REGULATION 34 SICKNESS ABSENCE AND MEDICAL INCAPACITY PROCEDURE

1. GUIDANCE NOTES

Introduction

1.1

staff by paying sick pay and investigating absence and issues relating to sickness and medical incapacity in line with this procedure. This will normally be carried out through return to work interviews and/or in cases of long-term or recurring short-term absences the referral of the member of staff for occupational health assessments. The aim of such referrals is to identify the necessary support to enable the member of staff to return to work and/or continue working in their post

and member of staff
ensure consistency across the University when dealing with matters related to sickness absence and medical incapacity, and to ensure fairness of treatment in individual cases. Appropriate levels of confidentiality and privacy will be maintained at all times during the process. This applies to all documentation, medical reports, meetings and hearings.

Application of the Procedure

1.2 This procedure shall apply to all staff including Associate Tutors and other staff contracted to work on a variable hours basis, but excluding casual staff; and

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1.14 t may be appropriate to allow him/her to be accompanied by someone who can provide support with communication in English, in addition to any chosen companion.

Postponing a meeting

1.15 The member of staff and companion shall make every effort to attend meetings or hearings under this procedure. If the chosen companion cannot attend on the date proposed and a suitable alternative companion cannot be found, the member of staff may propose an alternative date and time which is reasonable and is normally within five working days of the original date set (exceptional arrangements may be needed during vacation periods). The University will make the necessary arrangements to postpone the meeting or hearing.

1.16 If a member of staff or his/her companion becomes unable to attend any meeting for reasons that were unforeseeable at the time of arranging it, the member of staff will be notified of a new date, time and location. If a member of staff or his/her companion fails to attend a meeting or hearing without good reason, the University reserves the right to proceed with the meeting or hearing in the absence of the member of staff or his/her companion.

1.17 If the member of staff is absent due to sickness prior to the meeting or hearing, the individual may be required to see the Un
assess his/her fitness to attend, and to give advice on any special requirements or adjustments for the meeting or hearing.

1.18 Whilst in the sensitive situation of long-term ill health, it may be more difficult for the member of staff to attend meetings or hearings in person, it is preferable that he/she does so, and appropriate arrangements, including travel arrangements, shall be made, where requested. It may also be appropriate to visit the member of staff at home, by prior arrangement if they consent to this. However, in exceptional circumstances it is possible to proceed with the meeting or hearing in the absence of a member of staff, in which case all details that will be considered at the meeting or hearing should be made available to the member of staff in advance, and they should be invited to make a written submission. Alternatively, the manager or Chair may decide to conduct proceedings with a representative nominatec2abtEE93o.3h a hparing8t ( )-2

(i) the nature of the ill health or medical incapacity;

(ii) the estimated level or frequency of sickness absence likely to arise from the ill health;

(iii) the likely employment significance of any underlying medical condition and treatment;

(iv) the likelihood, and timescale, of a full return to work;

(v) job or work environment that will facilitate a sustained return to work or improve the member of staff's ability to attend work.

1.21 relevant hospital specialist may be sought by the Occupational Health Service or by the University directly. This is to ensure that all available, appropriate, information made.

1.22 Where such medical assessment(s) is/are considered appropriate, the member of staff shall be requested to sign a medical consent form, allowing a summarised report of the medical assessment to be sent to the University. The medical assessment or report will be provided to Human Resources and will be provided, in confidence, to those responsible for taking decisions under this procedure.

1.23 The member of staff will be advised, in writing, by Human Resources or the Occupational Health Service that such an assessment has been requested and the time, date and location of the appointment. Where necessary the University will arrange transport, including the reimbursement of any costs incurred by the member of staff to enable him/her to attend. The University shall take all reasonable steps to ensure that such a referral is arranged in good time, and the member of staff will be expected to co-operate in this process.

1.24 Where a member of staff refuses to attend a medical assessment, or refuses to give consent for the University to receive a summarised report of the medical assessment, a decision will be made on the basis of the information available. The member of staff will however be given an opportunity to reconsider their wish to withhold consent prior to any decision as to whether to terminate his/her employment is made.

1.25 The member of staff has the following rights in relation to any medical report provided by his/her GP or Specialist:

(i) to withhold consent to the obtaining of such a medical report, in which case the University would be obliged to act solely on the basis of the information available to it, and the member of staff would be advised of that fact;

(ii) to request to see any medical report before it is sent to the University; the member of staff will then have 21 days in which to do so before it is sent;

(iii) to request that any medical report seen by him/her be altered before issue, or, if the GP or relevant hospital specialist is not willing to comply with such a request, to add a statement of his/her own.

