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EMPLOYMENT ZONE

Conditions of Service – Sickness Absence: Leave & Pay

The Council takes its employees' health, safety, and welfare at work, very seriously. It's comprehensive Absence Management Policy supports employees whilst at work, when off sick, and when returning to work.

The following information applies to all employees.

1.0 Sick pay provisions

A day of sickness is defined as a day that the employee isn't capable of attending work due to illness. This includes absence from work due to an industrial injury or disease.

When absent due to sickness, an employee will normally receive 'Sickness Allowance' from the Council and either:

- 'Statutory Sick Pay (SSP)' from the Council; or
- 'Incapacity Benefit' from Jobcentre Plus.

These are subject to certain conditions, which are explained throughout this document.

1.1 Sickness allowance

Sickness allowances are paid from the first day of sickness.

The qualifying days are based on five days (normally Monday to Friday in each calendar week), and cover for the following employees:

- full-time employees working Monday to Friday;
- full-time employees with irregular work patterns;
- part-time/job-sharing employees working all five days, Monday to Friday;
- part-time/job-sharing employees with irregular work patterns spread over five or more days, other than Monday to Friday.

For employees working different patterns, the qualifying days are those days in the week when the employee was actually rostered to work, whether full-time or part-time.

Sickness allowances are paid for all days of sickness including public holidays. Saturdays and Sundays are not included unless they're part of the normal working week.

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2. Payment and period of sickness allowance

In addition to Statutory Sick Pay, employees may receive full and half pay, up to a maximum of 26 weeks. This is dependant on the employee's length of service, as shown in the following table.

Length of service at start of absence	Full allowance for	Half allowance for
Less than 1 year	5 weeks	5 weeks
1 year, but less than 2 years	9 weeks	9 weeks
2 years, but less than 3 years	18 weeks	18 weeks
3 years, but less than 5 years	22 weeks	22 weeks
5 years or more	26 weeks	26 weeks

In exceptional circumstances, the Council can extend the periods of full or half allowance.

2.1 Calculation of allowance

To calculate their entitlement, employees need to establish their length of service at the first day of absence. They then have to work out how many weeks of full and half paid allowance are due, less any paid allowance they've received in the preceding 12-month period. Unpaid leave of absence is not included.

Sickness Allowance is paid for normal working days. The daily rate of Sickness Allowance is based on the calculation of a day's salary/pay, based on the employee's total contracted pay, including any non-core payments.

2.1.2 Full allowance

Where an employee is entitled to SSP, the full allowance will be equal to their normal pay.

If they're not entitled to SSP (see later), the allowance will be added to Incapacity Benefit, which will give them an amount equal to their normal pay.

For employees aged over 65, the allowance will be an amount, which when added to any additional payment they receive for being off sick (including dependants' allowances), will equal normal pay. Additional allowances may include National Insurance Benefit or State Pension.

Where an employee receives a State Pension, which isn't as a result of being off sick, it won't be offset against sickness allowance.



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2.1.3 Half allowance

Where an employee is entitled to SSP, the allowance will be equal to half their normal pay, plus SSP, provided the total amount doesn't exceed their full normal pay.

If they're not entitled to SSP, the allowance will equal to half their normal pay, provided that, when added to Incapacity Benefit, the total amount doesn't exceed full normal pay. If this happens, the excess will be deducted.

2.2 Reduced National Insurance contribution

If a female employee has elected not to pay the full National Insurance contribution, it doesn't affect the calculation of her full or half allowance when she's receiving SSP. When her entitlement to SSP is exhausted, the full and half allowances will be calculated in the usual way.

2.3 Provide accurate information

Every employee is obliged to provide their Service with accurate information, to determine their entitlement to statutory benefits. This includes any changes to their circumstances. If an employee has received payments, based on incorrect information, their Service can recover payments from the employee.

2.4 End of sickness allowance

Payment of sickness allowance ends when an employee:

- is capable of working again, under their contract of employment;
- exhausts their Sickness Allowance;
- doesn't follow the notification or certification requirements;
- is on maternity leave;
- has their contract of employment terminated; or
- is taken into legal custody.

These provisions don't apply to an employee whose contract of employment is terminated in line with the provisions of the Superannuation Act, due to permanent ill health.

When an employee's contract is terminated as a result of permanent ill health, their sickness allowance will end. They will then receive payment in lieu of notice. This will be at their rate of full pay, and not the rate of sickness allowance they currently receive.



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2.5 Exhaustion of sickness allowance

When an employee's full Sickness Allowance is exhausted, the Head of Service must inform the employee of:

- the date the half allowance starts; and
- how long it will last for.

In line with the [Council's Maximising Attendance Policy](#), a Head of Service can also grant a period of unpaid leave of absence, if appropriate. This will be reviewed on a regular basis (at least every three months), and shouldn't last for longer than 12 months, unless in exceptional circumstances. Any such agreement must be confirmed in writing to the employee.

Employees should continue to submit medical certificates, and let their manager know when they are likely to return to work.

2.6 Sickness allowance for victims of crimes or violence

Where an employee is absent from work because of an injury, and may receive compensation from the Criminal Injuries Compensation Board, as a result, sickness allowance will be paid. The employee won't have to repay this.

If the employee is assaulted in the course of employment, they will be paid a separate allowance calculated on the same basis as Sickness Allowance.

2.7 Absent due to an accident in the course of employment

Where an employee is absent:

- because of an accident arising out of, and in the course of, their employment; or
- due to industrial disease,

they will be paid a separate allowance, calculated on the same basis as Sickness Allowance.

