



LONDON FIRE BRIGADE

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Freedom of Information request reference number: 6700.1

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Request:

Should an employee on active service require knee replacement would this deem them immediately unable to complete the role of an active firelighter or is it that return to service is dependant upon completion of the relevant physical assessment's? If they could not return to their active role would they be encourage seek retirement or is it that employees are offered less physical roles?

Response:

In response, I have attached a copy of the following LFB policies and staff code notes which should contain the information you require:

Policy number 0889 - Managing attendance policy
Policy number 0873 - The sickness capability process
LFB staff code - section i - sickness

We have dealt with your request under the Freedom of Information Act 2000. For more information about this process please see the guidance we publish about making a request [on our website](#).

Managing attendance policy

New policy number: **889**
Old instruction number:
Issue date: **7 April 2016**
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Owner: **Assistant Director, People Services**
Responsible work team: **HR Policy Group**

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1 Introduction

- 1.1 The London Fire Brigade (LFB) is committed to promoting a healthy working environment and to supporting staff in maximising attendance and minimising ill health. It is recognised that most employees are able to attend work on a regular basis but may occasionally experience illness which will require managerial support.
- 1.2 Sickness absence, and all other periods when an employee is unavailable to carry out their substantive role owing to sickness/incapacity, can put additional pressure on colleagues who have to cover workload which subsequently has the potential to cause low morale and reduce the efficiency of a business. In addition, absence from work puts financial pressure on an organisation. At a time of reducing budgets and increased scrutiny on how public money is spent, LFB recognises that supporting staff to maximise their attendance and minimise ill health are key principles.

Objectives

- 1.3 In order to support these principles, the main objectives of the managing attendance policy are to:
 - Maximise attendance at work;
 - Ensure timely intervention to provide appropriate support to those who are absent from their substantive role through illness or injury before considering the capability process;
 - Minimise the disruption to service delivery caused by sickness absence.

Application

- (a) This policy applies to all LFB employees within the purview of the Authority Joint Committee.
- (b) Where a provision applies to either support staff or uniformed staff only, this will be clearly identified.
- (c) Training will be provided to all relevant managers involved in the policy both when a new manager takes up the post and where changes are made to the procedure. Managers are encouraged to invite their local trade union (TU) representative/s to attend joint training events where appropriate.
- (d) Advice and assistance is available from the Human Resources (HR) section and the Occupational Health Service.
- (e) Consultation and discussion with trade union representatives at all relevant stages as defined in this procedure.
- (f) A Managing Attendance Handbook on managing attendance (referred to in this policy as the 'Managing Attendance Handbook') accompanies this policy. The Managing Attendance Handbook provides further practical examples of the application of the policy and contains templates of the letters and forms referred to throughout the policy.

2 Roles and responsibilities

Employee responsibilities

- 2.1 The employee has responsibility for immediately notifying the manager of an absence in accordance with paragraph 4 below. Initial contact must be made by employees themselves and by telephone (text message and e-mail contact is not permitted), unless due to the nature of the

illness they are unable to do so. In exceptional circumstances the employee can ask someone to do this on their behalf.

- 2.2 Employees **must** attend medical assessments/appointments and sickness absence meetings arranged by LFB if required. Failure to attend meetings to discuss periods of absence (unless medical professional(s) have advised that illness/incapacity prevents attendance) or failure to attend Occupational Health appointments without prior notification of non-attendance may result in the employee's entitlement to occupational sick pay being withdrawn and may be progressed via the LFB disciplinary process. Employees attending appointments with an Occupational Health professional will be asked to sign a consent form at the commencement of their consultation, agreeing to the consultation and also allowing any subsequent medical reports to be released to the employee's line manager, any other senior manager with responsibility for managing the absence case, and HR Adviser. Confidentiality of medical information must be ensured by any manager dealing with an absence case who has access to any medical information for an employee. If consent is not given, decisions will be made in the absence of medical information. In addition, it is the responsibility of the employee to continue to submit Statements of Fitness for Work (fit notes) as and when required.
- 2.3 Employees must ensure their manager has a means of contacting them directly during periods of sickness absence. In the event the employee's contact details change, employees on sickness absence should notify their manager of the new details as soon as practicable.

Manager responsibilities

- 2.4 The success of any managing attendance policy lies primarily with the managers responsible for monitoring and managing attendance within their department. It is the manager's responsibility to ensure that their employees are fully aware of what is expected of them and that they adhere to all reporting/certification requirements. It is the responsibility of the line manager to record sickness, including certification details, on StARS, see the Managing Attendance Handbook for instructions on this. They must also ensure that employees are referred to an occupational health professional as and when required and that support mechanisms for employees are regularly reviewed and that confidentiality is maintained throughout the managing attendance process.

3 Definition of absence and support mechanisms for employees

- 3.1 For the purpose of this policy it is useful to define what is meant by both short term and long term absence:

Short term

- 3.2 A short term absence is defined as any single period of absence of less than 28 days.

Long term

- 3.3 Long term sickness absence is defined as a period of absence lasting 28 days or more.

Advice and support mechanisms

- 3.4 It is recognised that employees may require support and assistance during an absence and the following sources of assistance may prove helpful:

- The employee's line manager
- Human Resources
- Trade Union Representative
- Occupational Health service, which includes a physiotherapy service

- The employee's GP/treating consultant
- Counselling and Trauma Service (CTS)
- Fire Fighters Charity (in particular their rehabilitation services at Jubilee House/Marine Court/Harcombe House)

In addition the following may prove helpful:

- Flexible working
- Temporary alternative/modified duties
- Phased return to work
- Redeployment
- A temporary change in duties and/or work location

4 Notification and certification requirements

Day 1

- 4.1 In recognition of being employed within an emergency service any employee unable to come to work must notify the line manager of their place of duty as soon as reasonably practicable. For watch-based staff, including control staff, and flexi-duty staff this should be at least one hour or as soon as reasonably practicable prior to the commencement of their shift. For FRS and day duty staff this should normally be within one hour of commencement of the working day/shift.

When notifying sickness, employees must report the nature of the incapacity.

- 4.2 On occasions where the employee feels that reporting their sickness to their line manager might be detrimental to their wellbeing, they should report their sickness to a more senior manager. For operational watch-based staff, where a more senior manager cannot be located prior to the commencement of the employee's shift, the sickness is to be reported to the Officer of the Day (OOD), (020 8555 1200 and ask for Control who will page the OOD).
- 4.3 In those exceptional circumstances where the employee does not feel able to report their sickness *condition* to their line manager or a more senior manager/OOD, the sickness condition should be notified to the HR HelpDesk (020 8555 1200 x89100 option 3). In all cases the initial notification of sickness should follow the process set out at paragraph 4.1 or 4.2 above.
- 4.4 In all cases, officers, managers and HR staff receiving sickness notification calls must treat the employee compassionately and handle details of their sickness with discretion.

Note: Uniformed employees who have reported for work and subsequently book off sick during the course of that duty, must, if not reporting for work the following day, advise the line manager of their 'remaining on sick leave' or 'no longer sick, but booking on to rota' prior to the commencement of the duty scheduled for that day.

Days 2-4

- 4.5 Should an absence persist (including Saturdays, Sundays and Public Holidays), the employee must contact the manager again on Days 2-3 of the absence where these are duty days, within the same timescale as for Day 1, unless the manager has been informed that the sickness is likely to extend to Day 4. The employee must contact the manager again on Day 4 of the absence and indicate whether or not the absence is likely to continue.

Sickness of 4-7 calendar days

- 4.6 Where the absence is for 4-7 calendar days, the employee shall on return to work complete a self-certificate form covering the full period of sickness.

Sickness of 8 consecutive calendar days or more

- 4.7 Where the absence extends beyond seven calendar days the employee will complete the self-certificate for days 1-7 as soon as practicable. In respect of sickness on and after the 8th day, the employee will submit a 'Statement of Fitness for Work Note' from a GP or a hospital certificate to cover the period of absence beyond the first seven days. These should be submitted as soon as practicable after they are obtained, and the originals, or scanned copies, provided in each case.
- 4.8 Where the GP has advised that the employee is 'not fit for work', the information on the fit note should be reviewed to determine the likely length of the employees absence. Subsequent fit notes should be continuous and consecutive to ensure there are no gaps for the purposes of paying Statutory Sick Pay (SSP) and occupational sick pay, where appropriate. In these circumstances employees are required to maintain contact with their manager or any manager acting on their behalf on a weekly (or other agreeable time period between both parties) basis to provide an update on the situation for the duration of the illness.
- 4.9 Where an employee considers they are likely to remain unfit at the expiry of their current fit note, they should contact their GP's surgery up to 7 days before the expiry of the fit note so that the GP appointment can be arranged before, or on the day, the fit note expires. Where the employee has taken these steps, but the GP surgery is unable to offer an appointment before the expiry of the certificate, the employee will contact their manager to advise of the steps they have taken, and the date of the GP appointment which has been offered. In these circumstances the Brigade will accept the back-dating of a fit note. Otherwise a fit note will normally be regarded as covering absence only from the date of issue of the certificate.
- 4.10 Where the GP advises that the employee 'may be fit for work' consideration will be given to the specific advice provided by the GP, for the manager to determine if a return to meaningful work can be accommodated. This will be discussed with the employee and further advice sought from the Occupational Health service as necessary.
- 4.11 LFB will not normally accept a certificate for a duration of more than three months. Where a medical certificate for a longer duration has been submitted, the Brigade can require the employee to submit a further medical certificate after three months in order to meet the Brigade's sickness notification requirements.
- 4.12 Employees who fall sick abroad such that they are unfit to travel back to the UK will need to follow normal sickness reporting procedures, i.e. they are to notify their line manager at the earliest opportunity, and if the sickness extends for 4 days or more, a self-certificate will need to be provided covering days 1-7 of sickness. If the employee's incapacity prevents them from returning to the UK by the 8th day of sickness, this should be supported by an appropriate medical statement which confirms they are unfit to travel to the UK, and if the sickness continues these medical statements should be obtained and submitted every 7 days for sick pay purposes, unless the circumstances justify medical statements being provided less frequently.

