

GWENT POLICE

SICKNESS - MANAGEMENT OF LONG TERM SICKNESS PROCEDURE



'STAFF ARE REMINDED THAT THIS SUMMARY IS STRICTLY AN OVERVIEW OF THE KEY ELEMENTS OF THE DOCUMENT AND FOR A MORE COMPREHENSIVE EXPLANATION THE WHOLE OF THE DOCUMENT SHOULD BE READ IN PARTICULAR SECTION 1.2'

Long term absence through sickness or the inability of an employee to attend work regularly and consistently because of ill-health are among the most difficult problems a manager has to tackle.

Gwent Police recognises that it has a responsibility to do all that it reasonably can to assist an employee with a long term health problem. For such employees, knowing that they have a job to return to can aid in the recovery process. It is therefore essential that managers and supervisors consider this approach in managing long term sickness.

However, the employee's need for time to recover must be balanced with Gwent Police's need to continue to operate effectively. Therefore, where there is little or no prospect of a return to work within a reasonable timescale then consideration will be given to the termination of employment on the grounds of ill-health (i.e. capability) the process for which is outlined throughout this section.

PRINTED VERSIONS SHOULD NOT BE RELIED UPON. THE MOST UP TO DATE VERSION CAN BE FOUND ON THE INTRANET POLICIES SITE.

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1.0 Guidance, Procedures, Tactics

1.1 Risk Assessments and Health and Safety Considerations

Managers and Supervisors are required to consider making the appropriate risk assessment when implementing this procedure.

Police staff should apply the Gwent Police Service Dynamic Assessment. A training package in the use of this risk assessment will be provided to all police staff.

1.2 Specific Instructions, tactics, methods, practices and procedures

PROCEDURE FOR MANAGING LONG TERM SICKNESS

1.2.1 Introduction

1.2.2 Long term absence through sickness or the inability of an employee to attend work regularly and consistently because of ill-health are among the most difficult problems a manager has to tackle.

1.2.3 Gwent Police recognises that it has a responsibility to do all that it reasonably can to assist an employee with a long term health problem. For such employees, knowing that they have a job to return to can aid in the recovery process. It is therefore essential that managers and supervisors consider this approach in managing long term sickness.

1.2.4 However, the employee's need for time to recover must be balanced with Gwent Police's need to continue to operate effectively. Therefore, where there is little or no prospect of a return to work within a reasonable timescale then consideration will be given to the termination of employment on the grounds of ill-health (i.e. capability) the process for which is outlined throughout this section.

1.2.5 In its dealings with employees, Gwent Police will take fully into account the provisions of the Disability Discrimination Act 2005. The Attendance Management Guide for Managers assists in highlighting some of the issues that should be considered.

1.2.6 Issues to consider

1.2.7 It is not possible to set out rigid criteria to assist in deciding when consideration should be given to terminating an employee's contract of employment on the grounds of ill-health. Each case must be considered on its own merits, and the following issues must be considered:

- a) how critical is the employee's role to the performance of the organisation?
- b) how long can the organisation reasonably be expected to continue without replacing the employee?

In addition, the advice and guidance of the Force Medical Adviser must be sought in relation to the following:

- c) the nature and extent of the employee's medical problems;
- d) when the medical problem is likely to be resolved;
- e) if able to return to work, what duties the employee is likely to be able to fulfil;
- f) whether there are reasonable adjustments that could be made to the work, equipment or the workplace to assist the employee in a return to work;
- g) the likelihood of the illness recurring;
- h) any concerns raised by the employee about their health and / or working environment.

1.2.8 The Assistant Chief Constable may specifically ask the Force Medical Adviser to consider whether an individual should be ill-health retired on the grounds that they are **permanently** incapable of fulfilling their current role or a similar role within Gwent Police. If the Force Medical Adviser responds by recommending ill health retirement, then the employee will be referred for review by an Independent Medical Practitioner. A separate procedure exists for dealing with such potential ill-health retirements. Where such a recommendation is made by the Force Medical Adviser, then further advice should be taken from a Personnel Officer / Personnel Manager. Should the Independent Medical Practitioner state following review that an employee is not permanently incapable of undertaking work for Gwent Police, then the procedure as outlined below should be followed.