An absence due to an accident will only qualify for payment when:

- an entry in the Council Accident Book (approved for the purposes of the Social Security Act 1975 as amended) is appropriate and has been completed; and
- in the subsequent investigation by the Council, the facts recorded are found to be accurate, and there has been no negligence on the part of the employee in complying with the recognised safe methods of work.



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Where the Head of Service isn't satisfied that the above criteria has been met, there is no requirement to make this payment. However, this doesn't prevent the requirement to pay employees normal Sickness Allowance.

Every effort must be made to ensure that all accidents are entered in the Council Accident Book, including those where the employee, as a result of the accident, is unable to make the entry. However, the Council shouldn't unreasonably refuse the payment of industrial injury allowance in circumstances where no entry is made at the time of the accident.

The Service will still need to carry out the required investigation into the accident, to establish the facts. If it concludes that the accident took place arising out of, or in the course of, employment, the employee will be entitled to the industrial injury allowance, despite the fact that no entry has been made in the Council Accident Book.

2.8 Contact with infectious diseases

If an employee can't attend work because of contact with a notifiable infectious disease, they should advise their Head of Service immediately. The employee will be eligible for full pay during the period of absence, less any benefit payable under the National Insurance Acts. Any period of absence, in these circumstances, will not be recorded as part of the employee's normal Sickness Allowance.

2.9 Exclusion from sickness allowance

An employee won't receive Sickness Allowance, if they:

- go off sick during a trade dispute (unless they've not taken part in the dispute and have no direct interest in it);
- have already exhausted their Sickness Allowance on the first day of sickness;
- are in legal custody on the first day of sickness;
- have not yet performed any work under their contract of employment; or
- are absent due to:
 - their own misconduct or negligence;
 - their active participation in sport for payment; or
 - sustaining an injury while working in their own time for private gain, or for another employer.



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2.9.1 *Conduct detrimental to recovery*

If an employee engages in conduct that is detrimental to their recovery, the Council may suspend payment of their Sickness Allowance. The employee will be advised of this and given an opportunity to provide an explanation, either appearing, or being represented, before the Council or its appropriate committee.

If the Council decides that the employee has engaged in conduct detrimental to their recovery, the employee won't be eligible to any further payment of allowance for that period of absence.

2.9.2 *Claims following accidents*

If an employee is absent because of an accident, they must confirm if they intend to pursue a claim against a third party or insurer, in respect of responsibility for that accident.

Where the employee doesn't intend to make a claim, Sickness Allowance is paid in the normal way.

Where the employee does intend to make a claim, the Council may, depending on the circumstances of the case, pay the employee an amount, which is no more than their Sickness Allowance. This is subject to the employee paying the amount back in part or full, based on any damages they receive.

Therefore, any Sickness Allowance paid to the employee during the absence, as a result of an accident should be paid back in part or full (depending on the amount awarded) in the result of a successful claim against a third party by the employee.

Any period of absence where a refund of the Sickness Allowance is made in full or in part, won't be treated as sickness absence. Instead, it will be treated as special leave.

Where there is no award of damages the absence will be treated as sickness absence and count against an employee's Sickness Allowance entitlement.

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3.0 Sick leave

3.1 Annual leave

If an employee falls sick whilst they're on annual leave, the period of sickness absence will be treated as sick leave and not as annual leave. This only applies if the employee submits the appropriate self-certificate, or doctor's certificate, to their manager by the earliest possible date.

3.2 Public and general holidays

If an employee is off sick on a public or general holiday, they will receive Sickness Allowance on that day, and will be entitled to a day off in lieu after that, as agreed by their Service. This only applies if the employee submits the appropriate self-certificate, or doctor's certificate, to their manager, by the earliest possible date.

If the employee has exhausted their Sickness Allowance, and is on unpaid leave, they won't receive any payment, and will not be entitled to a day off in lieu.

4. Notification and certification

The following processes explain what an employee must do, if they are absent from work, due to sickness.

4.1 Stage 1

On the first day of absence, the employee, or someone acting on their behalf, must notify the Service immediately.

4.2 Stage 2

Where the absence continues to a 4th day, the employee, or the person acting on their behalf, must notify the Service of the continuing absence and confirm if it's likely to continue beyond a 7th day.

4.3 Stage 3

Where the absence is up to 7 days, the employee must complete a [self-certificate](#) when they return to work.



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4.4 Stage 4

Where the absence is more than 7 days, the employee must submit a medical certificate, to cover the period of their absence. They must also complete a self-certificate, to cover the first 7 days.

If the absence continues beyond 7 days, the employee must notify their Service every 7 days, and provide an update of their situation.

Whilst, contact for the above notification stages, is calculated on calendar days, should your work location be closed, then contact must take place with your line manager on the next available day.

4.5 Non-compliance

If an employee fails to comply with these requirements, they won't be entitled to SSP or eligible for Sickness Allowance. This doesn't apply where there are exceptional circumstances preventing notification, perhaps linked to the employee's personal circumstances.

If an employee notifies the Council on the first day, but not immediately, they will still be entitled to SSP, but won't be eligible for Sickness Allowance until the following day, if the period of absence continues.

If the employee doesn't notify the Council on the fourth day, they will still be entitled to SSP, but won't become eligible for Sickness Allowance until the day on which they notify the Council again.

4.6 Occupational health examination

An employee may be required to attend an examination by a medical officer appointed by the Council, subject to the provisions of the Access to Medical Reports Act 1988, where applicable.

An approved Occupational Health Specialist, appointed by the Council, provides these services. If an employee fails to attend a pre-arranged appointment without prior notice, they will have to pay a cancellation fee of up to 100%.