Non-compliance

- 4.13 Where an employee repeatedly (i.e. more than once) does not attend occupational health medical appointments, or fails to comply with the notification and certification procedures or any other general requirements of the Managing Attendance policy, entitlement to occupational sick pay and/or SSP may cease and disciplinary conduct action may be taken as appropriate. Further guidance is in the Managing Attendance Handbook.

Availability during sickness absence

- 4.14 Individuals on sick leave must notify their line manager of periods when they will be unavailable for contact visits, medical referrals etc. and if they are planning to take leave away from home. Please refer to section 7.

Outside employment

- 4.15 In normal circumstances outside employment will not be permitted whilst an employee is unable to work because of sickness, whether short-term or long-term. However if an employee believes that the outside employment does not affect their current medical condition and will not aggravate or restrict the employee's ability to recover and return to their primary employment with the Brigade, then they should contact the relevant line manager. The manager will review this request in consultation with Human Resources, who will seek the advice of occupational health. Outside employment whilst sick should not be conducted until and unless the request is approved.
- 4.16 For the relationship between outside employment and sickness, the relevant provisions of [Policy number 551](#) - Outside employment policy applies.

5 Incomplete shifts due to sickness absence

- 5.1 Where an employee is unable to complete a shift because of illness the following will apply:
- (a) In circumstances where an employee is unavailable for work on account of sickness within one hour of commencing their shift/duty, this will be recorded as sickness absence for that day/shift.
 - (b) Otherwise the incomplete attendance will be recorded as 'Incomplete Duty' (I). The StARS Code 'I' is only to be used on account of incomplete attendance due to sickness. Any other reason for incomplete attendance should be recorded using another appropriate code, e.g. special leave (partial).

Further information is contained in [Policy number 888](#) – Partial attendance – policy and guidance.

6 Contact with employees

- 6.1 It is important to maintain regular contact with employees who are on sickness absence as this allows a continuing update of the employee's progress and an assessment of work related issues such as temporary cover or re-organisation of work.
- 6.2 Contact can take place over the phone, in person or in certain circumstances via email. However contact should take place directly between the manager and the employee, unless exceptional circumstances preclude this.
- 6.3 The line manager may make arrangements to meet with an employee at regular intervals to provide support. This in turn should assist with the employee's rehabilitation in order to ensure a smooth return to work at the end of the absence.
- 6.4 The line manager will contact the employee beforehand to advise them of their wish to meet with them. The line manager should use the relevant [template letter](#) which is also available on the [Attendance management](#) page on Hotwire. The employee will also be expected to attend the meeting at their normal work location unless they indicate that this is an issue and asked to meet for example, in their own home, the nearest fire station, headquarters etc. The employee will be given the opportunity to have someone with them e.g. a work colleague or a trade union

representative during all attendance support meetings. The line manager should seek advice from a HR adviser in advance of the meeting if HR support is likely to be required.

- 6.5 It is recognised that long periods of sick absence from work have the potential to increase stress and anxiety levels of an individual. Simple adjustments or modified duties can enable employees to return to work safely before symptoms completely disappear. The line manager, in conjunction with HR should discuss and explore this option involving the individual and in consultation with the Occupational Health service.
- 6.6 Employees are encouraged to discuss their medical situation with their manager to ensure they have all the information required in order to evaluate any support mechanisms that may already be in place or identify the need for support to be arranged.
- 6.7 All contact between an employee and their line manager during a period of absence should be recorded on the contact section of StARS.

7 Sickness and leave entitlement

- 7.1 Employees should be aware that extended periods of sickness absence covering more than one leave year may affect their contractual leave entitlement. Following periods of extended absence, leave entitlement will be adjusted on an individual case by case basis as appropriate. Statutory leave entitlement will not be affected.
- 7.2 An individual who becomes ill or is injured at the beginning of, or during a period of leave may be entitled to claim this back if they were ill or incapacitated provided that they:
- Inform their line manager of their illness or injury promptly, in line with normal sickness reporting procedures.
 - Provide a fit note, or other formal medical certification, covering the full period of their illness or incapacity.
- 7.3 Following a period of long term sickness absence an employee may request to take any outstanding annual leave and should endeavour to take this in the same year in which it was accrued. This will be facilitated by the Brigade as far as possible. However where the outstanding leave cannot be taken, the Brigade shall allow the employee to carry forward statutory leave into the next holiday year. Please note that this statutory leave (up to 28 days including Public Holidays) **must** be taken up to fifteen months from the end of the leave year in which it is accrued or will be forfeited.

Requests for annual leave during sickness absence

- 7.4 It is recognised that taking time away from home during a period of sick leave can be recuperative and may support recovery. However it is expected that, during periods of sickness, employees do not undertake activities that are likely to aggravate their condition or prolong their absence from work.
- 7.5 During periods of sickness absence, employees are required to inform their line manager prior to taking leave and to provide alternative contact details as appropriate.
- 7.6 Employees may request to take any accrued statutory annual leave entitlement, but not Option Absence (FRS staff) while absent from work due to sickness.
- 7.7 Where management has concerns about the proposed nature of holiday activities, the employee can be referred to the Occupational Health service for further information on the impact the proposed activity may have on the employee's condition and recovery.

Employees taking leave away from home during periods of sickness absence are required to provide fit notes covering the full period that they are away.

- 7.8 Where it is necessary for the effective delivery of the service, the Brigade reserves the right to invoke statutory notice in accordance with the Working Time Regulations to employees returning to work in respect of when annual leave will be taken. Notice may be given to employees as follows:
- To take annual leave accrued from previous leave years on the conclusion of sick leave, where due to the exigencies of the service it is deemed appropriate that employees take the balance of any accrued leave outstanding prior to their return to work.
 - To take annual leave during a notice period prior to termination of employment.

8 Absence triggers

- 8.1 To ensure support can be provided at the earliest opportunity, the absence triggers identified below are particularly relevant when dealing with short term intermittent absence. Absence triggers are monitored over a 12 month rolling period.

- 8.2 Attendance support meetings are organised when the following absence triggers are reached:

6 month rolling period

- 3 separate instances, or
- a total absence of 6 working days or over in any six month period.

12 month rolling period

- 5 separate instances, or
- a total absence of 8 working days or over in any twelve month period.

- 8.3 Where an employee reports a due to service injury, as defined within the [Guidance note 'Classification of due to service sickness absence'](#), the manager should consider seeking advice from the Occupational Health service even where it does not result in an absence from duty. Absences will only be recorded as a due to service injury following an appropriate investigation and consideration of all the individual circumstances. Where there is a divergence of opinion between the Brigade's medical adviser and a uniformed employee's treating medical practitioner over either the employee's fitness for duty, or for the purpose of calculating sick pay entitlement, the question of whether an illness or injury has arisen out of authorised duty, an independent medical opinion should be sought to resolve the matter, as per [Section 5](#), part B, within the 'grey book', Scheme of Conditions of Service, 6th edition.
- 8.4 If an employee's sickness absence is due to a maternity related illness the absence should not be included in the absence criteria outlined in section 8.1. Advice should be obtained from a HR Adviser in these circumstances.
- 8.5 Managers should be aware that they are entitled to raise and discuss concerns about attendance with employees at any stage if it is deemed reasonable and appropriate, e.g. any recurring, recognisable patterns, such as frequent absenteeism on a Friday or a Monday, before or after public holidays or during school holidays.
- 8.6 Attendance support meetings can be combined with return to work interviews where an employee agrees to this in advance. In such circumstances, the employee must be provided with an invite letter to the attendance support meeting providing the employee with time to arrange to be accompanied by a colleague or trade union representative, if they wish.

9 Short term intermittent absence

- 9.1 A short term absence can be defined as any single period of absence of less than 28 days.
- 9.2 If an employee fails to achieve the targets for improvement given to them as part of their attendance support meetings and short term persistent absence remains a continuing feature of the employee's attendance record and a management concern, the capability process may be considered. Please refer to paragraph 21.

10 Return to work meetings

- 10.1 When an employee returns to work following a period of either short or long term sickness absence, the manager will conduct a return to work meeting and record the outcome on StARS. Ideally the return to work interview should take place at the start of the employee's shift or as soon as possible on the day they return to work. It is expected that all return to work meetings will be conducted face-to-face and not via telephone. During the meeting managers will welcome the employee back at work and enquire as to the employee's current state of health. They should also explore the reasons for the employees absence, support mechanisms the employee may require, determine whether the employee is fit and able to return to meaningful duties, and review the employee's overall attendance record to ascertain whether they meet an absence trigger and what steps need to be taken. Further information on what should be discussed at a return to work meeting is contained within the Managing Attendance Handbook, section 1.2.

11 Attendance support meetings

- 11.1 Attendance support meetings provide a structured approach for managing long and short term absence issues, in addition to the routine support provided by line managers, for example through regular absence contact and return to work interviews. Attendance support meetings are in place to ensure line managers provide all possible support and advice to resolve attendance issues and, in the case where long or short term absence is causing a repeated concern, to ensure this is provided before the capability process is considered.
- 11.2 The success of attendance support meetings relies on a manager's ability to exercise common sense and judgement when supporting employees through the managing attendance process. The manager's knowledge of the employee and the relevant personal circumstances will assist in determining the content and tone of the discussion. This meeting should also help to identify if there are any work related issues or any personal/domestic problems which may be contributing to the employee's absence.
- 11.3 Employees must receive written notification of the requirement to attend an attendance support meeting and of their right to be accompanied at least seven days in advance. This notification period may be varied by mutual consent. A checklist is available for those managers who require further guidance on the issues that should be discussed during the meeting. Copies of the checklists for [short term sickness](#) and [long term sickness](#) and [all the letters](#) used within the managing attendance process are also available on the [Attendance management](#) page on Hotwire.
- 11.4 Following the meeting, the manager should write to the employee confirming the content of the discussion and the outcomes e.g. targets and timescales for improvement and any support mechanisms that require to be arranged.
- 11.5 If no or only limited improvement has been achieved, or where no return to work or to the employee's substantive role is achieved, the reasons for this will be explored further. Employees may be advised that their level of absence is causing concern and be dealt with under the

capability procedure and could ultimately lead to their employment being terminated on the grounds of capability as detailed in section 21 of this policy.