1.2.9 Steps prior to terminating employment on the grounds of capability

1.2.10 The prospect of a recovery and return to work must be discussed between the employee and their supervisor during all Supervisory Visits carried out in accordance with Gwent Police's "Guide to Managing Sickness Absence". This document is available on the Force intranet Human Resources site. During these meetings, the employee must be given every opportunity to outline any measures which he/she feels that Gwent Police could take in order to assist with their return to work and will be consulted on his/her ill health and prospects in light of the force's interests and needs. However, the employee must be made fully aware that, although their case will be treated sympathetically and every reasonable effort will be made to assist in their return to work, the employee's job cannot be held open for them indefinitely. Therefore, at some point the employee must be advised that a decision may have to be made to terminate their contract of employment. Initially, the employee should be advised of this during discussion with the Manager/Supervisor . However, this also needs to be confirmed in writing to the individual. A sample letter is shown at [Appendix A](#).

1.2.11 Before any decision is taken with regard to the employee's future, up to date medical information must be sought from the Force Medical Adviser. The Force Medical Adviser must be asked to comment on the issues highlighted in section 1.2.7 paragraphs (c) to (h), along with any other issues that are deemed to be relevant in determining whether or not the employee's contract of employment is to be continued. Where alternative employment or reasonable adjustments to the work /workplace have been suggested, then these must be fully examined by the line manager. The line manager may need to seek additional advice from the Personnel Officer/Personnel Manager or the Occupational Health Nurse/Force Medical Adviser.

Where the FMA has advised that redeployment should be considered, the individual will be offered a maximum of two alternative posts. Should a post on the individual's current scale not be available, he/she may be offered a lower scale post in the meantime.

1.2.12 Where there is little or no prospect of recovery, or where the period before return is considered to be unreasonable in terms of the needs of the organisation or where reasonable adjustments cannot be made to the work / workplace, then a decision may be made to terminate employment on the grounds of capability.

1.2.13 The Supervisor will submit a report recommending that the procedure outlined in 1.2.15 is implemented. This report should summarise all the action that has been taken in order to secure a return to work, medical opinion, the employee's views and any reasonable adjustments which may have been considered. Where the Divisional Commander / Departmental Head is in agreement with the recommendation, then the matter will be referred to the Assistant Chief Constable.

1.2.14 Where the Assistant Chief Constable approves the recommendation, then the dismissal procedure as outlined below must be followed.

1.2.15 Dismissal Procedure

1.2.16 While the following outlines the formal procedure which must be followed, regular discussions between the supervisor and the employee will ensure that any recommendation to terminate the employee's contract of employment will have taken place with them an early stage and therefore, will not come as a surprise to them.

The following procedure is a requirement of the Employment Act 2002 (Dispute Resolution) Regulations 2004:

- a) Written Statement: the supervisor must send a written statement to advise the employee that consideration is being given to the termination of their contract. This statement must set out the circumstances which have led to the decision. A sample letter is shown at [Appendix B](#). Advice should be sought from the Divisional Personnel Officer about the content of the letter.
- b) The meeting: the supervisor will meet with the employee to discuss the fact that consideration is now being given to terminating their contract of employment on the grounds of ill health. The meeting should be set for a

date which is far enough in advance to give him/her the opportunity to fully consider the content of the letter. The employee has a duty to take all reasonable steps to attend. The employee has the statutory right to be accompanied by a trade union representative or a work colleague. It is recommended that the supervisor is accompanied by the Divisional Personnel Officer. After the meeting, the Supervisor will immediately write to his/her Divisional Commander/Departmental Head and make a recommendation as to whether or not the employee's contract should be terminated. This recommendation will be informed by any concerns that the employee may have raised during the meeting. The recommendation will be forwarded the ACC for a decision. The decision to dismiss or any different action will be confirmed in writing. At this time, the employee must be advised of their right of appeal against the decision. The individual will have 5 days from the date of receipt of this notification of the decision to make an appeal. This must be in writing to the Head of Human Resources and will be heard by the Deputy Chief Constable, accompanied by a personnel Manager. A sample letter is shown at [Appendix C](#).

The appeal meeting: should the employee wish to appeal, then a further meeting should be held in accordance with paragraph b) above. It is recommended that the Deputy Chief Constable is accompanied by a Personnel Manager. A sample letter of notification of the Appeal meeting is shown at [Appendix D](#). Following the appeal meeting, the employee must be advised of the decision and it must be made clear that the decision is final. A sample letter is shown at [Appendix E](#).