Time limits

1.26 Every effort will be made to deal with ill health and medical incapacity matters within a reasonable timescale, however it should be recognised that delays may occur due

from external medical professionals.

1.27 Working days include all weekdays except days when the University is closed or has a Minimum Service Day.

Grievances raised during ill health and medical incapacity proceedings

1.28 The University's Staff Grievance Procedure and/or Policy to Prevent Harassment and Bullying at Work cannot normally be used to challenge or complain about:

(a) any decision to invoke the formal or informal stages of this procedure;

(b) any decision or action taken or proposed under this procedure; or

(c) the operation of this procedure.

1.29 In the event that a member

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2. ILL HEALTH PROCEDURE: RECURRENT SHORT-TERM SICKNESS ABSENCE

Recording absence and return to work interviews

2.1 Members of staff should be made aware of the notification procedure for sickness absence during their induction, and that their attendance levels will be monitored throughout their employment with the University. The notification procedures are set out at Appendix 1.

2.2 Accurate recording of staff sickness absence by managers is essential in order to develop a fair and consistent approach to attendance.

2.3 When a member of staff returns to work after sickness absence or unauthorised absence, their immediate line manager should arrange a return to work interview with him/her on their first day back, or as soon as possible thereafter, and a return to work form should be completed. Further information on return to work interviews (including guidance and the return to work form) can be found at Appendix 2. The return to work form can also be found on the Human Resources Website at [link].

Action before commencing Stage 1

2.4 If the absence of a member of staff gives cause for concern in terms of reason, pattern or amount (which would normally be three or more separate incidents of sickness, of any duration, in a three month period); his/her manager should discuss this with the member of staff during their return to work interview. The member of staff shall be made aware that an attempt to discipline him or her with regard to his or her absence is not being made at this stage. The member of staff will be invited to discuss the reasons for his/her sickness absence as recorded in his/her sickness record, and they will be offered assistance wherever possible to reduce future absences, and will be invited to state how long absences are likely to continue. The manager should refer the member of staff to the Occupational Health Service obtain a medical opinion as to whether there is an underlying reason why the member of staff may have a higher level of absence.

2.5 Where there is genuine doubt about the grounds for absences, the manager may require the member of staff to submit a medical certificate for each period of absence of whatever length, but the manager should obtain advice from Human Resources before implementing this (please note that GPs will usually charge for issuing a certificate for an illness lasting fewer than seven consecutive days, and where a member of staff is required to produce such a certificate they will be

production of a receipt).

2.6 If the medical advice received from the Occupational Health Service is that the member of staff would be able to attend work on a substantive basis if reasonable adjustments were made to the place of work and/or method of work, the manager should consider, in liaison with the Human Resources Adviser, whether this can be reasonably accommodated, and if so the necessary arrangements shall be made. If the adjustments cannot be reasonably accommodated, the reasons for this will be communicated to the member of staff.

2.7 If the medical advice received from the Occupational Health Service is that there is no underlying reason for a high level of absence, or if reasonable adjustments have been put in place but the absence level has not satisfactorily improved, the manager should inform the member of staff that an immediate and sustained

concern in terms of reason, pattern or amount, the manager will commence Stage 1 of this procedure.

Stage 1

2.8 A formal Stage 1 meeting shall be heard by the manager supported by a member of Human Resources.

Convening a Stage 1 meeting

2.9 The member of staff shall normally be given at least five working days' written notice of a Stage 1 meeting. The written notice will:

(i) inform the member of staff of the name of those who will be present at the meeting;

(ii) include a summary of the member of staff's absence record for the relevant period;

(iii) include a summary from the manager which will outline the process followed to date (including support provided to help the member of staff to improve their attendance level), and copies of any relevant medical reports obtained;

(iv) advise the member of staff that the purpose of the meeting will be to consider the total absence pattern and its effect on the work area, to

(i) a decision that no further action is necessary, in which case the member of staff shall be notified in writing that they have been removed from the formal procedure, but if the improvement in attendance level is not maintained the manager may recommence the procedure at Stage 1, 2 or 3, as appropriate;

(ii) a decision to extend the formal review period set in relation to the Stage 2 warning, where the member of staff has made significant improvements in attendance but has not met completely the required improvement or where it is considered appropriate to extend the review period to assess whether the improvement achieved can be maintained. At the end of the review period a decision will be made as to whether to convene a Stage 3 meeting, or that no action is necessary as per (i) above;