- 11.6 Advice should be sought from HR advisers in the management of all absence cases progressing via the capability process. However, the Brigade is committed to assisting employees to make a recovery to good health and achieve a return to work. Therefore termination of employment is a last resort and this decision will only be taken after all support mechanisms, reasonable adjustments and redeployment has been considered.

12 Work related stress

- 12.1 In cases where an employee cites work related stress as a perceived source and causal factor of their absence, the Brigade undertakes an automatic referral to the Occupational Health service (and also in all other cases of stress, anxiety and/or depression). The Brigade has a duty of care to support employees and to ensure early and appropriate support to employees who feel they are suffering from work-related stress, they will be asked to complete the "[Workplace Stress Questionnaire](#)" and to discuss this with their line manager (or, where the employee would prefer, another appropriate Manager) in the first instance. Managers should refer to [Policy number 690 - Managing stress within the LFB and the stress risk assessment tool within this policy](#).

13 Management of long term absence

- 13.1 Long-term sickness absence is defined as a period of absence lasting 28 calendar days or more.
- 13.2 In cases of long term absence it is particularly important that line managers maintain regular contact with the absent employee and make appropriate use of referrals to the Occupational Health service and Counselling and Trauma service (CTS).
- 13.3 In addition to the normal line manager contact and advice from the Occupational Health service outlined within this policy, attendance support meetings should be used to provide a structured mechanism for managing and supporting staff in relation to long term absences.
- 13.4 After the initial attendance support meeting which should be held after 28 days sickness, and after a medical outcome report from Occupational Health is provided, further attendance support meetings should be held dependant on the individual circumstances. As a guide it will generally be appropriate to hold a further attendance support meeting after no less than one month, and no more than three months, of long term absence. This is a guide and the frequency of attendance support meetings can vary depending on the circumstances of the case.
- 13.5 The Brigade needs to balance the needs of the employee with the need to maintain an efficient service. Prolonged absences away from work or from the substantive role, particularly in the light of a history of previous illness, may in certain circumstances, cause such severe difficulties that a decision has to be made on whether or not the employee's contract of employment can continue.
- 13.6 Each case is individual and all circumstances must be considered including:
- Expected duration of the absence
 - Prognosis for the return to work
 - Medical opinion from the Occupational Health service
 - Personal circumstances
 - Attendance history
 - The intentions of the employee
 - Whether the employee has a recognised disability
 - Impact on service delivery
 - Specialist medical information which may be available

- Consideration of ill health retirement.

14 Return to work following long term sickness absence

- 14.1 Prior to returning to work following a period of long term sickness absence, managers may require that the employee's GP has confirmed they are fit to return. In certain circumstances, the manager may also require advice from the Occupational Health service in confirming an employee's fitness to return to duty.
- 14.2 When returning from a period of long-term sickness, the manager must meet with the employee to formulate a plan for the employee returning to work and the employee may not be deemed as fit to return to work until this meeting has taken place. This meeting can be arranged for the same time as the return to work meeting. During the meeting managers should consider a phased return to work, adjustments to working arrangements/hours and, dependent on the length of time the employee has been absent, redeployment/re-training. Managers should take every reasonable step to support an employee in their recovery and their return to work. Where necessary, arrangements should also be made for functional assessment tests such as hearing tests and refresher drills to be carried out for uniformed employees.

15 Alternative duties

- 15.1 As per paragraph 1, the purpose of this policy is to maximise attendance at work and ensure appropriate support is provided to those who are absent through illness or injury before considering the capability process.
- 15.2 The Brigade recognises that it may support an employee to have a period of time where they carry out different duties to those of their substantive post, or have other modifications put in place e.g. different working hours/shift pattern, thus allowing them to maintain their attendance at work when they might otherwise be absent because they would be unable to fulfil their substantive post. Such alterations can boost an employee's confidence (especially where they have been away from their workplace for a long period of time) and help ease them back into their normal day to day working environment. Examples of such circumstances in which this may be considered include waiting to undergo surgery or recovering from a long term illness.
- 15.3 In all cases, this is considered as a support mechanism that will result in the employee returning to their substantive post, and should therefore not be considered as a long-term solution. Similarly, duties of this nature should be meaningful and justifiable. Given the purpose of alternative/light duties is to provide support to an employee with a view to them returning to their substantive post, managers are encouraged to offer alternative/light duties for as short a period of time as possible but, in general, should not have this in place for any longer than a 6 month period. Where the employee has had more than one period of light duties in a rolling 12 month period, the periods of light duties may be aggregated when considering the 6 month (general) limit. Each case should be managed on an individual basis, taking into account the medical advice, and, if a manager determines that alternative/light duties may be required for a longer period, they should discuss this with an HR Adviser at least four weeks in advance of the 6 month period coming to an end, and this will need to be agreed by a manager at the appropriate level of seniority. See the [template letter](#) for confirming alternative/amended/light duties. The manager will need to clearly set out their reasoning in the event that light duties are extended beyond 6 months.
- 15.4 In considering whether alternative duties could be accommodated, management should seek advice from the Occupational Health service, who will have up to date medical information for the employee, in addition to seeking advice from HR. Thereafter, they should meet with the

employee to discuss and seek to agree what these duties will be and how long they may be required for. The Managing Attendance Handbook provides further detail and guidance about alternative duties and reasonable timescales that should be considered.

- 15.5 From the commencement of alternative duties, employees must be made aware of the nature of the alternative duties/modifications, the duration this will be expected to be required for and of the fact the expectation is that they should be in a position to return to their substantive post within a determined period. Written confirmation of this discussion will be sent to the employee. A [template letter](#) is also available on the [Attendance management](#) page on Hotwire.
- 15.6 In order to support the arrangements and the eventual goal of returning to their substantive post, regular discussions should take place between the employee and the manager during which the employee's progress should be discussed. If at any point it is determined by the manager (having considered relevant medical evidence) that the employee is unlikely to be able to return to their substantive role within a reasonable timescale (6 months), or the employee is unable to undertake meaningful alternative duties, the manager should consider terminating the arrangement. If a decision is taken to terminate the alternative duties, the employee will be required to report sick as per section 4 of this policy.

16 Sickness absence records

- 16.1 Individual sickness absence records will be recorded for each employee on StARS and will include details of absences, whether the sickness is due to service, and whether the absences are self-certified or medically certified.
- 16.2 Access to sickness absence records will be treated in strict confidence and will be restricted to the HR section and the relevant manager carrying out any stage of this policy. Any unjustified disclosure may be subject to investigation and possible disciplinary action.
- 16.3 Sickness absence records will be used for statistics, sickness absence management, health, safety and welfare monitoring and Occupational Health referrals. They will also be used for monitoring on the basis of protected characteristic(s) to allow the Brigade to analyse any trends and take action where necessary. Periods of sickness absence related to maternity should not be taken into account when making a decision about an individual's employment, for example, for promotion, redundancy etc. Where sickness arises from a disability, reasonable adjustments must be made, and disabled staff must not be treated less favourably for a reason related to their impairment unless this can be justified within the constraints of the law. See section 18 regarding disability-related sickness.

17 Referral to occupational health

- 17.1 The Occupational Health service is an advisory service that supports the promotion of a healthy workforce and assists the Brigade in maximising attendance and reducing ill health by providing advice on potential interventions and support measures.
- 17.2 Although the primary care provider for an employee is their GP, the Occupational Health service may liaise with other health specialists, including GPs/Consultants (subject to appropriate consent from the individual concerned), in order to gather as much information as possible in providing their medical advice.
- 17.3 The purpose of a management referral to the Occupational Health service is to try to establish:-
 - The underlying cause of and likely duration of the absence.
 - Whether there are likely to be any limitations upon the individual's ability to return to their existing role and if these are temporary/permanent.

- Whether there is anything that can be done to assist the individual's recovery and return to work.
- Whether the absence is attributable to a disability as defined by the Equality Act 2010.
- Following discussions with the employee and advice from Occupational Health regarding their absence, whether grounds exist to terminate/retire the employee's employment on the grounds of ill health or capability.

17.4 Managers should be encouraged to make a referral to Occupational Health when they have a concern about an employee's absence. Over and above this, however, automatic referrals to Occupational Health are made at the following points:

- Continuous absence between 7 days and 35 days, depending on the medical condition.
- Reports of an injury at work, where an immediate medical referral is requested by the Health and Safety Services department.
- Sickness recorded as 'Due to Service' which extends beyond 7 days.
- Commencement of sickness due to stress, anxiety or depression.
- Commencement of sickness due to cardio-vascular conditions.

In addition managers should make a medical referral where the employee pro-actively discloses that they have a potential substance/alcohol misuse problem.

17.5 The Access to Medical Reports Act 1988 gives employees the right to check the accuracy of medical reports prepared by their medical practitioner, in response to a request for medical information from their employer. The Act also gives employees the right to see medical reports prepared by occupational health before they are sent to the employer.

17.6 A medical report from the employee's GP can only be obtained with the employee's written consent. Employees can withhold their consent if they wish, but if it is refused, the employer will have to make decisions regarding their employment without the benefit of the medical information sought and based only on the information available to them.

17.7 Where it is documented by the Occupational Health service that an employee has caused or substantially aggravated or prolonged any medical condition by neglect or default or has refused or neglected to cooperate fully in any recommended medical treatment that may assist their recovery, the Brigade will be entitled to withhold occupational sick pay as deemed appropriate to the circumstances.