1.2.17 Protective Marking

1.2.18 Managers should comply with the information processing requirements of the Government Protective Marking Scheme by which information assets of Gwent Police are protectively marked according to the likely consequence of their compromise as described in http://hq2a/stage/support/standards/info_security/policy/protective%20marking.doc

2.0 Procedure Statement & Intentions

2.1 Principle & Scope of Procedure:

- Staff will be treated consistently and fairly, with appropriate consideration being given to individual circumstances
- Individual cases will be treated on their merits
- Matters relating to the Health of Staff will always be treated confidentially
- Responsibility for managing long term sickness lies with line managers, with advice and support being available from Human Resources
- Abuse of policy and procedure may result in disciplinary action

This procedure does not apply to employees who have been deemed, in accordance with the provisions of the Local Government Superannuation Scheme, by the Independent Medical Practitioner to be **permanently incapable** of fulfilling their current role or a similar role within Gwent Police.

ACPO Guidance on the Management of Staff Attendance In The Police Service October 2000.

'It is vital for management to concentrate on attendance rather than health: the issue is managing absence. Thus whether an individual absence is caused by a genuine illness or not is irrelevant. If there is a medical issue then medical advice and assistance is needed, either from the individuals general medical practitioner (GP) or from the Force Occupational Health service as appropriate, but the management of attendance is the responsibility of line managers.

2.2 Aims of Procedure

Suggested Aim:-

To provide a fair, efficient and effective procedure for dealing with long term sickness absence.

3.0 Introduction

3.1 Origins/Background Information

Managers within the police service have a duty of care towards their staff, to maintain good standards of health and fitness for all, and to provide appropriate levels of welfare and support. This includes an obligation to provide, as far as is possible given the exigencies of effective policing, appropriate working practices and duty patterns and a supportive environment to ensure staff wish to come to work. Gwent Police recognises that its employees are its most valuable resource and it is committed to being a caring organisation. The Force will provide support and assistance to officers and staff who are unable to work as a result of sickness or injury. Supervisors have a duty to ensure sickness absence is effectively managed to support the organisations objectives.

3.2 Motivators/Driving Forces

The ideal is for there to be no sickness absence. However in reality anyone is liable to be ill or injured from time to time. However, it is important that our approach is positive and that the reasons for absence are identified and that staff are encouraged to improve and congratulated where good performance is achieved. It is essential that staff are aware that every absence will be recorded, and that their line manager is primarily there to help them and is able and willing to mobilise resources of the organisation on their behalf. Where attendance has fallen below the level of acceptability then individual attention must be drawn to this fact. After appropriate help and warnings have been given, then the final outcome may be dismissal. Every case needs to be dealt with on its own merits with a fair and proportionate approach.

3.3 The Legal Basis and Legitimate Aims

Police Act 1996
Police Regulations (2003)
Disability Discrimination Act 1995, as amended 2005
Human Rights Act 1998
Freedom of Information Act 2000
Data Protection 1998
Police (Efficiency) (Amendment) Regulations 2003
Home Office Circular 22/2003
Permanent Disablement and Regulation A20 (Police Pension Regulations)
Home Office Circular 3/2004

3.4 The Appendices

A - Proforma letter outcome of sickness visit

B - Proforma letter meeting to discuss termination of employment

C - Proforma letter meeting to discuss outcome of termination of employment

D - Proforma letter pre-appeal meeting

E - Proforma letter post appeal meeting

4.0 Implications of the Procedure

4.1 Financial Implications/Best Value

There should be no additional financial implications with the introduction of this procedure.

4.2 Human Resources/Training

Line managers will be required to support staff to ensure that the aims of this procedure are complied with.

4.3 Strategic Plan Links

People are the principle means by which we can deliver our aim of making delivering safer communities.

4.4 Diversity

In the application of this procedure consideration must be given to the possible social impact of this procedure on the community. A social impact assessment is a requirement to ensure all issues are considered. This is also a requirement of the Gwent Police Race Equality Scheme. Social impact assessments must be undertaken before and after the application of this procedure.

Under the Race Relations (Amendment) Act 2000 Gwent Police is required to undertake proactive work to meet the General Duty of :

- Eliminating unlawful racial discrimination;
- Promoting equality of opportunity;
- Promoting good relations between people of different ethnic groups.

The General Duty is outlined in Section 71 (1) of the Act, and must be met **in its entirety**.

Monitoring must be undertaken to ensure that there is no adverse impact either positive or negative upon any one particular social group or individual. The results of monitoring must be analysed and be available for publication, and appropriate changes made.

All individuals using this procedure must be aware of the potential impact that this procedure has on the individuals to whom it is applied. The following strands of diversity and their corresponding pieces of legislation must be considered when answering these questions.

