

the meeting or hearing to obtain a further medical assessment from the Occupational Health Service or to obtain any other medical report if, in their view, this appears to be necessary.

- 1.7 ~~Article 110 of the Code of Labour~~ It is reasonably possible that members of staff are treated fairly and consistently in accordance with the procedure, all sickness absence must be reported to Human Resources. Both managers and members of staff are responsible for ensuring that they are fully aware of their obligations for reporting sickness absence as detailed in the Absence Notification Form.

set (exceptional arrangements may be needed during vacation periods). The University will make the necessary arrangements to postpone the meeting or hearing.

- 1.16 If a member of staff or his/her companion becomes unable to attend any meeting for reasons that were unforeseeable at the time of arranging it, the member of staff will be notified of a new date, time and location. If a member of staff or his/her companion fails to attend a meeting or hearing without good reason, the University reserves the right to proceed with the meeting or hearing in the absence of the member of staff or his/her companion.
- 1.17 If the member of staff is absent due to sickness prior to the meeting or hearing, the individual attend, and to give advice on any special requirements or adjustments for the meeting or hearing.
- 1.18 Whilst in the sensitive situation of long-term ill health, it may be more difficult for the member of staff to attend meetings or hearings in person, it is preferable that he/she does so, and appropriate arrangements, including travel arrangements, shall be made, where requested. It may also be appropriate to visit the member of staff at home, by prior arrangement if they consent to this. However, in exceptional circumstances it is possible to proceed with the meeting or hearing in the absence of a member of staff, in which case all details that will be considered at the meeting or hearing should be made available to the member of staff in advance, and they should be invited to make a written submission. Alternatively, the manager or Chair may decide to conduct proceedings with a representative nominated by the member of staff, after careful consideration and the full agreement of the member of staff and his/her chosen representative. The outcome will be confirmed to the member of staff in writing, as set out at the relevant stage(s) of the procedure below. In deciding which of the above options to pursue, the manager or Chair will take advice from Human Resources, and Occupational Health

Medical Assessment

- 1.19 To assist with consideration of issues relating to ill-health or medical incapacity under this procedure, the University may request that the member of staff undergo a medical assessment by the Occupational Health Service. The University or the Occupational Health Service may also suggest a referral to an alternative or additional medical specialist where this is considered to be appropriate.
- 1.20 The purpose of any medical assessment requested under this procedure is to better understand or medical incapacity, and its implications for his/her future attendance or work performance. The medical assessment will nm906C3280030048209 32edurani

- 1.21 specialist may be sought by the Occupational Health Service or by the University directly. This is to ensure that all available, appropriate, information has been obtained before decisions
- 1.22 Where such medical assessment(s) is/are considered appropriate, the member of staff shall be requested to sign a medical consent form, allowing a summarised report of the medical assessment to be sent to the University. The medical assessment or report will be provided to Human Resources and will be provided, in confidence, to those responsible for taking decisions under this procedure.
- 1.23 The member of staff will be advised, in writing, by Human Resources or the Occupational Health Service

- (b) any decision or action taken or proposed under this procedure; or
- (c) the operation of this procedure.

1.29 In the event that a member of staff raises a complaint about such matters his/her complaint will

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

Recording absence and return to work interviews

2.1

Stage 1

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

Convening a Stage 1 meeting

- 2.9 The member of staff shall normally be given at least five working days' written notice of a Stage 1 meeting. The written notice will:
- (i) inform the member of staff of the name of those who will be present at the meeting;
 - (ii) include a summary of the member of staff's absence record for the relevant period;
 - (iii)

substantive basis if reasonable adjustments were made to the place of work and/or method of work on a temporary or permanent basis, and this has not already taken place, consideration shall be given to whether the adjustments can be reasonably accommodated, and if so arrangements shall be made accordingly;

- (iii) a decision to keep the absence level under review under the informal part of this procedure where the member of staff has made improvements in attendance but where the attendance level is still not considered satisfactory. At the end of the review period a decision will be made as to whether to convene a Stage 1 meeting, or that no action is necessary as per (i) above;
- (iv) a Stage 1 warning - this will set a review period during which the circumstances relating to the member of staff's health and his/her attendance will be monitored against an improvement plan (normally 3 months), setting the objectives to be attained and maintained over the period of the review. The member of staff will be warned that a failure to improve attendance during or by the end of the review period may lead to a further formal meeting, which may result in a Stage 2 warning;
- (v) if appropriate, an application for ill health-retirement.