17.8 If, in the opinion of the relevant manager acting on medical advice from the Occupational Health section, the absence from duty is by reason of an illness or injury that is wholly attributable to the employee holding any other office or employment for hire or gain, or carrying on a trade or business, or participation in sport as professional or semi-professional, they shall not receive any pay other than an entitlement to Statutory Sick Pay.

Physiotherapy

17.9 Where a manager considers that an employee could benefit from Physiotherapy, the manager will discuss this with their HR Adviser, and refer the employee to the Occupational Health service as appropriate. Where an employee who is fit for full duties considers they could benefit from Physiotherapy, they may seek an appointment via the Attendance Management Medical Team; agreed appointments for watch-based and flexi-duty staff will be made in off-duty time.

Counselling

17.10 The Brigade provides a confidential in-house counselling service, Counselling and Trauma service (CTS), as a support mechanism to all employees. Self or management referrals can be made to

CTS as appropriate. HR can provide further information if required. CTS also provides support to employees in relation to post incident welfare.

Self – referral

- 17.11 Employees can request that they are referred to the Occupational Health service for practical support and advice from a medical practitioner. This request must go via the Attendance Management Medical Team, and will not be unreasonably withheld.

18 Menopause

- 18.1 The Brigade has produced a booklet for staff and managers 'Menopause guidance' that can be accessed via LFB WellWorks. This explains some of the symptoms women may experience, signposts staff to further advice and guidance, and lists some of the ways managers can best support their staff in the workplace if they need it. Additional information on the menopause is available by contacting the LFB's Wellbeing Team.

19 Employees who become disabled

- 19.1 There will be occasions when, as a result of an illness or injury, an employee becomes disabled. In such cases the Brigade must, wherever possible, facilitate the employee's continuing employment.
- 19.2 The Equality Act 2010 defines disability as a physical or mental impairment that has a substantial and long term adverse effect on someone's ability to carry out normal daily activities. The definition includes people with hidden disabilities (such as diabetes, epilepsy, and mental health issues). An employer is under a legal obligation to make reasonable adjustments to enable a person with a disability to work or continue to work.
- 19.3 In order to ensure that the Brigade complies with the requirements of the Equality Act 2010 a meeting will take place between the employee, their representative (a work colleague or Trade Union representative), the manager, and a representative from HR to consider reasonable adjustments for an employee who becomes disabled where this proves necessary and is appropriate to the case.
- 19.4 Consideration should be given to making reasonable adjustments to the relevant role map/job description, for the employee to continue in employment . Reasonable adjustments may include:
- Changing the job content to exclude things which may be badly affecting the employee's impairment and causing sickness absences;
 - Where possible, the manager should review periods of sickness absence and identify periods of absence which are attributable due to a disability and consider this in relation to the management of the employee's absence.
 - Providing equipment which enables an employee to carry out their job more effectively;
 - Altering the workplace (including some home working if appropriate);
 - Reallocating duties between the disabled employee and their colleagues;
 - *Altering working hours;
 - Transferring the disabled employee to another work area;
 - Providing information in alternative formats;
 - Redeploying the disabled employee (where possible);
 - Providing a reader or signer;
 - *Allowing time off (Disability Treatment Leave)** for rehabilitation, assessment or treatment;
 - Additional training.

* The altering of hours (e.g. earlier start and finish times) should be accommodated where reasonably possible taking into account the exigencies of the service. However, where the altering of hours results in a longer term reduction of contractual hours, the employee, following their phased return to work, will be paid for the hours actually worked.

***"Disability Treatment Leave" is time off from work for attending clinic appointments or other assessment, medical treatment and/or in-patient or out-patient recuperation/rehabilitation, for a reason relating to someone's disability, where it lasts for one or more whole days (part day absences for disability treatment will be recorded as GTV (Gone to Visit)). Disability Treatment Leave is normally limited to ten working days per year.

- 19.5 Where an employee's medical condition meets the definition of a disability under the Act, the absence triggers detailed in 8.1 will be applied to ensure that any support mechanisms can be identified at an early stage. However consideration will be given to the employee's disability in terms of the application of the managing attendance procedure and consideration given to the reasonable adjustments outlined in paragraph 18.4 above. Where absences occur that are not related to the employee's disability the managing attendance procedures will apply in the normal way. Further advice can be obtained from an HR Adviser where necessary.
- 19.6 The Brigade must ensure that maximum attendance is maintained in the interest of ensuring effective service delivery to the communities across London. Therefore to ensure it meets this aim, employees with disabilities who are unable to attend work on a regular basis, will be managed in accordance with [Policy number 873](#) - The sickness capability process, subject to disability related absence being managed in accordance with the Equality Act.

20 Redeployment

- 20.1 Where the Occupational Health service advises that an employee is unfit to carry out their current role but is not permanently unfit, suitable redeployment opportunities in relation to the relevant role map/job description should be considered.
- 20.2 The relevant manager and representative from the HR section will meet with the employee, and their representative if requested, to discuss the report received from the Occupational Health service and the process to be followed for consideration of redeployment opportunities.
- 20.3 The employee will be assessed for eligibility for redeployment and notified of relevant potential vacancies within the Brigade over a minimum of a three-month period.

21 Retirement due to ill health

- 21.1 Where there is an underlying health condition or inability to fulfil the full duties of their substantive role which results in the employee being unable to return to work or attend work on a regular basis, consideration should be given to the option of ill health retirement. This shall be progressed where:
- 21.2 In the case of uniformed employees, the employee is considered by the Independent Qualified Medical Practitioner (IQMP) to be permanently unfit to carry out the role for which they are employed in accordance with the provisions of the relevant Firefighters Pension Schemes and where a suitable alternative position is not available or appropriate;
- 21.3 In the case of FRS and Control employees, the employee is considered by the Independent Registered Medical Practitioner to be permanently unfit in accordance with the provisions of the Local Government Pension Scheme;

- 21.4 Every other option for return to work has been considered e.g. reasonable adjustments to duties, redeployment;
- 21.5 The employee is a member of the Local Government Pension Scheme, or one of the Firefighters Pension Schemes.

22 Ill health – capability process - termination of employment

- 22.1 In most cases the support mechanisms outlined within this policy will assist employees to attend work on a regular basis or alternatively, where an ill health retirement is appropriate, to retire from the Brigade under the provisions of the relevant pension scheme. There may however be a small number of cases where these support mechanisms are not effective in assisting employees to attend work on a regular basis or be able to undertake their substantive role.
- 22.2 Unless a redeployment opportunity is identified, an employee's inability to achieve and maintain acceptable levels of attendance (short term intermittent or long term) are issues of capability which may eventually result in either ill health retirement or termination of employment on the grounds of capability.
- 22.3 The same principle applies to employees who are unable to carry out the duties of their substantive post on the conclusion of a period of alternative duties although in these circumstances redeployment and ill health retirement will also be considered. For more information on alternative duties, please refer to paragraph 15.
- 22.4 Employees should be advised that their employment with the Brigade cannot be guaranteed if they are not able to attend work on a regular basis or be able to undertake their substantive role and ultimately their employment could be terminated on the grounds of capability. However, any decision to dismiss an employee on grounds of capability will be a last resort and will only be taken after all support mechanisms have been considered and implemented.

Assessing suitability for progression to the capability process

- 22.5 There is no single formula for determining the point at which an individual's attendance should be progressed through the capability process. Each case must be based on its own merits, but will always be based on the following principles:
- The intention of managing attendance, including formal action in [Policy number 873](#) - the sickness capability process, is to improve attendance.
 - Where individuals are injured or ill they should be treated fairly and compassionately at all times.
 - Managers should be able to demonstrate that they have acted reasonably in all actions taken at all stage of the managing attendance process, including any decision to progress to [Policy number 873](#) - the sickness capability process.
 - In certain circumstances, it may be appropriate to consider redeployment or ill health retirement in discussion with the employee. In these circumstances, advice must be sought from HR.
- 22.6 Although each case must be reviewed on its own merits, as a guide, consideration should be given to initiating the capability process at the following points:

Long term absence

- 22.7 After 6 months of continued long term absence or unavailability from the substantive role, a first stage capability meeting may be considered.

- 22.8 After 9 months of continued long term absence or unavailability from the substantive role, a second stage meeting may be considered.
- 22.9 As a last resort, and after all other alternatives have been explored, if an employee remains absent from work after 12 months or is unavailable from the substantive role, a third stage hearing may be initiated. Managers should contact their HR Adviser for further advice.

Short term absence

- 22.10 If an employee fails to achieve the targets for improvement given to them as part of their attendance support meetings and short term persistent absence remains a management concern due to the continuing nature within the employee's attendance record, the first stage of the capability process may be considered. Managers should contact their HR Adviser for further advice.
- 22.11 An individual should not normally be progressed to [Policy number 873](#) - the sickness capability process, unless:
- 22.12 Notwithstanding supportive management action having been taken, the individual continues to have unacceptable levels of persistent short-term absence and there is no sufficient improvement in their attendance; and/or
- 22.13 The individual is absent due to long-term sickness and, notwithstanding supportive management action having been taken; there is no realistic prospect of return to work or return to substantive duties in a reasonable timeframe.
- 22.14 The employee is unable to return to their substantive role and it is not anticipated will be able to do so within a reasonable timeframe.
- 22.15 The employee has been previously advised that their continued absence may result in progression through the capability process;
- 22.16 Earlier supportive action was offered but the individual either declined it or failed to co-operate and as a result there has not been the necessary improvement in the employee's attendance.
- 22.17 Capability has no informal or preliminary stage only 3 formal stages. These are outlined in [Policy number 873](#) - the sickness capability process. Line managers should always seek advice from HR when dealing with cases of capability.
- 22.18 Employees invited to a first or second stage capability meeting should be invited to do so in writing and using the [template invite letters](#) , also available on the [Attendance management](#) page on Hotwire.
- 22.19 The outcome of capability meetings should be detailed using the [template outcome letters](#). A template outcome letter for a first stage and second stage capability meeting are also available on the [Attendance management](#) page on Hotwire.
- 22.20 After considering all other options such as redeployment and Ill Health retirement, any manager considering progression to the third stage of the capability process must review the [management checklist](#), also available via the [Attendance management](#) page on Hotwire to ensure that all reasonable steps have been taken prior to initiating this stage, if appropriate.
- 22.21 An employee required to attend a third stage capability hearing will be invited using the [template letter](#), also available on the [Attendance management](#) page on Hotwire.

23 Sick pay entitlements

- 23.1 Sick pay entitlements are as those detailed within the relevant conditions of service for support staff and uniformed staff. Further guidance is available from HR.

24 Third party damages

- 24.1 Where the employee is absent as a result of an accident the Brigade shall continue to pay the individual in accordance with their contractual entitlements. Any claim for damages against a third party should include a sum equivalent to the salary provided. The Brigade will, on application, provide a certificate to the employee as evidence to the third party.

25 Contact with infectious diseases

- 25.1 In the case of contact with infectious diseases, employees should decide if they are fit enough to attend work. If an employee is concerned about their contact with an infectious disease, they should speak to their line manager or contact their HR Adviser who will seek advice from occupational health.
- 25.2 If the employee feels unwell and cannot come to work then they should report their absence in the normal way to their line manager, ensuring that the manager is made aware of a possibility of a contracted infectious disease. The employee will seek to contact their GP as soon as possible, or report to the nearest A&E, who will make a decision as to whether the infectious disease is significant and the employee needs to have medical attention and/or refrain from work.
- 25.3 If an employee is in contact with another person who has an infectious disease and is concerned then they should seek advice either from their GP or their HR Adviser who will seek advice from occupational health. If the contact with an infectious disease takes place at work, the employee must report this to their line manager immediately.
- 25.4 Managers should always refer to the relevant provisions of [Policy number 707](#) - the control of infection and infectious diseases policy, when dealing with an employee in such circumstances. The provisions of this policy are applicable to all employees.

26 Data Protection Law – special category personal health data

- 26.1 It is the policy of the Brigade to fully comply with the provisions of the Data Protection Law and to observe the principles of the Law by maintaining the confidentiality of all personal sickness absence information held manually or electronically.
- 26.2 The Brigade's published a privacy information note (PIN) on "employment" on its website ([here](#)) it explains the information the Brigade collects about employees, why it collects it and how it is used. The PIN should be read alongside the LFB "General Privacy Notice" which is on our website [here](#).

Document history

Assessments

An equality, sustainability or health, safety and welfare impact assessment and/or a risk assessment was last completed on:

EIA		SDIA	21/03/2015	HSWIA		RA	
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Audit trail

Listed below is a brief audit trail, detailing amendments made to this policy/procedure.

Page/para nos.	Brief description of change	Date
Throughout	New attendance management policy and PN888 - partial attendance policy issued to replace the previous version (PN712) which has now been deleted.	07/04/2016
Throughout	This policy has been reviewed as current with minor changes made following a trade union consultation. Please re-read to familiarise yourself with the content.	13/08/2018
Page 15	New section 18 (Menopause)/paragraph 18.1 added.	25/03/2019
Page 5, para 4	New paragraphs 4.2-4.4 regarding notification of sickness; remaining paragraphs in section 4 renumbered accordingly.	27/11/2020
Page 19	Terminology updated from 'Act' to 'Law' and paragraph 26.2 added.	02/09/2021

Subject list

You can find this policy under the following subjects.

Freedom of Information Act exemptions

This policy/procedure has been securely marked due to:

Considered by: (responsible work team)	FOIA exemption	Security marking classification

The sickness capability process

New policy number: **873**
Old instruction number:
Issue date: **1 July 2015**
Reviewed as current:
Owner: **Assistant Director, People Services**
Responsible work team: **HR Employment Policy Team**

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1 Scope

- 1.1 All staff covered by the Brigade Joint Committee.

2 Background

- 2.1 This capability procedure will be used for managing absence in the case of both short term persistent absence and long term absence which despite previous supportive action has failed to either improve an employee's attendance record, achieve a return to work or a return to full substantive duties.
- 2.2 Moving from the First to the Second and the Second to the Third Stages will normally have a 12 months' time limit **in total**, dependent on the individual circumstances of the case. During each stage of the process, the case will remain "live". However, there may be occasions where an employee's absence is satisfactory, only to lapse very soon after a 12 month period expires.
- 2.3 Where a pattern emerges e.g. frequent absenteeism on a Friday or a Monday, before or after public holidays or during school holidays, the employee's record under the capability process should be considered when deciding whether to move to the next stage of the procedure or to repeat the stage for another period, e.g. 12 months. After one repeat stage, normally further absences will result in moving to the next stage up.
- 2.4 The process has a structured approach to dealing with capability issues in a reasonable and fair way that affords the employee every opportunity to address the issues being brought to their attention by management.
- 2.5 The employee is entitled to be accompanied at meetings held at all Stages of the procedure by a trade union representative or other work colleague.

3 Stage 1

- 3.1 A **First Stage Meeting** will be held to discuss the employee's attendance record and determine any support mechanisms that could be put in place to assist the employee to return to work or achieve the targets set for improvement. The employee will be advised of this meeting in writing (there is a template letter contained within the Managing Attendance Handbook) and a copy filed in the employee's e-PRF. It is recommended that the manager consults the People Services Department when this stage is reached.
- 3.2 The First Stage is the start of management "firming up" on non-improvement of previously set targets or failure to return to work/substantive duties. The approach taken should continue to be supportive with the focus being on how to resolve the employee's absence issues. The employee should be made aware of the impact their absence is having on the service delivery and work of their colleagues. Further targets for improvement should be set if appropriate and the employee informed of the consequences if they do not meet these targets or achieve a return to work/substantive duties i.e. they will be required to attend a Second Stage Meeting.
- 3.3 In terms of setting absence targets, managers must consider the following:
- Any emerging patterns so that support/assistance can be offered to the employee if necessary e.g. alcohol/drug addiction/caring issues;
 - The period of time that the absence target will be set for and whether this is realistic and achievable for the employee;
 - Discuss any practical support/assistance that is required to allow the employee to improve over the timescales set.

- 3.4 The employee's line Manager or other designated officer, no lower than sub/station officer/FRSC/Operations Manager, should chair this meeting.
- 3.5 The outcome of the meeting will be put in writing using the standard letter and a copy filed in the employee's e-PRF. Where there is a requirement to request further medical information from Occupational Health at this stage, a referral should be made and specific information requested.

4 Stage 2

- 4.1 Where it is necessary to hold a **Second Stage Meeting**, a discussion should take place with the employee as to why they have failed to achieve the targets set at the first meeting or achieve a return to work/return to substantive duties. Again, support mechanisms should be considered, if appropriate and a referral made to Occupational Health (if no previous referral arranged) to obtain further medical information in relation to the employee's medical condition (if appropriate). Further targets for improvement should be set, if appropriate and the employee informed that failure to meet these targets or achieve a return to work/substantive duties could ultimately result in their employment being terminated on the grounds of capability.
- 4.2 This is the penultimate stage to potential dismissal and presents another chance for the employee to make the necessary improvements in attendance. The employee should be invited to the meeting in writing (see template letter contained within the Managing Attendance Handbook). The outcome of the meeting should be detailed (see template letter) and a copy filed in the employee's e-PRF. Management, whilst still taking a reasoned and understanding approach to the employee's position, will be at the point where the employee's lack of improvement is of **considerable** concern. Accordingly, it will be important to ensure absolute clarity in understanding of where the improvements are required and of the case put forward by the employee. It is therefore important that a discussion should take place with the employee as to why they have failed to achieve the targets set at the first meeting or achieve a return to work/substantive duties. It is important to ensure absolute clarity in understanding where the improvements are required and the case put forward by the employee.
- 4.3 A manager, no lower than Group Commander/FRSE/Senior Operations Manager should chair this meeting. Where an employee's absence record continues to give cause for concern following a Second Stage Meeting, the matter will be discussed with an HR Adviser.

5 Stage 3

- 5.1 To assist in determining whether or not an employee should move to the third and final stage of the procedure, it is recommended that a management of sickness absence case review checklist is completed (contained within the Managing Attendance Handbook). This checklist should ordinarily be completed by the manager who held the second stage interview, and forwarded to the local HR Adviser for review prior to the third stage meeting being arranged.
- 5.2 If it is agreed to proceed to the Third Stage of the procedure, the employee should be advised of the arrangements in writing, see template letter within the Managing Attendance Handbook, and a copy filed in the employee's e-PRF. This is the **final stage** in the capability procedure at which dismissal can be the result. Only instances for which there is a strong case for dismissal should be brought to this stage but it is for the Senior Manager conducting the meeting, no lower than DAC/FRSG/Principal Operations Manager, to decide on the outcome based on the information and case put forward, including new information presented by the employee.
- 5.3 To sustain dismissal there needs to be a consistent record of non-improvement in the employee's record of absence as required at the Stage 2 meeting, or no foreseeable date identified for a return to work or a return to substantive duties, depending on circumstances. Each stage must be

clearly documented, setting out the requirements of management and the employee's obligations. Management must also be able to demonstrate consistency and reasonableness in their approach to the actions previously taken. All cases should have a consistent record of absences, supporting medical opinion of the reasons for the absences, knowledge of the employee's intentions and a record of unfulfilled employee obligations and the reason for unfulfilled obligations.

5.4 Any decision to dismiss an employee will only be taken when:

- The employee has been formally advised that failure to attend work on a regular basis could lead to dismissal. This applies equally to cases of both short term persistent and long-term absence.
- The employee and trade union representative have had an opportunity to explain the absence record and the reasons for it.
- Management has explained the requirement for the employee to attend work on a regular basis and has given the employee the opportunity to prove that they can attend work on a regular basis.
- Reasonable adjustments to the post have been considered, as required under the Equality Act, and it has been determined that no further adjustments can be made.
- Where applicable, the option of a suitable alternative position has been fully considered.
- Medical advice has been obtained to ascertain the nature of the illness/ailment, its likely duration, whether the employee is likely to make a full recovery and if not, what work they are able to perform.
- Ill Health Retirement has been considered where appropriate.

IMPORTANT: Clearly each case will require to be considered on its own merits and careful judgement exercised before reaching a decision to dismiss on the basis of capability. Management should consult their HR Adviser for advice at any stage where it is felt this could be of assistance.

6 The appeals procedure for termination of employment due to capability

6.1 Where an employee is dismissed on the grounds of capability, the employee has the right to appeal the decision. Appeals should be in writing and within seven days of receipt of the letter detailing the outcome. The appeal shall be heard by a Head of Service/Brigade Manager. The grounds of appeal will normally be one or more of the following:

- The principles of the Managing Attendance Policy have not been adhered to.
- Decision to dismiss was too severe.
- Medical information has not been considered or new information has come to light.

Document history

Assessments

An equality, sustainability or health, safety and welfare impact assessment and/or a risk assessment was last completed on:

EIA		SDIA		HSWIA		RA	
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Audit trail

Listed below is a brief audit trail, detailing amendments made to this policy/procedure.

Page/para nos.	Brief description of change	Date
Throughout	Role to rank changes made to content.	15/10/2019
Page 1	Owner title updated from 'Head of Human Resource Management' to 'Assistant Director, People Services'.	
Page 2, para 1.1 Page 2, para 3.1 Page 4, para 5.4	'Authority' changed to 'Brigade' due to the abolition of LFEPA. 'HRM Department' updated to 'People Services Department'. Language changed to gender-neutral terms.	26/08/2020

Subject list

You can find this policy under the following subjects.

Freedom of Information Act exemptions

This policy/procedure has been securely marked due to:

Considered by: (responsible work team)	FOIA exemption	Security marking classification

Section I

Sickness

Section I – Sickness, accidents, industrial and infectious diseases

1. Notification and certification
2. Standard allowance scale for sickness
3. Accidents, injuries and industrial diseases
4. Infectious diseases
5. Sick leave scheme – Fire Brigade
6. ~~Sick leave in relation to holidays~~
7. Amount of allowance
8. Calculation of entitlement
9. Extensions of sickness and accident allowances
10. Determination of contract
11. Referrals to the medical adviser
12. Partially incapacitated employees – alternative work
13. Sick leave following medical examination
14. Permanently unfit employees – sickness allowance
15. Permanently unfit employees – appeals procedure
16. Other references

1. Sickness, accidents, industrial and infectious diseases
1. Notification and certification
 - 1.1 Except for those members of the Brigade specified in 5, the grant of sick leave and sick pay for incapacity, including injury, shall be subject to the procedure in 1.3 and 1.4; in the case of accidents or injuries on duty, industrial or infectious diseases the procedure is modified by the respective requirements outlined in 3 and 4.
 - 1.2 In applying the procedure in 1.3 and 1.4 following, the employee should notify, and, when required, submit certification for, incapacity falling on all consecutive calendar days, including weekends and/or other general non-working days.
 - 1.3 Notification

The notification procedure is as follows:

 - (a) Subject to (b) following, notification of the sickness or injury should be given, normally by telephone, to the appropriate line-manager on the first calendar day of the incapacity, normally within one hour of commencement of the working day/shift, and also by telephone on each of any subsequent 3 days of sickness.
 - (b) If any of the first four calendar days of the incapacity falls on a weekend or other general non-working day so as to prevent compliance with (a), the requisite notification should be given as soon as possible thereafter.
 - (c) The notification should indicate the nature of the incapacity (if possible) and its probable duration.
 - 1.4 Certification - The procedure for certification is as follows:
 - (a) Incapacity lasting for three consecutive calendar days or less
Provided that telephone notification has been given as in 1.3 above, no written certification of incapacity is normally necessary except as provided in (d) below.
 - (b) Incapacity lasting for four to seven consecutive calendar days - self-certification
Except where the incapacity is otherwise covered by a doctor's statement, employees should submit a written self-certificate to their line manager immediately upon return to work; the self-certificate should be either on the prescribed form to be obtained from the Headquarters/Command Personnel Section, as appropriate, or on a form issued by the Department of Social Security for the purpose of self-certification. In the latter instance, such form should be forwarded to the Headquarters/Command Personnel Section, as appropriate, who will retain it unless it relates to a claim for National Insurance benefit in which case it should be returned to the employee with an appropriate claim form, or forwarded by the Personnel Section to the local Social Security office, according to the circumstances.
 - (c) Incapacity lasting for eight or more consecutive calendar days
The procedure for certification in (b) foregoing should be applied in respect of the period of incapacity occurring before the eighth calendar day, except that the self-certificate (or, where appropriate, the doctor's statement) should be forwarded to the line manager as soon as practicable; in respect of the incapacity on and after the eighth calendar day, a doctor's statement should be submitted forthwith and at subsequent intervals as required for National Insurance purposes or during a period of entitlement to Statutory Sick Pay, or otherwise as appropriate; an employee who has submitted medical evidence of unfitness for duty covering a period exceeding 14 days must submit a final statement confirming his or her fitness to resume duties. All such certification is to be forwarded immediately to the Headquarters/Area Personnel

Section immediately. In cases where a statement is also intended to relate to a claim for the employee for National Insurance benefit, it should be returned to the individual by the Headquarters/Area Personnel Section, as appropriate with an appropriate claim form or forwarded by them to the local social security office, according to the circumstance.

- (d) In any individual case, in respect of sickness or injury from the first day of incapacity, the Director of Personnel & Training in the case of Headquarters staff or the ACFO in the case of Area staff, may require, at his/her discretion and after prior notice, the submission of either a written self-certificate on the prescribed form, as referred to in (b) above, or, where the Director of Personnel & Training/ACFO considers it necessary because of exceptional circumstances, a doctor's statement or a medical certificate.

- 1.5 In the event of failure by an employee to comply in part or whole with the relevant requirements for notification and/or certification of incapacity, including injury, the Director of Personnel & Training/ACFO, as appropriate, may, at his/her discretion, take disciplinary action as an alternative to, or in addition to, the withholding of the grant of sick leave and/or sick pay (including Statutory Sick Pay).

Note: References in the foregoing procedure to a doctor's statement mean a statement issued under the Social Security (Medical Evidence) Regulations, 1976, but, in particular cases, medical evidence in alternative form may be accepted subject to the agreement of the Medical Adviser, in consultation, where he/she considers it appropriate, with the Director of Personnel & Training/ACFO.

2. Standard allowance scale for sickness

- 2.1 The following standard scale of sickness allowance shall apply to all employees who are entitled to sick pay except the members of the Brigade specified in 5, and those who have a different prescription under the conditions of service laid down by other negotiating bodies.

In the 1st year of service

1 months' full pay* and (after completing 4 months' service)

2 months' half pay

In the 2nd year of service

2 months' full pay and 2 months' half pay

In the 3rd year of service

4 months' full pay and 4 months' half pay

In the 4th and 5th years of service

5 months' full pay and 5 months' half pay

After completing 5 years service

6 months' full pay and 6 months' half pay.

*Not applicable to temporary employees engaged for periods not expected to exceed four months unless and until they have in fact completed 4 months' service or more.

Notes:

- (1) The foregoing scale of sickness allowance is also applicable to accidents and injuries off duty sustained by the above-mentioned employees (for accidents, etc, on duty, see 3).
- (2) See 9 for scale extensions.

2.2 Previous service

- (a) For the purpose of ascertaining the period of benefit under the Scale in 2.1, previous service with public bodies as mentioned in Hb 2.3 will be counted, provided there has not been a break in service of more than 12 months.
- (b) Re-employed pensioners
The previous service and sick leave of re-employed pensioners should, unless this is not to their advantage in any individual case, be taken into account in the calculation of sickness allowance entitlement under their contractual sick leave scheme.

2.3 New entrants - failure to report for duty

Employees who have accepted a permanent appointment but are unable to report for duty on account of illness are entitled to sickness allowance in accordance with their scale, subject to paragraph 1.

3. Accidents, injuries and industrial diseases

3.1 Scale of allowance

Except for the stated categories of staff excluded from the operation of paragraph 2.1 above and subject to 3.2, the following scale of allowance applies to permanent and temporary employees in respect of absence (i) as the result of accident or injury sustained on duty, provided that there is no contributory negligence on the part of the employee concerned and that the accident is reported immediately or as soon as is reasonably practicable after its occurrence or (ii) owing to industrial disease certified by the Medical Adviser to have been contracted on duty:

- (a) Accidents - an allowance of full pay for three months followed by such further pay at full and/or half rate as may be necessary to cover the full period of scale sickness allowance entitlement, calculated from the first day of absence.
- (b) Industrial diseases contracted on duty - an allowance of full pay for three months, followed by such further pay at full and/or half rate as may be necessary to cover the full period of scale sickness allowance entitlement, calculated from the first day of absence. When subsequent sickness is certified by the Medical Adviser to be a direct consequence of industrial disease contracted on duty full pay will be allowed for not exceeding three months, after which the case shall be reviewed by the Director of Personnel & Training/ACFO, as appropriate.
- (c) Absences arising from accidents on duty or due to industrial disease contracted on duty will not be taken into account in calculating sickness allowance under the normal scale.

Notes: See 9 for scale extensions.

See 2 for scale of allowances for accidents off duty.

3.2 Third party claims

Employees absent as a result of an accident are not entitled to sickness allowance if damages may be receivable from a third party in respect of such an accident. The Authority may according to the circumstances of the case advance to such employees a sum not exceeding the total sickness allowance to which they would otherwise be entitled subject to their undertaking to refund to the Authority the whole sum advanced or such part thereof as the Authority may determine having regard to all the circumstances. Any period of absence where the sum advanced is refunded in full shall not be taken into account in calculating sickness allowance entitlement for subsequent absences under 8 below. Where the sum

advanced is refunded in part the Director of Personnel & Training/ACFO, as appropriate, in consultation with the Head of Legal Services shall decide to what extent the absence shall be taken into account for this purpose. This provision shall not affect any entitlement of individual employees to Statutory Sick Pay.