- Welsh Language Act 1993
- Race – Race Relations Act and Amendment Act
- Disability - Disability Discrimination Act
- Gender – Sexual Discrimination and Equal Pay Act
- Age – Article 13 Treaty of Amsterdam (2006)
- Sexual Orientation – Article 13 Treaty of Amsterdam (2003)
- Religion – Article 13 Treaty of Amsterdam (2004)
- Employment Equality (Sexual Orientation) Regulations 2003
- Employment Equality (Religion or Belief) Regulations 2003
- Employment Equality (Age) Regulations 2006

4.5 **Consultation**

Police Authority
ACPO
Divisional Departmental Heads
Superintendents Association
Police Federation
UNISON
Gwent Police Women's Association
Gwent Black Police Association
Gwent Police Disability Network
Gwent Gay Police Network
Freedom of Information Officer

5.0 Human Rights Consideration Certification

5.1 Auditing for potential interference and discrimination

Q1. What articles of the Human Rights Act 1998 may be engaged?

Article 2

Article 3

Article 5

Article 6

Article 8

Article 9

Article 10

Article 11

Article 14

Q2. Where individual rights are engaged what is the potential to discriminate against the parties involved?

" In the application of this procedure the Force will not discriminate against any persons regardless of sex, race, colour, language, religion, political or other opinion, national or social origin, association with national minority, property, birth or other status as defined under article 14 of the European Convention on Human Rights ".

5.2 Key Human Rights Principles

Q1. What is the legal basis for your procedure?

Section 3.3 refers

Q2. Does the procedure provide details of what could be considered as a legitimate aim for the potential interference with an individual's rights, through the exercising of this procedure?

Restrictions on the rights protected in articles 8 - 11 in the Human Rights Act will be compatible with the convention only if they are aimed at protecting one of the interests listed in articles 8(2), 9(2), 10(2) and 11(2) respectively. The interest protected are broadly the same and generally include:

1. National Security
2. Public Safety
3. The protection of health or morals
4. The prevention of disorder or crime; and The protection of the rights of others.

Q3. How are staff made aware of the clearly defined decision making processes?

Section 1.2 refers

Q4. What are the minimum standards of documentation in relation to decision making?

Section 1.2 refers

Q5. How does your procedure provide guidance on the justification for assessment and actions as to whether the action is the least intrusive?

Section 1.2 refers

5.3 Rights, Publication, Audit and Inspection

Q1. Are there any sections of the document which should not be disclosed to the public on the Force Publication Scheme; because they consist of tactical or operational procedures, that would inhibit the apprehension or prosecution of offenders if publicly known, or would compromise the ability of the force to carry out its duties?

This procedure can be disclosed

Q2. What rights to make representation and appeal process are available?

Persons who wish to make representations regarding the operation of this procedure will have recourse to civil law. There is also the right to use both formal, informal and organisational complaints procedures in respect to the operation of this procedure. Where dismissal is contemplated an individual has a statutory right to attend a hearing to discuss the matter. This includes a statutory right to be accompanied to the meeting by a trade union representative or a work colleague. There is also a statutory right to appeal.

Q3. What internal review and audit process is in place or is proposed?

This procedure has been drafted in accordance with the principles and rights contained within the Human Rights Act 1998. It will be reviewed and continuously assessed in the light of any relevant changes and developments in the application of the Act.

Q4. What external independent scrutiny is recommended?

This procedure document can be scrutinised during Inspection undertaken by HMIC.

5.4 Certification of Compliance

Consideration has been given to the compatibility of this procedure and related policies and procedures with the Human Rights Act; with particular reference to the legal basis of its precepts: the legitimacy of its aims; the justification and proportionality of the actions intended by it; that it is the least intrusive and damaging option necessary to achieve the aims; and that it defines the need to document the relevant decision making process's and outcomes of actions.

5.5 Legal Vetting

There are no issues in this procedure under ECHR which cannot be resolved.

This procedure has been vetted.

6.0 Promotion and Distribution

In order to highlight the existence of this procedure to staff there will be the following :

- GO entry following ratification
- Publication on the Force Intranet

7.0 Monitoring / Review

Monitoring of sickness is carried out via the Force Information application DELPHI. The Force Strategic groups will monitor sickness absence on a regular basis. Managers and Supervisors also have responsibilities as outlined in A Guide to Managing Sickness Absence.

The principles of the Race Relations Amendment Act will be adhered to in that any recognisable adverse social impact should be identified and appropriate action taken.

8.0 Procedure Identification Page

Procedure Title: Management of Long Term Sickness (Police Staff)

Reference: 116/2 b issue 4

Underlying Documents: Gwent Police - A Guide to Managing Sickness Absence, Your Guide to Sickness Absence and Attendance.