Confirmation of the outcome

- 2.12 The manager is responsible for confirming the outcome to the member of staff in writing within five working days of the meeting. Where the outcome is a Stage 1 warning, the member of staff will be advised of his/her right of appeal against that decision, via the appeals procedure which is set out in section 5.

Stage 1 review meeting

- 2.13 If the outcome of the meeting is to issue a Stage 1 warning, a review meeting will be held at the end of the review period, normally involving all those present at the initial Stage 1 meeting, in order to assess progress against targets and effectiveness of reasonable adjustments made. Outcomes of the review meeting may be:
- (i) the member of staff's attendance levels are considered to be satisfactory against the improvement plan, in which case the member of staff shall be notified in writing that they have been removed from the formal procedure, but if the improvement in attendance level is not maintained the manager may recommence Stage 1 of the procedure;
 - (ii) attendance levels have improved significantly but are not considered to be satisfactory against the improvement plan, in which case the review period will be extended and a further Stage 1 review meeting will be held at the end of the extension to consider whether options (i) or (iii) should be pursued; or
 - (iii) improvement plan, in which case the manager will inform the member of staff that they will progress the matter to Stage 2 of the procedure, and that a Stage 2 meeting will be convened.

Stage 2

- 2.14 A formal meeting which may result in a Stage 2 warning shall be heard by the manager, supported by a member of Human Resources.

- (i) the member of staff's attendance levels are considered to be satisfactory against the improvement plan, in which case the member of staff shall be notified in writing that they have been removed from the formal procedure;
- (ii) t
considered to be satisfactory against the improvement plan, in which case the review period will be extended and a further Stage 2 review meeting will be held at the end of the extension to consider whether options (i) or (iii) should be pursued; or
- (iii)

2.22 The procedure at the hearing

- (v) where a decision has been taken to terminate the member of staff's employment, consideration may be given to the issue of whether the member of staff can be offered alternative employment with the University, under section 4 below, if this has not already taken place. This option will usually only be considered where the member of staff's existing role or working conditions is a contributory factor to his/her absence levels.

2.24 In making the decision to terminate the employment of the member of staff, the following factors should be taken into account:

- (a) his/her length of service and previous attendance/health record;
- (b) if applicable, the medical assessment of his/her illness and prospects for recovery and/or reduction in absence rate;
- (c) the position that the member of staff holds and the impact of his/her absences on the effective running of the Unit; and
- (d) the effect on other members of the Unit.

2.25 No action will be taken to terminate employment unless, prior to the hearing, the member of staff has been assessed by the Occupational Health Service, relevant medical evidence has been considered, and any recommendations have been taken into account.

Confirmation of the outcome

2.26 The Chair is responsible for confirming the outcome to the member of staff in writing within five working days of the hearing. Where the outcome is a termination of employment, the member of staff will be advised of the reasons for their dismissal, his/her right of appeal against that decision (via the appeals procedure which is set out in section 5), the date of termination of his/her employment, details of the appropriate period of notice, and details of final payments due.

3. **ILL HEALTH PROCEDURE: LONG TERM SICKNESS ABSENCE OR MEDICAL INCAPACITY**

Managing long-term sickness

3.1 In cases of long-term absence, either the line manager or a nominee should contact the member of staff periodically, and the member of staff should be asked to maintain regular contact. In appropriate circumstances, the member of staff should be invited to the workplace from time-to-time to reacquaint them with colleagues, meet new colleagues, or catch up on news. The manager should also consider appropriate ways in which the member of staff can keep in touch with developments in their unit and the University (e.g. by posting them regular copies of the Bulletin).

3.2 In cases of long-term sickness absence, consideration should be given to a phased return to work. If appropriate, this will be recommended by the Occupational Health Service, who will also give guidance on the hours the member of staff will be able to work, the types of duties they will be able to perform, and the timescale for increasing the range of duties, back to their normal working pattern. Where this recommendation is made and the member of staff returns to work on fewer hours than they are contracted for, he/she should not suffer any loss in salary in comparison to the amount that they would have received under the terms of the Sickness Benefit Scheme which applies to them. Human Resources will be able to provide further information about payment arrangements during a phased return to work.