(iii)

2.26 The Chair is responsible for confirming the outcome to the member of staff in writing within five working days of the hearing. Where the outcome is a termination of employment, the member of staff will be advised of the reasons for their dismissal,

(ii) the likely prognosis for the member of staff's health and fitness to carry out his or her duties;

(iii) where the member of staff is absent from work, the likely prognosis for him or her returning to work on a sustained basis and being fit to carry out his/her duties in full and/or to perform them to an acceptable standard;

(iv)

Conduct of the hearing

3.10 The procedure at the hearing will normally be as follows:

(i) the manager will present the management case and will outline, with reference to any medical assessment report, the nature of the member of

operational impact. Reference should also be made to all attempts to resolve the situation to date (for example, return-to-work discussions, counselling sessions or previous medical referrals);

(ii) the member of staff or his/her companion shall then be given the opportunity to respond to the management case, with reference to any medical evidence he/she has obtained;

(iii) during the course of both presentations, and at their conclusion, the Chair and/or members of the panel may question both parties for purposes of clarification. Each party may question the other for purposes of clarification, if necessary through the Chair;

(iv) both parties shall be given the opportunity to sum up, with the member of staff's summing up being given last; and

(v) when all the facts of the case have been presented, the hearing shall be adjourned to enable the panel to reach a decision. The hearing shall normally be reconvened on the same day for the decision to be given orally to the member of staff; however if the panel require additional time in making the decision, the hearing may be reconvened as soon as possible afterwards.

Outcome of the hearing

3.11 Any or several of the following may be possible outcomes of a hearing under the formal stage of this procedure, but the list is not necessarily exhaustive.

(i) no further action, in which case the member of staff would be formally advised as such;

(ii) monitoring and review of the situation, depending on the circumstances of the case, in which event the length and objectives of such reviews shall be agreed and specified. A further formal hearing will be arranged at the end of the review period, at which consideration may be given to the

ill health;

(iii) in cases of underperformance, an agreed improvement plan, setting the objectives to be attained over a specified review period. A further formal hearing will be arranged at the end of the review period, at which

contract of employment on grounds of medical incapacity;

(iv) , if

substantially affected by the nature of his/her role and his/her place of work and/or method of work, or that he/she may be able to return on a limited

basis to undertake his/her role or alternative work which he/she is competent to carry out, consideration shall be given to whether permanent or temporary adjustments can reasonably be made, consideration shall be given to whether permanent or temporary adjustments can reasonably be made to remove or substantially reduce those effects or facilitate a full or partial return to work, which may include consideration of permanent or temporary transfer to alternative duties which the member of staff is competent to undertake. If such arrangements are made, the position will be kept under review to ensure that the desired improvements in

Confirming the outcome

3.14 The decision shall be confirmed in writing, normally within ten working days of the hearing, giving reasons. Where the decision is to dismiss the member of staff, the member of staff will be sent notice of termination of employment on behalf of the University and advise of his/her right of appeal via the appeals procedure, which is set out in section 5 below.

5. APPEALS

5.1 A member of staff who wishes to appeal against a decision taken under paragraphs 2.12, 2.18, 2.26 or 3.14 above should do so in writing to the Director of Human Resources within ten working days of receipt of the decision. The member of staff should set out the grounds of his/her appeal in full.

5.2 Appeals may be made on one or more of the following grounds:

(i) that the decision taken was not supported by the evidence presented or considered;

(ii) that the decision taken was too harsh;

(iii) that new evidence or information has come to light that was genuinely not available at the time the original decision was taken; or

(iv) that the decision taken was materially affected by breaches of this procedure.

5.3 Appeals against warnings will be chaired by a manager who is senior to the manager who decided to issue the warning, and who has not previously been involved in the case.

5.4 Appeals against dismissal are heard by an Appeals panel appointed by the Vice Chancellor (or nominee), and will consist of two independent senior managers (one of whom shall be the Chair) and an independent employment solicitor appointed by the University (who shall not be employed by the University nor act for the University other than in their capacity as a member of a panel for appeals against dismissal). In the case of the independent peer (from the staff), independent shall have the meaning of not having had prior involvement in the case. In the case of the independent person external to the University, independent shall have the meaning of having no involvement with the University which might be prejudicial to impartial judgement (and for the avoidance of doubt, any payment by the University to such external person in respect of their time incurred in respect of the appeal shall not be deemed to prejudice their impartial judgement). In the case of an appeal of an academic member of staff, one of the two senior managers shall be a Head of School from another School or other academic peer. The panel will be supported by a member of Human Resources.