Procedure Ownership: Head of Human Resources

Portfolio/Business Area Owner: ACPO Support

Procedure Written By: Personnel Manager / Policy Officer

Department Responsible: Human Resources

Procedure Lead: Personnel Manager

Links to other Policies/Procedures: Equal Opportunities/Fairness at Work/Early Voluntary Retirement/Sickness Absence/Access to Medical Reports/Health and Safety/Occupational Health Screening for Environmental Risk.

Procedure Implementation Date: 14th October 2004 reviewed and amended August 2005 authorised by ACC Support. Reviewed and approved 27th April 2007 PSG

Procedure Review Date: April 09

Appendix A

Dear.....

I write to summarise the content of our recent discussion during my supervisory visit which took place on.....

Unfortunately, you have been on long term sickness since.....During your last review with the Force Medical Adviser, he/she indicated that he did not foresee that you would return to work until..... The genuine nature of your illness is not in question. However, the organisation needs to consider your needs and the need for the force to operate effectively and efficiently. Therefore, while the organisation will do everything reasonably practicable to ensure your return to work at an earlier date, if you remain unwell, then consideration will have to be given to the termination of your contract of employment.

I hope that you will be able to return to work in the near future and continue to perform a valued role in the organisation. We will continue to offer you all the support that we can. However, I am sure that you will understand that the organisation has a duty to ensure that you are fully aware that, as an employer, it cannot reasonably be expected to retain indefinitely members of staff who have prolonged periods of sickness absence.

I will visit you again on.....However, in the meantime, should you have any queries in relation to the above, then please do not hesitate to contact me.

Yours sincerely

Appendix B

Dear.....

As you are aware, unfortunately you have been off work for some time due to ill health. During supervisory visits, we have discussed various ways in which you could be assisted in a return to work, if possible. However, having taken advice from the Force Medical Adviser, I regret to advise you that EITHER * as there is little / no prospect of a recovery within a reasonable time period **OR** as it will take you...(months).....to recover which is unsustainable by the force, regrettably consideration is now being given to the termination of your employment on the grounds of capability (ill health).

I would like to meet with you to discuss this matter further and therefore, will visit you at home on...**Date**.....at.....**Time**.....If you would prefer the meeting to be held at an alternative venue, then please let me know so that I can make the necessary arrangements.

You are entitled to be accompanied, if you wish, by a work colleague or trade union representative.

Should you have any queries in relation to the above, then please do not hesitate to contact me on**telephone number**..

Yours sincerely

Supervisor

* Delete as appropriate

Appendix C

Dear.....

Oninsert date of letter & name of Supervisor.....wrote to you and advised that, due to your continuing ill-health, unfortunately, consideration was being given to the termination of your contract on the grounds of capability (ill health).

You met to discuss this matter further on.....and * you were accompanied by...../ you declined to be accompanied by a trade union representative or a work colleague.

Following that meeting I can confirm that * EITHER unfortunately, your contract of employment will be terminated due to your continuing poor health OR outline any different action.

IF DISMISSAL – I confirm that, in accordance with your contract of employment you are entitled toweeks' notice. You will receive.....weeks' pay in lieu of notice and your last day of employment will be.....

IF OTHER ACTION, THIS IS TO BE OUTLINED.

You have the right of appeal against this decision. Should you wish to exercise this right, then please write to the Head of Human Resources within 5 days from the date of receipt of this notification.

I would like to take this opportunity to thank you for your service to the organisation etc.

Yours sincerely,

Assistant Chief Constable

*** Delete as appropriate**

Appendix D

Dear.....

I have received notification that you wish to appeal against the decision to terminate your contract of employment on the grounds of ill health as advised to you in a letter dated.....DATE..... from.....NAME & DESIGNATION OF SUPERVISOR.

Your appeal will be heard by.....NAME....., Deputy Chief Constable as detailed below:

Date:

Time:

Venue:

If you would prefer the meeting to take place at an alternative venue, then please let me know as soon as possible in order that suitable arrangements may be made.

Please note that you are entitled to be accompanied by a trade union representative or a work colleague.

Yours sincerely,

Head of Human Resources

Appendix E

Dear.....

You appealed against the decision of the Assistant Chief Constable that your contract of employment be terminated on the grounds of ill-health.

I am now writing to confirm, that following my meeting with you on.....DATE... at which you EITHER were accompanied by OR had declined to be accompanied by a trade union representative or a work colleague the decision to terminate your contract EITHER stands OR has been revoked.

You have now exercised your right of appeal and this decision is final.

Yours sincerely,

Deputy Chief Constable.