Application of the procedure

3.3 This procedure shall apply:

- (i) where a member of staff has been absent from work due to ill-health for a continuous period of four weeks or more (such absence being deemed to be "long term" for the purposes of this procedure); or
- (ii) where, due to any medical condition, illness or o

- (iii) where the member of staff is absent from work, the likely prognosis for him or her returning to work on a sustained basis and being fit to carry out his/her duties in full and/or to perform them to an acceptable standard;
- (iv) where relevant, the likely prognosis for the member of staff being able to perform his or her duties, in whole or in part, and/or to perform them to an acceptable standard;
- (v) whether any changes can be made to the member of staff's role or duties or to his/her work environment, or to the way in which his/her duties are organised or performed, on a temporary or permanent basis, in order to resolve the situation to the satisfaction of the member of staff and the University and/or (in cases of absence) to facilitate the member of staff's return to work on a sustained basis;
- (vi) whether any other action could be taken, on a temporary or permanent basis, to address the issues raised by the member of staff's ill-health incapacity; and/or
- (vii) if applicable, whether the member of staff wishes to pursue an application for ill health early retirement.

Performance Review Meetings (Medical incapacity cases only)

- 3.5 In cases where the member of staff is at work but is unable to perform all or part of their role for reasons connected to their health (see definition in 3.3 above) and it is not possible for the manager to resolve the situation at the informal stage, he/she may hold a meeting with the member of staff to discuss an improvement plan, setting out the objectives to be attained over a specified review period. Occupational Health advice will be taken into account when setting appropriate timescales for improvement. The member of staff will have the right to be accompanied at this meeting under paragraphs 1.10 to 1.14 above. The manager will be accompanied by a member of Human Resources. The member of staff will receive advance written notice of this meeting. After the meeting, the manager will confirm the improvement plan and timescale in writing.
- 3.6 A review meeting will be held at the end of the review period, usually involving all those present at the initial performance review meeting, in order to assess progress against targets and the effectiveness of any reasonable adjustments made. Outcomes of the review meeting may be:
- (a) improvement plan, in which case the member of staff shall be notified in writing that they have been removed from the procedure;
 - (b) the member of
be satisfactory against the improvement plan, in which case the review period will be extended; or
 - (c) improvement plan, in which case the manager will inform the member of staff that they will progress the matter to a hearing under the Formal Stage of this procedure.

Formal Stage

- 3.7 If it is not possible for the manager to resolve the situation at the informal stage, (or, in the case of medical incapacity, under the Performance Review stage above) he/she may progress the matter to the formal stage of the procedure, which shall be heard by a panel appointed by the

Vice Chancellor or nominee, which will consist of three senior³ members of staff (a Chair and two other members one of whom must be from another School/area of the University⁴) who have had no previous involvement in the matter. The Chair must have the authority to dismiss. The panel will be supported by a member of Human Resources. The panel will consider, as appropriate, whether the member of staff should be dismissed and/or other action (including the matters referred to in paragraph 3.11 below) should be taken.

- 3.8 The manager shall inform him/her of the decision to refer the issues as set out above, and that they will shortly receive information about the time, location and format of the hearing as per 3.9 below. The manager shall also prepare a report summarising the relevant issues and the action taken under this procedure to date and the issues which it is proposed should be considered, and include any relevant medical reports.

Convening a meeting

- 3.9 The member of staff shall normally be given at least ten working days' written notice of a

employment within an acceptable timescale, a decision may be taken to terminate the possibility of alternative employment for the member of staff under section 4.