5.5 An appeal shall not normally take the form of a re-hearing of the evidence. Witnesses may be called only with the permission of the Appeal Chair. Permission shall usually be given only where there was good reason for the witness not being called to give evidence at the original hearing or where the Appeal Chair considers that such witness evidence is required to deal with the grounds of appeal.

5.6 If the member of staff wishes to propose that evidence is heard at the appeal hearing from any person other than the member of staff and the manager whose decision is being appealed against, he/she should name the proposed witnesses in the grounds of appeal and explain why this evidence is required.

5.7 The manager whose decision is being appealed shall be asked to provide written comments on the grounds of appeal, to provide copies of all medical reports obtained during the process, and to identify any witnesses which he/she considers

should be called with permission of the Appeal Chair, giving reasons. A copy of these written comments will be provided to the member of staff in advance of the appeal hearing.

5.8 No later than five working days before the appeal hearing the member of staff shall receive written notification of:

(i) the date, time and place of the appeal hearing;

(ii) his/her right to be accompanied at the appeal hearing under paragraphs 1.10 to 1.14 above; and

(iii) so far as they are known at the time, the name(s) of the person(s) to be present at the appeal hearing.

5.9 At the appeal hearing the member of staff shall present his/her grounds of appeal and the manager shall respond. Where the Appeal Chair permits either the member of staff or the manager to call any witnesses, they shall be questioned first

APPENDIX 2 MONTHLY ABSENCE RETURN FORM

THE UNIVERSITY OF SUSSEX

HUMAN RESOURCES (PAYROLL)

Reference No:

RETURN OF ABSENCES OF MONTHLY PAID STAFF FOR THE MONTH

The following staff in my school/unit were absent from work due to sickness or unpaid leave last month:

Surname	Initials	First date of Absence	Last date of Absence	Total days absent	Reason for Absence (sick or unpaid leave)

[redacted]

rocedure

APPENDIX 3 GUIDANCE ON CONDUCTING A RETURN TO WORK INTERVIEW

Preparing for the interview

A return to work interview provides the correct forum for the member of s
record to be discussed. Prior to the interview, you should gather all relevant information regarding his or her absence record, giving consideration to the following factors:

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- Does the absence precede or follow annual leave?
- In which part of the week do their absences occur?
- What is the average length of their absence?
- What is the reason given for the absence?
- Are the reasons varied, or is there a pattern?
- How does their absence record compare with those of the other staff in the Unit?

Conducting the interview

During the interview, ensure that you give the member of staff every opportunity to discuss any concerns that they may have with regard to their absence. Do not be judgmental, become over-involved, make assumptions about their absence, or attempt to give any advice which you are not qualified to give.

The following structure should be followed:

1. Welcome back

Begin the interview by welcoming back the member of staff and letting them know that they have been missed. Explain the purpose of the interview, and make it clear that it is routine to conduct one with all members of staff who are absent due to sickness and on every occasion of absence.

2. Enquire about health

You need to gain information on the following:

- Whether the member of staff is fit enough to resume their duties
- Whether the absence was work related
- What steps the member of staff has taken towards their recovery
- What preventative measures they are taking to reduce the likelihood of such absence occurring in the future.

These areas should be explored in a caring and concerned manner. The best way to do this is by active listening, i.e. listening carefully to what the person has to say and by not challenging them at this stage.

3. Any consequences of absence

In cases of persistent absence, you should take this opportunity to remind the member of staff of the importance of full attendance wherever possible. You should point out the actions that either you or other colleagues had to take as a result of their absence e.g. working extra hours, employing extra help. Discuss any observations you have made regarding their absence e.g. if their absence seems to form a pattern, and explore ways in which you can help the member of staff attend as required.

4. Future action

In cases of persistent absence, you should explain that continued periods of absence could lead to formal action being instigated. In all cases, you should summarise any action that you have agreed should take place e.g. referral to the Occupational Health Service, referral to counselling, changes to working arrangements, etc. You should ensure that it is clear who will be taking this action and whether anyone else needs to be involved.

5. Completion of formalities

You should now complete the Return to Work form, ensuring that you note any future action you have agreed to take as above.

Regulation 34: