

Keeping People Safe



ATTENDANCE MANAGEMENT POLICY

VERSION 4.2

Police Service of Northern Ireland

December 2017

POLICY IMPLEMENTED: May 2017 (revised version)

REVIEW DATE: May 2018

POLICY OWNER: Human Resources Unit

APPROVED BY: Head of HR

PROTECTIVE MARKING: Not Protectively Marked

Version Control Table:

VERSION NUMBER	DATE	SUMMARY OF CHANGES	AUTHOR(S)
Version 1	August 2016	Updated to reflect 2016 Performance and Attendance Regulations	
Version 2	10 th November 2016	Additional revisions to highlight supportive approach to attendance management	
Version 3	27 th February 2017	Updated to reflect feedback received during Attendance Management Reference Group sessions	
Version 4	19 th April 2017	Updated to reflect follow up Internal Audit recommendations	
Version 4.1	30 th May 2017	Revisions made in respect of OHW opinion regarding duty restrictions, role of Line Manager and Local Attendance Management Panel	

s.F40
s.F40(2)
s.F40(2)(a)
s.F40(2)(b)
s.F40(3)(A)
s.F40(3)(A)(a)

Version 4.1	11 th September 2017	Update to highlight role of a friend in the Attendance Management process and submission time for appeals	
Version 4.2		Update to clarify the approach that should be adopted by individuals and Line Managers when applying the Bradford Factor and to clarify the impact that Written Improvement Notices may have on applying for competitions/transfers/specialist posts	

s.F40
s.F40(2)
s.F40(2)(a)
s.F40(2)(b)
s.F40(3)(A)
s.F40(3)(A)(a)

Table of Contents

Description		Page Number
1.	Introduction and Background	5
2.	Purpose	5
3.	Aims	6
4.	Scope	6
5.	Terms and Definitions	6-8
6.	Roles and Responsibilities	8-13
7.	Case Reviews	13-15
8.	Phased Returns (including Recuperative and Adjusted Duties)	15-18
9.	Return to Work Meetings	18-20
10.	First, Second and Third Stage Meetings (Formal Process)	20-39

<p style="text-align: center;"><u>Appendices</u></p> <p>Appendix A - OHW Referrals</p> <p>Appendix B - Further Information to consider prior to and during the appeal stages</p> <p>Appendix C - Occupational Sick Pay</p> <p>Appendix D - Attendance Management Panels (AMP) – UNDER REVIEW</p> <p>Appendix E - Annual Leave accrued during periods of Absence</p> <p>Appendix F - The Bradford Factor</p> <p>Appendix G - Further Considerations (pregnancy and post pregnancy sickness absences)</p>	40-57
-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	--------------

1. Introduction and Background

1.1. Sickness absence is a significant cost to the organisation. Within the Police Service of Northern Ireland this cost is estimated to be in excess of £20 million annually. It is also recognised that, not only does sickness absence impact on health of officers and staff who are ill; it also can have an adverse impact on wellbeing of colleagues who are required to cover the work and shifts of absentees. This then impacts on the PSNI's capacity to meet service delivery needs and expectations of our communities.

1.2. It is therefore vitally important that the PSNI has measures in place that seek to minimise occurrences of sickness absence. However, the underlying principle of the procedures is to provide a fair, open and proportionate method of dealing with attendance issues.

1.3. Attendance Management is not something that should be done 'to' officers and staff. Rather, it is something that needs to be done 'with' officers and staff. With this in mind, it is essential that the process of managing attendance is undertaken collaboratively between officers and staff who have periods of sickness and their managers, supported by Human Resources and Occupational Health and Wellbeing.

1.4. The Police Service of Northern Ireland is committed to continually reviewing and updating Attendance Management and Wellbeing policy to reflect changing circumstances and best practice.

2. Purpose

2.1. The purpose of this policy is to assist officers and staff (at all ranks and grades) decide how and when to use the formal procedures contained in the Police (Performance and Attendance) Regulations (Northern Ireland) 2016*.

*(*note: whilst the Regulations do not apply to Police Staff it is the intention that the processes can apply to both officers and staff)*

3. Aims

3.1. The aims of this policy are to:

- Give a clear understanding of the Attendance Management Policy
- Encourage officers and staff, where possible, to seek support from Line Managers at an early stage, ideally before any need to report sick
- Encourage officers and staff to explore options and/or reasonable adjustments that could reduce the requirement for sickness absence
- Explain the process to be followed if officers and staff can't attend work due to sickness
- Outline the support that is available to officers and staff who are unwell
- Explain the formal processes that could be used to manage attendance

4. Scope

4.1. This policy applies to all police officers and police staff, but certain sections may not apply directly to Student Officers or Probationer Constables (*Attendance Management in respect of Student officers is presently under review*)

5. Terms and Definitions

Disability	A physical or mental impairment which has, or is likely to have a long term adverse effect on ability to carry out normal day-to-day activities
Fit Note / Medical Certificate	A Statement of Fitness to Work will be issued by your GP if your absence from work is for 8 days or more. This will tell the employer if you will be fit to do some work (with adjustments) or if you're not fit

	for work
Short Term absence	A period of absence that lasts 28 days or less
Long Term absence	A period of absence that lasts 29 days or longer
Phased Return to Work	A local arrangement to facilitate officers returning from periods of sickness absence (usually lasts no more than 4-6 weeks)
Duty Adjustments – Temporary (Short Term)	Where deemed appropriate by OHW, individuals may be offered Duty Adjustments (Temporary). These Temporary Adjustments are designed to facilitate a return to the substantive role after a period of sustained absence. They will not usually last longer than 12 weeks.
Duty Adjustments – Temporary (Long Term)	Adjustments where OHW are of the opinion that the adjustment is likely to last up to 52 weeks, but the expectation is that the officer will return to full duties of their substantive role by that time.
Permanent Duty Restrictions	Permanent duty adjustments are for individuals who are unlikely to return to full range of duties of their substantive role. OH&W will provide recommendations to management regarding the ability of the member to carry out the activities viewed as essential to a particular role.
Reasonable Adjustments (DDA related)	Where officers or staff have a disability we will consider adjustments (see Managing Staff with Disabilities guidance for detail) to help you stay in work.
Return to Work Meeting	A conversation with your manager after

	any period of sickness absence
Self-Certification	The first 7 days of sickness absence does not require a Fit Note / Medical Certificate, but you are required to complete a Self-Cert to cover that period of absence

6. Roles and Responsibilities

6.1. Absentee's Responsibilities

- 6.1.1. Notification of your absence should be made as soon as possible and ideally within 1 hour prior to your scheduled start time. If your line manager is not available, you may report to another manager. **This should be done via telephone call and not text message.** (In exceptional circumstances, it is appropriate for someone to make this telephone call on behalf of the absentee)
- 6.1.2. If a person reports sick after they have commenced their scheduled duties this will not normally be counted as the first day of absence, however if management consider that this facility is being misused they have the discretion to withdraw this facility.
- 6.1.3. If your line manager is completing the information you must give a brief description of the general nature of illness or condition. If another manager is recording the absence it is not necessary to inform them of the nature of the illness or condition.
- 6.1.4. Medical certification is not required for the first 7 calendar days of the sick absence when individuals are permitted to self-certify. The ability to self-certify can also be withdrawn if it is suspected that the individual is misusing the system.