- Notes: (1) Members of the Brigade whose duties include a liability to engage in fire fighting are subject to the National Scheme and also to 3.2 above in respect of accidents off duty only; for accidents on duty sustained by such members, see 5 below and Nb4.
- (2) The Director of Personnel & Training is authorised to resolve in individual cases under Rule F2 of the Firefighters' Pension Scheme that the period of absence from duty of a firefighter due to an accident off duty for which damages may be recoverable shall be reckoned as pensionable service for the purposes of the scheme.

4. Infectious diseases

4.1 Infectious disease contracted on duty - scale of allowances

Except for the categories of employees excluded from the operation of paragraph 2.1, who are subject to a different prescription the following scale of allowance applies to permanent and temporary employees in respect of absence owing to infectious disease certified by the Medical Adviser to have been contracted on duty:-

- (a) An allowance of full pay for three months shall be paid, followed by such further pay at full and/or half rate as may be necessary to cover the full period of scale sickness allowance entitlement, calculated from the first day of absence. When subsequent sickness is certified by the Medical Adviser to be a direct consequence of disease contracted on duty full pay will be allowed for not exceeding three months, after which the case shall be reviewed by the Director of Personnel & Training/ACFO, as appropriate.
- (b) Absences due to infectious disease contracted on duty will not be taken into account in calculating sickness allowance under the normal scale.

Note: See 9 for scale extensions.

4.2 Infectious disease in the home and personal illness on account of infectious disease

- (a) Where the Authority's Medical Adviser or the other medical officer designated in the succeeding clauses excludes any employees from duty (i) by reason of contact with any of the diseases to which the succeeding clauses apply, or (ii) beyond a period of absence certified by a general practitioner or a district community physician, the employee shall be paid full remuneration (including Statutory Sick Pay where applicable and subject to deduction of State benefit in connection with sickness or injury).

Note: See clauses 4.3 and 4.4 following for additional instructions applicable to employees required to handle food.

- (b) The infectious diseases to which this clause applies include diphtheria, scarlet fever, measles, german measles, whooping cough, mumps, chicken pox, typhoid fever, typhus fever, cholera, cerebo-spinal fever, poliomyelitis (infantile paralysis), acute encephalitis, smallpox and other infectious diseases which may be notifiable.
- (c) If any such infectious disease occurs in the home of employees they shall (except as provided in clause 4.3 or 4.4 following) report for duty (in the case of smallpox, only

after vaccination) and shall at once inform the appropriate responsible officer of the nature of the disease; they shall be required to carry on their normal work. If, however, the respective community physicians of the districts in which they reside certify that absence from duty is necessary owing to risk of infection, they shall absent themselves from duty and immediately notify the appropriate responsible officer; the latter shall at once consult the Authority's Medical Adviser who shall determine the period of absence to be allowed.

- (d) If employees who have not been excluded from duty develop any signs of illness themselves, they shall at once cease work and notify the appropriate responsible officer.
- (e) In all cases of doubt or difficulty the advice of the Authority's Medical Adviser shall be obtained by the appropriate responsible officer.

4.3 Employees required to handle food

The following procedure shall be adopted:

- (a) If infectious disease as referred to in (e) below occurs in the home of employees whose duties include the handling of food, they shall at once inform the appropriate responsible officer of the nature of the disease: they shall absent themselves from duty until instructed to the contrary.
- (b) Upon receipt of such notification the appropriate responsible officer shall immediately consult the Authority's Medical Adviser, who shall determine whether the employees concerned shall be permitted to continue their normal duties.
- (c) If employees be excluded from duty on the instructions of the Authority's Medical Adviser, they shall absent themselves from duty until the expiration of the prescribed period of quarantine, or where appropriate, the receipt of a satisfactory bacteriological report.
- (d) If employees have been absent from duty suffering from any disease referred to in (e) following they shall not resume duty until the Authority's Medical Adviser is satisfied that they are fit to do so and, where appropriate, a satisfactory bacteriological report has been received.
- (e) The infectious diseases to which this clause applies are those in clause 4.2 above plus para-typhoid fever, dysentery, gastro-enteritis, enteritis, food poisoning, diarrhoea, vomiting, colitis, scarlatina, discharging wounds, septic sores on the hands/arms or discharging ears, together with any other infectious disease to which, in the opinion of the Authority's Medical Adviser, this clause should apply.

Note: See also 4.5.

4.4 Employees handling food - pay when excluded from duty

- (a) When excluded from duty in consequence of (i) prescribed diseases which might give rise to food-borne infection or (ii) contact with persons suffering from disease, employees whose duties include the preparation or handling of food will be allowed full pay, including Statutory Sick Pay, where applicable, and subject to deduction of the amount of any State benefit receivable (except as provided in (b)), regardless of their normal entitlement to sick pay.

- (b) The pay allowed in the circumstances referred to in (a) to married women employees who are excluded from the payment of full National Insurance contributions is not subject to deduction in respect of 'notional' state sickness benefit. (See also 4.2(a).

4.5 German measles - pregnancy

In view of the need for women to avoid contracting rubella during the first four months of pregnancy, female employees in establishments where there is an outbreak of rubella shall be temporarily transferred to other establishments where the risk is not present. When this is not possible they shall be permitted in appropriate circumstances, after reporting to the head of the establishment or other responsible officer, to remain off duty while the danger lasts and during such absence shall receive full pay.

4.6 Contact with infectious diseases

Employees absent on the instructions of the Medical Adviser owing to contact with infectious diseases shall be allowed full pay, including Statutory Sick Pay, where applicable, and subject to deduction of the amount of any State benefit for sickness, in accordance with the provisions in 7 with the exception of clause 7.5.

4.7 Inoculation

Employees absent as a result of inoculation, undergone at the request of the Medical Adviser, against smallpox, tuberculosis or other infectious or contagious disease, will be allowed full pay for the period of absence, subject to submission, where appropriate, of medical certification as required for sick absence generally, and such absence will not be taken into account in calculating future sickness allowance entitlement.

5. Sick leave scheme for members of the Brigade

The following scheme applies to operational members of the Brigade. (Control and non-operational staff are subject to the provisions in 2.)

- (a) Entitlement to pay for operational members of the Brigade is set out in Section IV (Sick leave) of the Scheme of Conditions of the National Joint Council for Local Authorities' Fire Brigades.
- (b) Infirmity attributable to outside employment - The amount of paid sick leave which may be granted in respect of an infirmity sustained by a member which is wholly attributable to his holding any other office or employment for hire or gain or carrying on a trade or business is subject to the provisions set out in the Outside Employment Policy.
- (c) Failure to take annual leave owing to sickness - when a member of the Brigade is unable, owing to sick leave, to take all the annual leave to which he/she is entitled before the end of a calendar year, the Director of Personnel & Training/ACFO, as appropriate, is authorised to allow him/her, in exceptional circumstances, to take the balance not later than 31 March of the following year.
- (d) Notification of sickness absence and submission of doctors' statements - when a member of the Brigade is unable to attend for duty owing to illness or injury, he/she shall inform the officer-in-charge of their place of duty at the material time of their sickness. Notification is to be made by telephone for (or in the most exceptional circumstances where this is not possible, by the quickest means available) on the day they fall sick and by telephone (or in the most exceptional circumstances where this not possible, by the quickest means available) on each of any subsequent three days

of sickness whether or not they are due for duty on that day. All sickness from four to seven days duration, inclusive, must be supported by a self-certificate submitted in accordance with Brigade Orders No. 243/2 i.e. by the use of either a DSS self-certificate normally obtainable from local doctors, or LFB form 112 a (self-certificate) held at stations. If the absence continues for more than seven calendar days, a doctor's statement is to be furnished not later than the eighth calendar day of absence and any subsequent doctors' statements shall be provided to cover each day of the incapacity.

- (e) The Director of Personnel & Training/ACFO, as appropriate, is authorised, at his/her discretion in any individual case, in accordance with the Absence Control Policy to require, after prior notice, the submission of a doctor's statement in respect of subsequent periods of sick absence from the first day of absence.

~~6. Sick leave in relation to holidays~~

- ~~(a) Annual leave or long service leave must not be taken during a period of sick or accident leave, irrespective of whether the sick or accident leave is on full pay, reduced pay or without pay under the relevant contractual sick leave scheme.~~
- ~~(b) Sick or accident leave does not affect the right to take annual leave or long service leave after resuming duty, provided (except as prescribed for members of the Brigade under 5(d) foregoing) that it can be taken within the current leave-taking period.~~
- ~~(c) In respect of a public or extra-statutory holiday falling during contractual paid sick or accident leave, normal holiday pay shall be granted; such pay shall be inclusive of Statutory Sick Pay where appropriate. The day shall not count against the individual's sick leave entitlement but there will be no entitlement to time off in lieu of the public or extra-statutory holiday concerned.~~
- ~~(d) In respect of a public or extra-statutory holiday falling during contractual unpaid sick or accident leave, no payment in respect of the holiday shall be made, except in the case of employees who have not qualified for contractual sick or accident pay on grounds of insufficient service under their relevant contractual sick leave scheme, in which case normal holiday pay shall be granted.~~
- ~~(e) Members of the Brigade on certificated sick leave on a day selected as compensatory leave in respect of a public holiday are entitled to a day's leave in lieu thereof within 12 months of the public holiday concerned on the same conditions as applied to the grant of compensatory leave for having been on duty the public holiday in question. In exceptional circumstances the Director of Personnel & Training/ACFO, as appropriate, is authorised to grant leave after the said period of 12 months.~~

7. Amount of allowances

7.1 The amount of allowances payable under the scales of sick pay or of pay for accident or injury sustained on duty or for infectious or industrial disease contracted on duty for any employee shall be determined as follows:-

- (a) in the case of periods of full pay, the allowance shall be of an amount which, when added to the relevant rate of Statutory Sick Pay and/or to State benefit in connection with sickness or injury, as appropriate, will secure the equivalent of the normal rate of pay.
- (b) in the case of periods of half pay, the allowance shall be a sum equal to either:

- (i) (if Statutory Sick Pay is payable), half the normal rate of pay inclusive of Statutory Sick Pay, plus an amount equivalent to the relevant rate of Statutory Sick Pay, provided that if the total sum would otherwise exceed the normal rate of pay, it shall be abated by the amount of the excess; or
- (ii) (if Statutory Sick Pay is not payable) half the normal rate of pay without deduction of any State benefit payable in connection with sickness or injury, provided that if the total sum with the addition of any such state benefit would otherwise exceed the normal rate of pay, it shall be abated by the amount of the excess.

