration of ill-health retirement.
- 13.4 If ill-health retirement is again not thought to be appropriate, and the employee is considered fit to work, the employee may be given appropriate notice to terminate their contract should they choose not to continue in the second alternative role

subject to a formal hearing taking place. For business and operational reasons it is not possible in these circumstances to place an employee back into their original role.

#### **14 Ill health retirement**

- 14.1 Ill-health retirement is governed by the regulation and procedures determined by the States of Jersey Pension Schemes, as amended.
- 14.2 Any potential ill health retirement case is subject to a recommendation from the Occupational Health Service, based on all the available medical evidence and that they consider that the employee suffers from a permanent physical or mental condition which prevents their ability to carry out their job.

#### **15 Underlying medical conditions**

- 15.1 If the Occupational Health Service advice is that the employee has an underlying condition which is likely to result in them having continued high levels of absence, the Line Manager (in liaison with Human Resources) must make a decision about whether the department can sustain this level of absence, or whether they should consider other options.
- 15.2 If it is not possible to sustain the level of absence (or projected absence) or re-designed duties, a meeting should be arranged by the Line Manager (supported by HR) with the employee to resolve the situation.

An option that may be considered at this meeting is a Formal or Final Absence Meeting or Hearing.

#### **16 Medical appointments**

In line with the Special Leave Policy, it is expected that employees will arrange medical appointments (GP, dentist, physiotherapy etc.) outside their normal working hours wherever possible.

On Island hospital appointments may be taken as Special Leave.

#### **17 Work related injury or accident**

- 17.1 If the sickness absence is as a result of work related injury the manager must ensure that an accident/incident report is completed and a referral may be made to Occupational Health Service where appropriate.

- 17.2 Employees will still be managed under the terms of the Managing Attendance Policy, but consideration will be given to the period or periods of absence directly attributable to accident/incident at work providing a timely and accurate accident/incident report was made at the time of the incident.

## **18      Sickness and annual leave**

- 18.1 Annual leave continues to accrue during an employee's period of sickness absence.
- 18.2 If an employee falls sick immediately before taking their agreed annual leave, and the duration of their medical certificate covers all or part of their agreed annual leave they may claim back the number of annual leave days lost due to sickness.

*N.B. 18.1 and 18.2 do not apply to teachers, lecturers and term time only staff.*

- 18.3 An employee who takes sick leave immediately following a period of annual leave must produce a medical certificate from the first day of absence.
- 18.4 If an employee has booked annual leave which falls within a period of sick leave supported by a medical certificate, they can retain their annual leave entitlement for use at a later date.

## 19 Glossary of terms used in policy

TERM	MEANING
<b>Sickness</b>	Illness, injury, terminally ill, infectious disease/condition
<b>Medical certificate</b>	A certificate from a GP or Hospital Doctor which sets out the period and medical reason for absence
<b>A Return to Work plan</b>	<p>The employee returns to work on</p> <ul style="list-style-type: none"> <li>➤ Temporary reduced/revised hours; and/ or</li> <li>➤ Temporary altered duties.</li> </ul>
<b>Ill Health Retirement</b>	Retirement before the normal retirement age applicable to the employee on the grounds of permanent ill health, as described by the Pension Scheme.
<b>Working day</b>	Monday to Friday 9:00 am until 5:00pm, excluding Bank or Public holidays.
<b>Workplace colleague</b>	Normally someone you work with from the same area or department. This may not be a friend or relative. Lawyers are not permitted save in exceptional cases relating to fitness to practice, which must be agreed by Employment Relations.
<b>Line Manager</b>	The person responsible for your day to day management. This may be a supervisor, charge hand or manager, and so on.