6.1.5. From the 8th day of absence you are required to submit medical certification which states a medically recognised illness.

6.1.6. *Note: During periods of sickness absence it is appreciated that officers and staff will wish to continue with day-to-day activities and responsibilities. Indeed, it is also recognised that maintaining a degree of normality can assist the recovery process.* However, there are certain activities which could be considered inappropriate, could hinder a return to work and should not therefore be undertaken. These include:

- Any sport which could aggravate the illness or delay recovery
- If going abroad whilst on a period of sickness absence, you must notify line management in advance
- Undertaking other employment either paid or otherwise
- Engaging in an activity that would delay recovery

(This is not intended to be an exhaustive list)

6.1.7. Sickness payments will be made available in accordance with the relevant Occupational Sick Pay Scheme (OSP). However, OSP may be suspended if: -

- Medical certification is not produced to Management before day 12 of the absence
- Up to date contact information is not provided.
- During your period of sickness absence, you do not make yourself available for contact by line management (e.g. not accepting or returning telephone calls, or complying with requests for visits)
- You refuse to attend OHW or co-operate with line management in relation to OHW referrals or updates
- Your actions delay the attendance management process (including, where applicable, the Ill Health Retirement process)

6.1.8. You are required to fully co-operate with line management throughout the entire period of absence. This can include being available for telephone calls, a meeting inside/outside the workplace and attendance at OHW. Any visits will be by prior arrangement.

Note: Whilst primary health care provision is delivered through the National Health Service and your GP, advice given by OH&W regarding your fitness for work (or a range of duties) supersedes the advice of the GP. This is because OHW are better informed to make decisions regarding your ability to undertake certain work roles/activities.

6.2. Line Management Responsibilities

6.2.1. Line management should: -

6.2.1.1. Prior to absence periods

- Acknowledge good attendance
- Care for staff and take an interest in their health and wellbeing
- Take reasonable steps to offer support and direct staff to supportive wellbeing interventions *(full details can be obtained by clicking on the Wellbeing icon on your Desktop, and from the OHW pages on PoliceNet)*
- Monitor attendance to identify any issues, patterns or causes for concern at an early opportunity

6.2.1.2. Calendar days 1 – 7 of absence

- Discuss the reason for absence with the person and update via E-Services *(E-Services should, where possible, be updated within 1 hour of the absence being notified. In any event it is important that the time reported unfit reflects the time that the call is received not the time it is recorded onto E-Services)*

- Ascertain the likely duration of the absence
- If 'Initial Notification' reason entered onto system at Day 1 then Line Manager should, by Day 4, make contact with the absentee to obtain the actual reason for sickness, and update E-Services accordingly
- Where appropriate, enquire as to whether the person is engaging with Primary Care Providers (this will likely depend on the nature/reason for the absence, as not all ailments will necessitate GP intervention)
- Ascertain whether there are additional supportive measures that might assist
- Record the contact details as discussed on MA4 on e-services

6.2.1.3. Calendar day 8 onwards

- Contact the person to review progress
- Explore options to facilitate/assist with a return to work
- Remind that medical certification is required to support the continued absence (Individuals should write service/staff number on front of Fit Note) and forward to HR Service Centre
- Upon receipt of medical certification confirm this is updated on E-Services
- Record the details of the contact on MA4 on E-services
- Maintain weekly contact via phone or email for the duration of the absence
- Repeat the above considerations regularly throughout the absence contact
- At Day 28 Line Managers will be promoted to undertake a 28 Day Case Review (*see Section 7.1 below for further details*)
- After a continued absence of 28 calendar days or more a visit must be considered, this can take place at a venue suitable to both parties
- At day 28 consider a referral with OH&W via e-services (or immediately if Stress related absence). The referral to OHW will depend on the nature of the condition and the normative recovery

Version 4.2 - Revised December 2017 (Interim - Pending Approval at SFB)

period (e.g. referring someone with a broken leg at day 28 may not be considered necessary or appropriate)

- Expedite outstanding medical certificates and follow up automatic expedites
- Ascertain whether there are additional supportive measures that might assist
- Explore options to facilitate/assist with a return to work
- Record the details of each contact on MA4 on e-services
- To, where appropriate, instigate and follow the formal stages of this procedure (see Section 10, pages 19-36 for details)
- Keep absent member of staff fully apprised of all OHW appointments

Note also - *The purpose of sickness absence is to facilitate full and proper recovery from an illness, condition or injury therefore annual leave should not be taken instead of sick absence.*

6.3. Human Resources Responsibilities

6.3.1. Human Resources Unit will:

- Establish an Attendance and Wellbeing Strategy that supports a culture of attendance
- Develop a policy which supports staff who suffer ill health, seeks to maximise attendance, and enables effective service delivery
- Provide absence data to managers and offer support to assist them with managing absence
- Provide HR Partner support to Senior Management Teams
- Provide advice and guidance to managers on how to support staff who are suffering from ill health
- Maintain records of absence and, where appropriate follow up on outstanding documentation / updates with local command.

- Monitor compliance with the Attendance Policy and Procedure

6.4. Occupational Health and Wellbeing (OHW) Responsibilities

6.4.1. OHW will: -

- Following a management referral, provide expert advice to managers on all aspects of an individual's fitness for work and their role, including (where appropriate) opinion / recommendations relating to Ill Health Retirement

6.4.2. OH&W nursing services focus mainly on Fitness for Work and Health & Well-being.

6.4.3. **Fitness for work** provision includes case management which features fitness for work, rehabilitation, duty adjustment assessment with reports to management in addition to OH&W nursing input at **Central Absence Management Case Reviews**

6.4.4. **Health & Wellbeing** provision will mainly but not exclusively focus on enabling PSNI to comply with statutory requirements for health surveillance provision. This major programme of work will involve a phased approach to abstraction of all officers and staff who are deemed to require audiometric health surveillance assessment in compliance with Noise at Work Regulations.

7. Case Reviews

7.1. Line Manager Case Reviews

7.1.1. On the 28th Day of any absence, Line Managers will be prompted by email to complete a Case Review. These case reviews should seek to identify any support that has/could be offered to the absentee and any appropriate interventions that may facilitate a return to work. It is essential that these Case Reviews are used to capture sufficiently detailed, meaningful and supportive actions.

7.1.2. The following questions are some that could be considered during a Case Review:

- Have opportunities for phased return to work been explored with the absentee?
- Are there workplace factors which, if addressed, could result in an earlier return to work?
- Is there an opportunity for short term working from an alternative location, which may aid an earlier return to work?

It is important to remember that the longer a member of staff is away from the working environment often the more difficult (psychologically) it can be for them to commence a return. It is therefore important that absentees are also kept updated and informed of ongoing issues.

7.1.3. If the absentee has not been referred to OHW prior to this point a referral should now be considered. Regular reviews of the absence should be captured by the Line Manager and a rationale recorded via E-Services. For specific details of how to record a Case Review on E-services refer to the HR Attendance Police-net pages.

7.2. Local Absence Management Panel Reviews

7.2.1. A Local Senior Manager (usually Chief Inspector or Police Staff Equivalent) will Chair a Local Absence Management Case Review meeting. The objective of this meeting is to seek to review the status, support and management action being taken for all absences that are, or are anticipated to be, more than 28 days within the respective Areas/Departments. This will include:

- Regularity/Quality of contact
- OH&W Support
- Local Management of Duty Adjustments

- Compliance with relevant stages and processes of the Attendance Management policy / procedure
- Quality and consistency of decision making

7.22 A standard template will be used to record the meeting.

7.3. Central Absence Management Case Reviews

7.3.1. The Head of HR will Chair a Central Absence Management Group which will comprise representatives from District, Departments, HR, OHW and Trade Union/Federation representatives. The objective of this Group is to seek to review the application of the Managing Attendance Policy and DDA in complex cases. Once all local support and management options have been explored and exhausted cases can be escalated from the Local Management Case Review meetings to the Central Absence Management Group. Evidence must be supplied to the Central Absence Management Group outlining that all options have been explored and exhausted. See below:

- Regularity/Quality of contact
- OH&W Support
- Local Management of Duty Adjustments
- Compliance with relevant stages and processes of Attendance Management policy
- Quality and Consistency of decision making

8. Phased Returns (including Recuperative and Adjusted Duties)

8.1.1. Line Managers have discretion to arrange a temporary phased return to work. The maximum duration should be no longer than 4 weeks. However, should an additional extension be required to the short-term phased arrangements, the Chief Inspector/Police Staff Equivalent has discretion to extend this to 6 weeks.

8.1.2. The purpose of a phased return is to allow the individual to build up their hours of attendance following a sustained period of absence. Phased returns are a management tool in helping the member to return to work but should not be considered an automatic right.

8.2. Duty Adjustments by OH&W

8.2.1. The term temporary adjusted duties means that an individual is expected to or may recover to normal duties.

8.2.2. The duration of the temporary adjusted duties are classified as follows:

- Temporary – Short term – less than 12 weeks
- Temporary – Long term – greater than 12 weeks to an expected date of return to normal duties but generally not exceeding 12 months
- Permanent – the term permanent duty adjustment means the individual is never expected to return to full operational duties.

8.3. Duty Adjustments (Temporary)

8.3.1. Where deemed appropriate by OHW, Duty Adjustments (Temporary) may be recommended. These Temporary Adjustments, where they can be accommodated by line management, are designed to facilitate a return to the substantive role after a period of sustained absence. They will not usually last longer than 12 weeks.

8.3.2. Line Management must: -

- Prepare an action plan in conjunction with OHW.
- Consider a rehabilitation programme and identify milestones (copies to be provided to HRSC and individual).
- Review monthly to assess progress/suitability.

- Ensure ongoing support from OH&W and update E-Services referral screen as appropriate.

8.3.3. If after the 3 month period a full return has not been achieved then please list for consideration at the next Area or Departmental Absence Management Review Panel to reassess the situation.

8.3.4. The following are considerations but not an exhaustive list.

- The District Commander/Head of Branch can decide to temporarily redeploy within their area.
- A permanent adjustment can be considered.
- Consider Ill Health Retirement
- Submit papers to Central DDA Panel if appropriate.

8.4. Duty Adjustments (Permanent)

8.4.1. Permanent duty adjustments are for individuals who cannot perform the full range of operational duties. OH&W will provide recommendations to management regarding the ability of the member to carry out the activities viewed as essential to a particular role.

8.4.2. If DDA applies Managing Individuals with Disabilities guidance should be followed (Form 98/1 MUST be completed)

8.4.3. Management have a responsibility to identify only substantive roles, and there is no requirement to create posts to facilitate the adjustment.

8.4.4. If there is deterioration in the performance/attendance or health of the individual OH&W must be consulted in relation to the member remaining in the role. OH&W will advise about health and fitness not about suitable roles for deployment

8.4.5. Local management will review all cases of permanent adjustment regularly to assess the member's suitability to make a meaningful and effective contribution. OH&W do not review officers or police staff with permanent adjusted duties unless there is a change of circumstances such as job role or individual's functional capacity. If these apply and a review is required this should be requested by the line manager as required.

8.4.6. The permanent adjustment must be identified on the SAP record (duty adjustment screen) which will be regularly updated by OH&W including relevant comments in the additional information field.

9. Return to Work Meetings

9.1. Conducting a Return to Work (RTW) Meeting

9.1.1. The RTW Meeting provides the opportunity for parties (line management and staff member) to discuss the absence, and arrangements/requirements upon return to work. It should be used to identify/resolve any outstanding issues associated with the absence. The importance of undertaking an effective and supportive Return to Work Meeting cannot be over-stated, particularly where this is being carried out following a long period of absence, or following a number of short-term related absences.

9.1.2. It will provide the line manager the opportunity to:-

- Demonstrate a caring approach and ensure they (the staff member) are fit to resume work.
- Identify any underlying reasons for absence and discuss any trends/patterns in the absences

- Provide advice and support and discuss consequences of continued poor attendance.
- Develop an action plan or consider the removal of self-certification

9.1.3. The RTW Meeting provides the individual returning from an absence to:-

- Request assistance with any underlying health issues.
- Ask for an update on any changes which have occurred during the absence.
- Raise any personal or work related issues which are causing concern.

9.1.4. **RTW Meetings are mandatory and must be carried out after each period of absence, and must be undertaken as soon as reasonably practicable following return to work.**

(If considered appropriate/necessary an alternative line manager may conduct the RTW Meeting)

9.1.5. It is important that sufficient time is set aside to conduct the RTW Meeting. Neither the individual nor the manager should feel that the meeting is unnecessarily time pressured

- Welcome the person back to work, explain the importance and the benefits of the RTW Meeting, emphasising that it is a supportive measure.
- Discuss the absence(s) and ensure the staff member has recovered sufficiently well enough to return to work.
- Consider if the absence is a recurring issue, related to a disability or did stress play a part in the absence, as answers to these questions will

inform any appropriate return to work action plan and post return to work support requirements

9.1.6. The meeting is also an opportunity to emphasise the importance of the contribution that the staff member makes within the team, and the impact that the absence has on the team and unit. Record the details of the discussion on the RTW interview screen on e-services.

Note: When an individual returns to work after a period of illness, an MA2 (self-certificate) must be completed on e-services regardless of the duration of the absence.

10. First, Second and Third Stage Assessment Meetings (Formal Process)

10.1. The purpose of the stage meetings is to provide assistance and support to the individual to improve his/her attendance to a satisfactory level. The aims of the absence management meetings are to:

- Establish reason(s) for the absence; is the individual suffering from a medical condition?
- Discuss opportunities for reducing likelihood or recurrence of sickness absence in the future.
- Explore and consider any reasonable adjustments.
- Discuss the requirement for any OHW referral or other supportive measure
- Explain to the individual about the absence management procedure and inform them of the possible actions if their level of absence is not improved.
- It is also an opportunity for the member to make representations in relation to the absence and for them to ask questions

10.2. Discussions between an Officer or Staff member and their management will be kept as confidential as reasonably possible. The meetings will be arranged at a suitable venue which will normally be the individual's place

of work. However, in some circumstances (depending on the individual's health and well-being) this may be held at the individual's home (but only with their consent).

Note: A referral to OH&W should not be used as an alternative to carrying out an absence management meeting. A referral to OH&W is a separate process.

10.3. If, because of the nature of their illness the individual is unable to attend the absence management meeting/hearing, advice will be sought from OH&W on their fitness to attend and any reasonable adjustments which may enable the individual to attend will be considered. Upon receipt of advice from OH&W and also considering all of the circumstances of the case, Management will make a decision as to whether the meeting/hearing should proceed in the individual's absence.

10.4. If the manager has tried to obtain OH&W advice but the individual fails to attend or refuses to give consent for the report to be released then management will proceed with the meeting, as it is not considered reasonable to delay the process.

10.5. If the individual is unable to attend the meeting/hearing for some other reason or their representative is unable to attend, the meeting may be postponed and will be rearranged within 7 working days or as soon as is practicable. The individual should be notified of the date in writing and informed that if they are not able to attend on the revised date the meeting/hearing will proceed on this occasion in their absence.

10.6. If Officers and Staff cannot attend a meeting/hearing personally they can put their case either through their representative (PFNI or, Recognised Trade Union Representative or colleague), or submit their case in writing in advance by no later than 7 working days in advance of the meeting/hearing.

10.07 Role of a Friend

Any person subject to these procedures will be entitled to be accompanied as specified, by a serving police officer or member of staff.

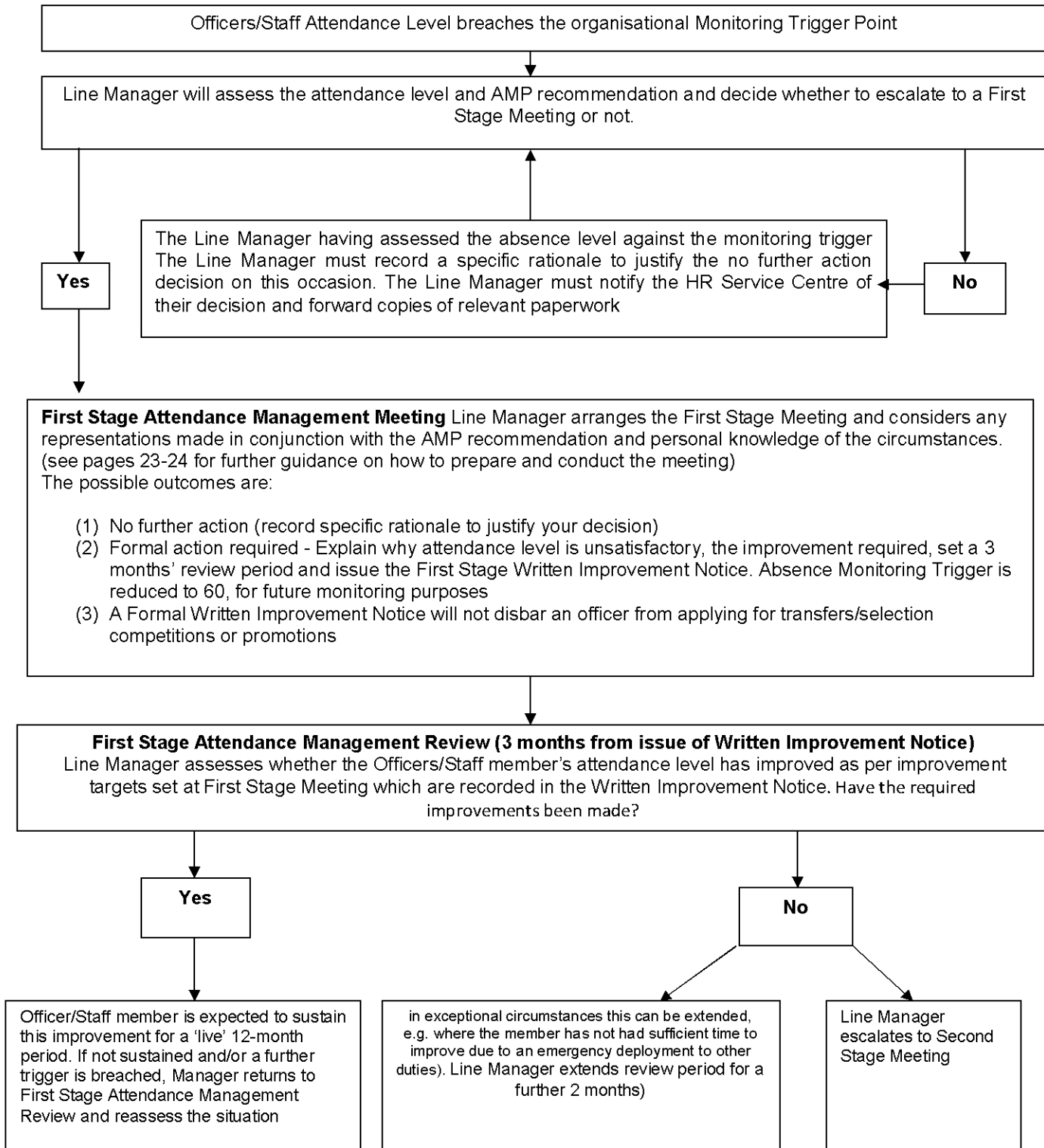
The role of any friend is to:

- Advise and assist the person
- Speak on their behalf
- Produce documentation to assist in the individual's case.

The 'friend' must not be a person who has any line management responsibility for the person or be in any way involved in the decision-making process in any aspect of the procedures in the individual's case.

First Stage

Managing the First Stage Monitoring Triggers and Written Improvement Notice Process



First Stage Meeting - Line Manager Considerations

Where a member/staff absence level breaches a monitoring trigger or Line Management have cause to be concerned that the current level of Attendance is unsatisfactory, the Officer or Staff member will be requested, in writing, to attend a First Stage Meeting with their Line Manager. (*Notifications will be issued by HRSC to Line Management for service*). Any person subject to these procedures will be entitled to be accompanied as specified, by a serving police officer or member of staff.

First Stage Meeting is conducted by the direct Line Manager

Management preparation before the Meeting:

- Assess the level of absence against the organisation standards.
- Forward the notification informing the member of their requirement to attend at First Stage Meeting of the unsatisfactory attendance procedures.
- Explain the reason why the level of attendance is considered unsatisfactory. Organise an appropriate space and set time aside to conduct the meeting in private.
- Gather all relevant evidence to support a constructive conversation.
- Provide member/staff copies of any document being relied upon at meeting
- Consider what practical support could be provided to assist the Officer or Staff member improving their attendance level. (e.g. Physio, Employee Support)
- Familiarise yourself with the relevant First Stage Meeting documentation (Meeting notes and Action Plans)

What needs to be discussed during the Meeting:

- Refer to list of absence periods, with reasons and advise employee that level of attendance has reached a monitoring trigger
- Discuss the level of attendance and explore areas possibly associated with the absence(s) e.g. are there any external factors which contributed to the absence period such as personal, family or work related problems.
- Where appropriate reference should be made to other supporting policies such as Managing Staff with Disabilities and Special Leave and Flexible Working.
- Establish whether there is any underlying cause for the absences and what, if any, action/support is required. Discuss any reasonable adjustments if applicable (complete Reasonable Adjustment Request **Form 98/1**).
- Refer to the Managing Staff with Disabilities Guidance, if adjustment(s) for an employee with a disability need to be explored. Management can refer to OH&W for advice on fitness to undertake duties, reasonable adjustments and/or advice on ongoing health. It is for management to determine whether it is appropriate or not taking into account all the circumstances of the absence.
- If a referral is made the manager may arrange a separate meeting to discuss the OH&W report if it is not received in time for the Stage Meeting. If the manager has tried to obtain OH&W advice but the employee fails to attend or refuses to give consent to release the report, any decisions made at the absence management meetings will be made without the benefit of this information.
- Discuss pay status if appropriate.

This list is not intended to be exhaustive but to act as a guide.

Outcome of the Meeting

Use this opportunity to explain the Attendance Management Policy and the purpose of the First Stage Meeting which is to:

- Assess the Officers or Staff members level of absence
- Consider the representations made by Officers/Staff member and/or Friend/Union Rep
- Identify any underlying medical conditions
- Evaluate reasonable adjustment requests that may improve attendance
- Signpost additional sources of support such as Physio referrals, Employee Support etc.
- To consider whether Formal Action is appropriate or justify use of Line Managers discretion
- Where appropriate, issue a First Stage Written Improvement and develop an Action Plan to support attendance improvement.
- Record your rationale for not issuing a First Stage Written Improvement Notice (this should be an evidence based decision)

Where a First Stage Written Improvement Notice is to be issued

- Inform the member concerned that a First Stage Written Improvement Notice will be issued which has a lifespan of 12 months. Inform the member that a First Stage Written Improvement Notice does not disbar application for transfer/selection competitions and promotions
- Set a review period for 3 months, or in exceptional circumstances this can be extended to a maximum of 12 months. For example, where the member has not had sufficient time to improve due to an emergency deployment to other duties
- Illustrate clearly in the Action Plan, the areas of improvement required
- Provide a copy of the First Stage Written Improvement Notice and accompanying Action plan to the member and forward same to the HR Service Centre via the HR Web Portal for inclusion on the members personal file
- Monitor the member's attendance level during the Review period and assess progress
- At the end of the review period, if sufficient improvement has been demonstrated, the Officer or Staff member will revert to normal monitoring. It should be noted that the First Stage Improvement Notice will last for a period of 12 months.
- Officers/Staff should be made aware that if their attendance does not improve during the first 3 months, or a further absence trigger occurs during the validity period of the First Stage Written Improvement Notice, consideration will be given to progressing a Second Stage Meeting (with the Countersigning Manager).
- If after Second Stage Review there is still no improvement in the sickness absences, a Third Stage Meeting may be arranged and a possible outcome of this could be dismissal.

First Stage Appeal Procedure

First Stage – Written Improvement Notice

A member may commence an Appeal in writing to the Countersigning Officer. The application must be submitted within 7 working days (beginning with the first working day after) of the issue of the Written Notice of Improvement. The grounds for Appeal are:

- The finding of unsatisfactory attendance is unreasonable
- The relevant terms of the written improvement notice are unreasonable
- There is evidence that could not reasonably have been considered at the first meeting which could have materially affect the finding
- There is a breach of procedures or other unfairness which could have materially affect the finding
-

Countersigning Managers Considerations

As soon as reasonably practicable, following receipt of a First Stage Appeal, the CSM will:

- Issue an invitation to the Officer/Staff member to attend an Appeal Meeting.
- Inform that a HR professional or a police officer may attend the meeting to advise on the proceedings
- Inform that, if they consent, any other person specified in the notice may attend the meeting
- Advise the Officer/Staff member of their right to seek advice from a representative of his/her staff association
- Advise the Officer/Staff member of their right to be accompanied at the meeting.

Having considered any representations made by either the Officer/Staff member and/or his representative, the Countersigning Manager may:

- Make a finding that the Officer/Staff member should not have been required to attend the First Stage meeting and reverse the decision
- Confirm or reverse the finding of unsatisfactory attendance
- Endorse or vary the terms of the First Stage Improvement Notice

A summary of the decision must be communicated in writing to the Individual within 3 days of the Appeal meeting. This decision must also be forwarded to the HR Service Centre in order that the Officer/Staff member's record can be updated to reflect the Appeal outcome

First Stage Appeal Procedure

First Stage – Written Improvement Notice

A member may commence an Appeal in writing to the Countersigning Officer. The application must be submitted within 7 working days (beginning with the first working day after) of the issue of the Written Notice of Improvement. The grounds for Appeal are:

- The finding of unsatisfactory attendance is unreasonable
- The relevant terms of the written improvement notice are unreasonable
- There is evidence that could not reasonably have been considered at the first meeting which could have materially affect the finding
- There is a breach of procedures or other unfairness which could have materially affect the finding
-

Countersigning Managers Considerations

As soon as reasonably practicable, following receipt of a First Stage Appeal, the CSM will:

- Issue an invitation to the Officer/Staff member to attend an Appeal Meeting.
- Inform that a HR professional or a police officer may attend the meeting to advise on the proceedings
- Inform that, if they consent, any other person specified in the notice may attend the meeting
- Advise the Officer/Staff member of their right to seek advice from a representative of his/her staff association
- Advise the Officer/Staff member of their right to be accompanied at the meeting.

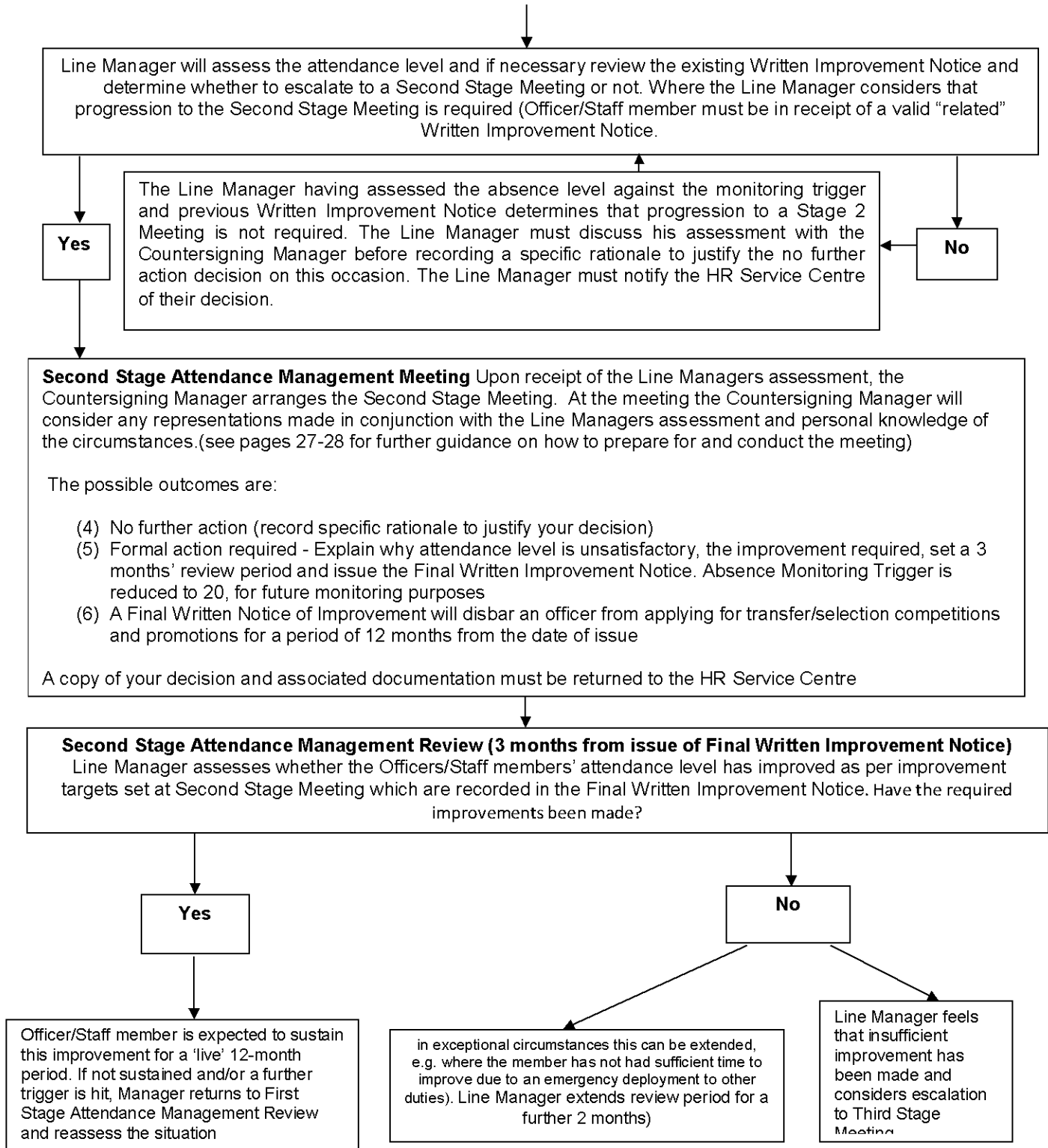
Having considered any representations made by either the Officer/Staff member and/or his representative, the Countersigning Manager may:

- Make a finding that the Officer/Staff member should not have been required to attend the First Stage meeting and reverse the decision
- Confirm or reverse the finding of unsatisfactory attendance
- Endorse or vary the terms of the First Stage Improvement Notice

A summary of the decision must be communicated in writing to the Individual within 3 days of the Appeal meeting. This decision must also be forwarded to the HR Service Centre in order that the Officer/Staff member's record can be updated to reflect the Appeal outcome.

Second Stage

A HR Partner will be allocated at this stage. Managing the Second Stage Monitoring Triggers and Written Improvement Notice Process



Second Stage Meeting - Counter Signing Manager Considerations

Where a member/staff attendance level breaches a monitoring trigger and where a First Stage Written Notice of Improvement is in place and Line Management have recommended the Officer or Staff member be progressed to a Second Stage Meeting with their Countersigning Manager. (*Notifications will be issued by HRSC to Management for service*). Any person subject to these procedures will be entitled to be accompanied as specified, by a serving police officer or member of staff.

Management preparation before the Meeting:

- Review and consider the level of Line Managers assessment against the organisation standards, First Stage Written Improvement Notice and Action Plan
- Forward the notification informing the member of their requirement to attend at Second Stage Meeting of the unsatisfactory attendance procedures.
- Explain the reason why the level of attendance is considered unsatisfactory. Organise an appropriate space and set time aside to conduct the meeting in private.
- Provide member/staff copies of any document being relied upon at meeting
- Gather all relevant evidence to support a constructive conversation.
- Consider what practical support could be provided to assist the Officer or Staff member improving their attendance level. (e.g. Physio, Employee Support)
- Familiarise yourself with the relevant Second Stage Meeting documentation (Meeting notes and Action Plans)

What needs to be discussed during the Meeting:

- Refer to list of absence periods, with reasons and advise employee that level of attendance has reached a monitoring point.
- Discuss the level of attendance and explore areas possibly associated with the absence(s) e.g. are there any external factors which contributed to the absence period such as personal, family or work related problems.
- Where appropriate reference should be made to other supporting policies such as Managing Staff with Disabilities and Special Leave and Flexible Working.
- Establish whether there is any underlying cause for the absences and what, if any, action/support is required. Discuss any reasonable adjustments if applicable (complete Reasonable Adjustment Request **Form 98/1**).
- Refer to the Managing Staff with Disabilities Guidance, if adjustment(s) for an employee with a disability need to be explored. Management can refer to OH&W for advice on fitness to undertake duties, reasonable adjustments and/or advice on ongoing health. It is for management to determine whether it is appropriate or not taking into account all the circumstances of the absence.
- If a referral is made the manager may arrange a separate meeting to discuss the OH&W report if it is not received in time for the Stage Meeting. If the manager has tried to obtain OH&W advice but the employee fails to attend or refuses to give consent to release the report, any decisions made at the absence management meetings will be made without the benefit of this information.
- Discuss pay status if appropriate

This list is not intended to be exhaustive but to act as a guide.

Outcome of the Meeting

Use this opportunity to explain the Attendance Management Policy and the purpose of the Final Meeting which is to:

- Review the Officers or Staff members level of absence
- Consider the representations made by Officers/Staff member and/or Friend/Union Rep
- Identify any underlying medical conditions
- Evaluate reasonable adjustment requests that may improve attendance
- Signpost additional sources of support such as Physio referrals, Employee Support etc.
- To consider whether Formal Action is appropriate
- Where appropriate, issue a Final Improvement Notice and develop an Action Plan to support attendance improvement.
- Record your rationale for not issuing a Final Improvement Notice (this should be an evidence based decision)

Where a Final Improvement Notice is to be issued

- Inform the member concerned that a Final Written Improvement Notice will be issued which has a lifespan of 12 months. Inform the member that a Final Written Improvement Notice will disbar application to transfer/selection competition and promotion for a period of 12 months from the date of issue.
- Set a review period for 3 months, or in exceptional circumstances this can be extended to a maximum of 12 months. For example, where the member has not had sufficient time to improve due to an emergency deployment to other duties
- Illustrate clearly in the Action Plan, the areas of improvement required
- Provide a copy of the Final Written Improvement Notice and accompanying Action plan to the member and forward same to the HR Service Centre via the HR Web Portal for inclusion on the members personal file
- Monitor the member's attendance level during the Review period and assess progress
- At the end of the review period, if sufficient improvement has been demonstrated, the Officer or Staff member will revert to normal monitoring. It should be noted that the Final Improvement Notice will last for a period of 12 months.
- Officers/staff should be made aware that if their attendance does not improve during the first 3 months, or a further absence trigger occurs during the validity period of the Final Written Improvement Notice, consideration will be given to progressing to a Third Stage Meeting.
- Officers/staff should be made aware that if progressed to a Third Stage Hearing, a possible outcome of this could be dismissal.

Second Stage – Final Written Improvement Notice

A member may commence an Appeal in writing to the Senior Manager. The application must be submitted within 7 working days (beginning with the first working day after) of the issue of the Final Written Notice of Improvement. The grounds for Appeal are:

- The member has been required to attend a Second Stage Meeting as the matter did not concern unsatisfactory attendance.
- The finding of unsatisfactory attendance is unreasonable
- The relevant terms of the written improvement notice are unreasonable
- There is evidence that could not reasonably have been considered at the first stage meeting which could have materially affect the finding
- There is a breach of procedures or other unfairness which could have materially affect the finding

Senior Managers Considerations

As soon as reasonably practicable, following receipt of a Second Stage Appeal, the Senior Manager will:

- Issue an invitation to the Officer/Staff member to attend an Appeal Meeting.
- Inform that a HR professional or a police officer may attend the meeting to advise on the proceedings
- Inform that, if they consent, any other person specified in the notice may attend the meeting
- Advise the Officer/Staff member of their right to seek advice from a representative of his/her staff association
- Advise the Officer/Staff member of their right to be accompanied at the meeting.