3.12

4. **ALTERNATIVE EMPLOYMENT**

4.1 Where medical advice indicates that a

5. **APPEALS**

- 5.1 A member of staff who wishes to appeal against a decision taken under paragraphs 2.12, 2.18, 2.26 or 3.14 above should do so in writing to the Director of Human Resources within ten working days of receipt of the decision. The member of staff should set out the grounds of his/her appeal in full.
- 5.2 Appeals may be made on one or more of the following grounds:
- (i) that the decision taken was not supported by the evidence presented or considered;
 - (ii) that the decision taken was too harsh;
 - (iii) that new evidence or information has come to light that was genuinely not available at the time the original decision was taken; or
 - (iv) that the decision taken was materially affected by breaches of this procedure.
- 5.3 Appeals against warnings will be chaired by a manager who is senior to the manager who decided to issue the warning, and who has not previously been involved in the case.
- 5.4 Appeals against dismissal are heard by an Appeals panel appointed by the Vice Chancellor (or nominee), and will consist of two independent senior managers (one of whom shall be the Chair) and an independent employment solicitor appointed by the University (who shall not be employed by the University nor act for the University other than in their capacity as a member of a panel for ap

- (i) the date, time and place of the appeal hearing;
 - (ii) his/her right to be accompanied at the appeal hearing under paragraphs 1.10 to 1.14 above; and
 - (iii) so far as they are known at the time, the name(s) of the person(s) to be present at the appeal hearing.
- 5.9 At the appeal hearing the member of staff shall present his/her grounds of appeal and the manager shall respond. Where the Appeal Chair permits either the member of staff or the manager to call any witnesses, they shall be questioned first by the person calling them to give evidence and then by the other side. The Appeal Chair (or panel, if applicable) may question witnesses at any stage. After each side's case has been presented, the Appeal Chair will ask the member of staff and then the manager to sum up. The hearing will then be adjourned while the facts of the case and the representations made are considered and a decision is reached. Where it is reasonably possible for a decision to be reached that day, the Appeal Chair (or panel, if applicable) will reconvene the meeting to inform the member of staff of the decision.
- 5.10 When deciding on the outcome of the appeal, the Appeal Chair (or panel, if applicable) may:
 - (i) confirm the decision; or
 - (ii) withdraw the decision; or
 - (iii) substitute the decision for one of the other lesser outcomes referred to in paragraphs 2.11, 2.17 or 2.23 for the Recurrent Short-Term Absence Procedure, as applicable; or paragraph 3.11 for the Long Term Sickness Absence or Medical Incapacity Procedure.
- 5.11 Where
 - (i) in cases where any notice of dismissal has yet to expire, the notice shall be revoked; and
 - (ii) in cases where the member of staff's employment has already terminated, he/she shall be offered reinstatement with no loss of continuous service and no loss of entitlement to salary (subject to applicable sick pay entitlements).
- 5.12 The Appeal Chair shall produce a written decision, giving reasons, normally within five working days of the appeal hearing, which will be sent to the member of staff and his/her companion.
- 5.13 The decision of the Appeal Chair/Panel shall be final.

APPENDIX 1

acceptable. If a member of staff does not report for work and has not informed their immediate line manager or other senior member of staff why they have not attended, their line manager should make all reasonable efforts to contact them, e.g. by telephone, by writing to them or by visiting them (if appropriate) and should record any actions taken.

The HR Adviser for the Unit and the HR Compliance Office (HRCompliance@sussex.ac.uk) should be informed as soon as possible once an unauthorised absence is identified. In the event of any unauthorised absence of a Tier 2 or Tier 5 sponsored visa-holder, it is a requirement of the University sponsorship licence(s) that we must report an unauthorised absence to the Home Office (UKVI) within 10 working days of the 10th day of absence.

In any event, the manager should not take measures to instigate any formal action, e.g. to discipline or dismiss them, prior to contacting the HR Adviser and HR Compliance Officer who will advise on the most suitable procedure to follow, taking into account any legal implications.

APPENDIX 3 GUIDANCE ON

place e.g. referral to the Occupational Health Service, referral to counselling, changes to working arrangements, etc. You should ensure that it is clear who will be taking this action and whether anyone else needs to be involved.

5. Completion of formalities

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

APPENDIX 4 RETURN TO WORK FORM

RETURN TO WORK FORM

Manager:

I was ill/absent from (date) to (date)

because (give details, symptoms, etc.)

.....

.....

I returned to work on (date)

Date

Comments

.....

.....

.....

.....

.....

.....

.....

Action to be taken (e.g. date of review meeting, referral to Occupational Health, special leave,