Note: (1) For pay in respect of sickness in relation to a public holiday, see 6 foregoing.

(2) For pay in respect of sickness on ill-health retirement, see 14 following.

7.2 Each employee is required on entering the service and at such intervals thereafter as may be decided, to furnish the Authority with a signed declaration as to his or her entitlement to benefits under the National Insurance and Social Security Acts, and an undertaking to inform the Authority of any subsequent changes in entitlement; the employee should also submit to the Authority any forms from the Department of Social Security which are relevant to Statutory Sick Pay on entry to the service and/or subsequently.

7.3 Notification of state sickness benefit

The Director of Personnel & Training/ACFOs, as appropriate, are authorised, at their discretion, to require employees to submit to them the relevant Department of Social Security form notifying the award of sickness or injury benefit (Form BS12 or equivalent) in cases where they consider it desirable.

7.4 Except in cases arising under 7.5 following, if an employee produces proof to the satisfaction of the Director of Personnel & Training/ACFO, as appropriate, that he or she was not in receipt of and could not have secured entitlement to the amount of State benefit in connection with sickness or injury taken into account in determining the sickness or accident allowance, he or she shall be refunded, on the certificate of the Head of Department, an appropriate amount in respect of such State benefit.

The Director of Personnel & Training, or the ACFO in consultation with the Director of Personnel & Training, is authorised to deal with any cases of hardship where the failure to secure entitlement to such State benefit may have been due to special circumstances, subject, in case of disagreement, to the matter being reported to the appropriate Committee or Sub-Committee, for decision.

7.5 Married women who have exercised their right to be excepted from the payment of full National Insurance contributions are deemed to be insured in their own right in respect of State sickness benefit for the purpose of determining their sick pay allowance.

7.6 In cases where form B.I.76 (Industrial Injury) or B.I.77 (Industrial Diseases) is received from the Department of Social Security in respect of any employee absent owing to sickness and whose sick pay is being adjusted as though State benefit for sickness is receivable, deductions shall be continued at sickness benefit rates, but the employee shall be required, in writing (i) to agree that, in the event of benefit for injury being ultimately received, any excess sick pay granted shall be recoverable by the Authority by deductions from future pay, or if the

employee is not still in the Authority's service, he or she shall repay the excess sick pay in such manner as his or her circumstances are found to permit; and (ii) to undertake to inform the Authority immediately notification is received from the Department of Social Security that State benefit for injury is payable.

- 7.7 (a) Where employees are absent from work because of an injury in respect of which a claim will lie to the Criminal Injuries Compensation Board and they are otherwise qualified to receive sickness allowance in accordance with other provisions of this Section, such sickness allowance shall be disbursed to them without their being required to refund any proportion of it from the sum which the Compensation Board may award; and
- (b) Where an award has been made by the Compensation Board, the period of sick leave occasioned by the injury shall be discounted in calculating the individual's future entitlement to sickness allowance.

Note: In determining sick pay entitlement, a month shall count as 30 days for employees whose qualifying days for purposes of Statutory Sick Pay are taken as seven days a week.

8. Calculation of entitlement

For each spell of absence due to sickness or accident, the appropriate rate of allowance and the length of time for which it may be granted under the contractual sick pay scheme applying to the individual shall be calculated by:

- (a) Ascertaining the periods of allowance at full-rate and at half-rate to which the individual would be entitled under the relevant scheme according to length of service as at the first day of absence; and
- (b) deducting, separately, therefrom the aggregate periods of allowance at full-rate and or half-rate, respectively, which were granted to the individual during the twelve months immediately preceding that first day of absence. (For the purpose of the above calculation, absences arising from accidents on duty are treated separately from absences due to sickness, including accidents off duty.)

9. Extensions of sickness/accident allowances

The Heads of Department, in consultation with the Head of Human Resources, are authorised, in exceptional cases to grant extended allowances for sickness, accident or infectious or industrial diseases at full or reduced rate in excess of the prescribed scales.

10. Determination of contract

Entitlement to sickness allowance is subject to the Authority's right to determine the contract of service at any time by appropriate notice.

11. Referrals to the medical adviser

- 11.1 The Director of Personnel & Training/ACFO's, as appropriate, are authorised to seek the views of the Authority's Medical Adviser on the medical fitness or unfitness of employees for work; in such cases the Medical Adviser shall consult, as appropriate, the employee's own medical adviser.

11.2 Employees who have been referred to the Medical Adviser under 11.1 are required to attend all medical appointments, and not to withhold consent without good reason to their own medical adviser being consulted. If, in the opinion of the Authority acting on medical advice, an employee has:

- a) caused or substantially aggravated any infirmity by neglect or default or,
- b) refused or neglected fully to co-operate in any medical treatment which the Authority considers necessary in his/her case, he/she shall not be entitled to paid sick leave and his/her rights thereto will cease forthwith unless the Authority decides to restore them wholly or in part.

12. Partially incapacitated employees - alternative work

12.1 The Director of Personnel & Training shall endeavour to find for any employee who has become partially incapacitated other work in the Authority's service of which he/she is capable, if the employee so desires.

13. Sick leave - following examination by the medical service - certification

Employees who are granted sick leave after examination by the Authority's medical examiner or are certified as permanently unfit on medical grounds to carry out their ordinary duties and are granted a period of sick leave pending retirement shall, in every case in which certificates valid for Statutory Sick pay or National Insurance purposes covering the period of sick leave can in the opinion of the individual's own doctor properly be issued, obtain such certificates, and shall notify the Authority if such certificates cannot be obtained.

14. Permanently unfit employees (other than members of the brigade whose duties include a liability to engage in fire-fighting) - sickness allowance

14.1 For employees within the purview of the Whitley Council the procedure for determining sickness allowance for employees declared permanently unfit shall be as follows:-

- (a) Within the limits of sickness allowance scales and prior to retirement on grounds of ill-health, the Director of Personnel & Training/ACFO's, as appropriate, are authorised to allow employees up to two months' paid sick leave from the date of the examining medical officer's decision as to permanent unfitness. This period, however, should be regarded as a maximum, each case being considered individually on its merits, and should not be granted automatically. The rate of sickness allowance will normally be that payable at the date of the certificate of unfitness. Any annual leave outstanding should be substituted for sickness allowance at the end of the period but before the last day of service. In certain cases, the grant of sickness allowance in excess of the normal limits may be justified; such cases should be referred to the Director of Personnel & Training.
- (b) In terminating employment on grounds of ill-health, not less than the minimum notice required by the Employment Rights Act, 1978 is to be given (see section E); if this period exceeds the aggregate of outstanding sick and holiday pay, the period of sickness allowance (at full rate) is to be extended so that the whole period is covered by pay.
- (c) State benefit in connection with sickness or injury should not be deducted from the payments during the notice period.

- 14.2 For manual, craft and operative employees subject to their respective national agreements, and other employees not covered by 14.1 above, the procedure shall be that on receipt of the certificate of permanent unfitness from the Medical Adviser the Headquarters/Command Personnel Section, as appropriate, shall inform the employee as soon as possible. The rate of sickness allowance will normally be that payable at the date of the certificate of unfitness. If no appeal against the decision of the Medical Adviser is made within the prescribed period of 21 days under paragraph 15 below, the employee will forthwith be given 4 weeks notice (or the requisite period due under the Employment Rights Act, 1996 where this is longer) of his/her last day of service. State benefit in connection with sickness or injury should not be deducted from the payments during the notice period. On the last day of service payment should be made in lieu of any leave outstanding in accordance with the provisions relating to holidays set out in the national or other agreement appropriate to the grade of the employee concerned.

In cases where an appeal is made and the appeal is subsequently disallowed, the same procedure will follow upon receipt of the result from the medical referee.

15. Permanently unfit employees - appeals procedure

- 15.1 Any employee with at least 26 weeks' continuous service who has completed his/her probationary service, and whose compulsory retirement is proposed on the grounds of ill health as a result of a certificate of the Medical Adviser, shall be permitted to appeal against the certificate if, within 21 days of the date of the result of the examination by the Medical Adviser being communicated to the individual, he or she submits a medical certificate expressing the definite opinion that he or she is not permanently unfit to carry out his or her ordinary duties in the service of the Authority.

- 15.2 Each appeal shall be referred to a medical referee to be agreed by the Medical Adviser, and by the medical adviser of the employee concerned, or failing such agreement, to be selected by the Director of Personnel & Training subject to any points of difficulty being reported to the appropriate Committee for instructions, and to the following conditions:

- (a) Both the Authority's Medical Adviser and the medical adviser of the employee shall be permitted to submit reports to the medical referee.
- (b) The medical referee's report shall state definitely that the employee is or is not permanently unfit to carry out his or her ordinary duties in the service of the Authority and if such employee is not so permanently unfit, that he or she is either fit or will be fit either within a specified time or in circumstances to be described, to carry out his or her ordinary duties.
- (c) The medical referee's report shall be final.
- (d) The employee shall not be allowed to see the reports of the medical referee.

Note: This procedure does not apply to members of the Brigade whose duties include a liability to engage in fire-fighting and are subject to the corresponding provisions of the Firemen's Pension Scheme.

16. Other references

For reduced hours on medical grounds see Section G.

For travelling expenses in connection with medical examinations, see Section Ka 13.

For medical examinations on appointment see Ea 5.