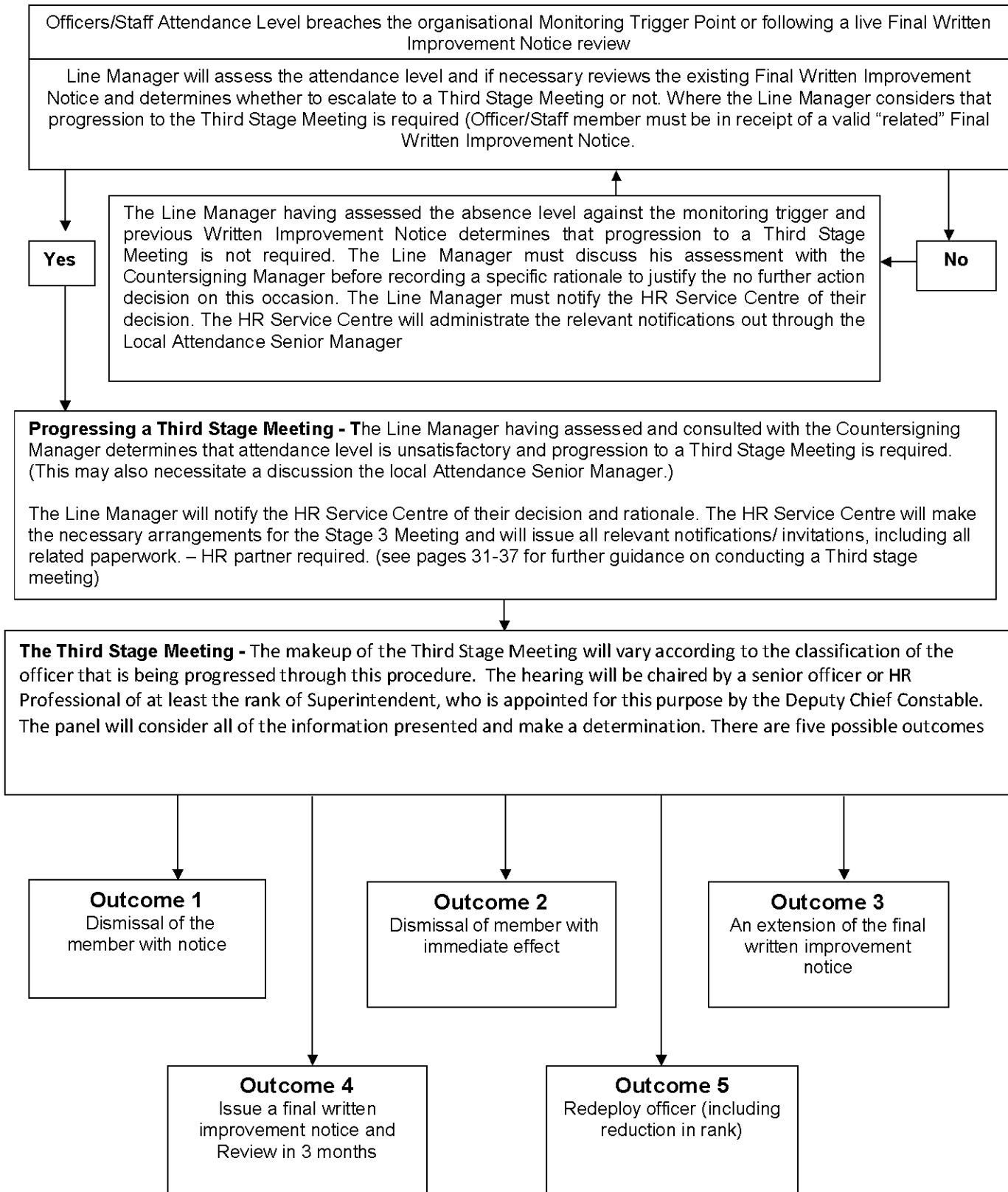
Having considered any representations made by either the Officer/Staff member and/or his representative, the Countersigning Manager may:

- Make a finding that the Officer/Staff member should not have been required to attend the Second Stage meeting and reverse the decision
- Confirm or reverse the finding of unsatisfactory attendance
- Endorse or vary the terms of the Second Stage Improvement Notice

A summary of the decision must be communicated in writing to the Individual within 3 days of the Appeal meeting. This decision must also be forwarded to the HR Service Centre in order that the Officer/Staff member's record can be updated to reflect the Appeal outcome.

Third Stage

Managing the Third Stage Monitoring Triggers Process



The Third Stage Attendance Assessment – (Line Manager)

Where a members/staff absence level triggers a Third Stage Assessment, the HR Service Centre will issue a notification to the members Line Manager and Countersigning Manager informing that a Third Stage Attendance Assessment is required.

The Line Manager will assess the Officer/staff member's attendance level, reflecting on all key issues including the previous Final Written Improvement Notice and the attendance improvement targets that were specified.

The Line Manager will discuss the case with the Countersigning Manager (and if necessary, a Senior Local Manager Attendance) and determine the appropriate course of action. The options available are:

- Extend the Final Written Improvement Notice period (a specific rationale must be recorded)
- Progression to Third Stage Meeting

The documents must then be updated and returned to HR Service Centre. In the event that progression to a Third Stage Meeting is required. The HR Service Centre will administrate the relevant notification via the Local Attendance Senior Manager for service on the Officer/Staff member

Third Stage Meeting (Police)

If following the issue of a Final Improvement Notice, the officer's attendance does not improve and a further trigger point is reached and the Senior Manager has determined that the level of attendance is unsatisfactory, consideration will be given to dismissing the officer.

Within **two weeks** of the Line Managers assessment of unsatisfactory attendance levels, the officer must be informed in writing that sufficient improvement in attendance during the period of the Final Notice of Improvement has not been demonstrated and they are required to attend a Third Stage meeting to discuss their attendance. The notice must be accompanied by the documentation relied upon to support the view that the attendance level is unsatisfactory.

The makeup of the Third Stage Meeting will vary according to the classification of the officer that is being progressed through this procedure. The hearing will be chaired by a senior officer or HR Professional of at least the rank of Superintendent, who is appointed for this purpose by the Deputy Chief Constable.

The other panel member shall be either a police officer or police staff member of at least superintending rank where the officer is below the rank of superintendent. Where the officer is of superintending rank, the assessors should be Assistant Chief Constables of another force or forces (or

Version 4.2 - Revised December 2017 (Interim - Pending Approval at SFB)

Commanders in the Metropolitan Police Service and City Police Force). The panel shall comprise of at least two Police Officers and at least one HR Professional.

Before the end of 20 working days beginning with the first working day after the date on which a notice has been given to the member concerned, the member concerned shall provide to the appropriate authority the HR Service Centre with written notice:

- a. whether or not he/she accepts that their attendance has been unsatisfactory
- b. where he/she accepts that his performance or attendance has been unsatisfactory, any written submission he wishes to make in mitigation;
- c. where he/she does not accept that his performance or attendance has been unsatisfactory or where he disputes all or part of the matters, written notice of
 - (i) the matters disputed and his/her account of the relevant events; and
 - (ii) any arguments on points of law he wishes to be considered by the panel.

3 days after receipt of above both, parties must supply or confirm that they do not have any proposed witnesses to be relied upon at the Third Stage Meeting.

The HR Attendance Team will make the arrangements for the Third Stage Meeting and inform the officer the date of the hearing in writing outlining the following: -

- Their attendance is considered unsatisfactory by Management and explain why;
- That they are required to attend at the specified time and place;
- That the hearing will be conducted in accordance with Police (Unsatisfactory Performance or Attendance) Regulations (Northern Ireland) 2016
- Advising them of the powers available to the chairperson of the hearing to dismiss in the event that findings are such that the member's attendance has been unsatisfactory.
- Provide a copy of all documentation that may be relied upon at the Third Stage Meeting

The third stage meeting shall take place before the end of 30 working days beginning with the first working day after the day on which a notice has been given to the member to attend the Third Stage Meeting. The Panel chair may extend the time period, where in the interests of fairness, it is considered appropriate to do so.

If for any reason the panel have been informed of the non-attendance of the member the hearing may be postponed or adjourned as necessary. This will be at the discretion of the Chair.

Version 4.2 - Revised December 2017 (Interim - Pending Approval at SFB)

An appropriate local management representative or a HR Strategic Lead will be appointed to attend the hearing to present the facts and background to the case as a "presenting officer" for the purposes of the hearing.

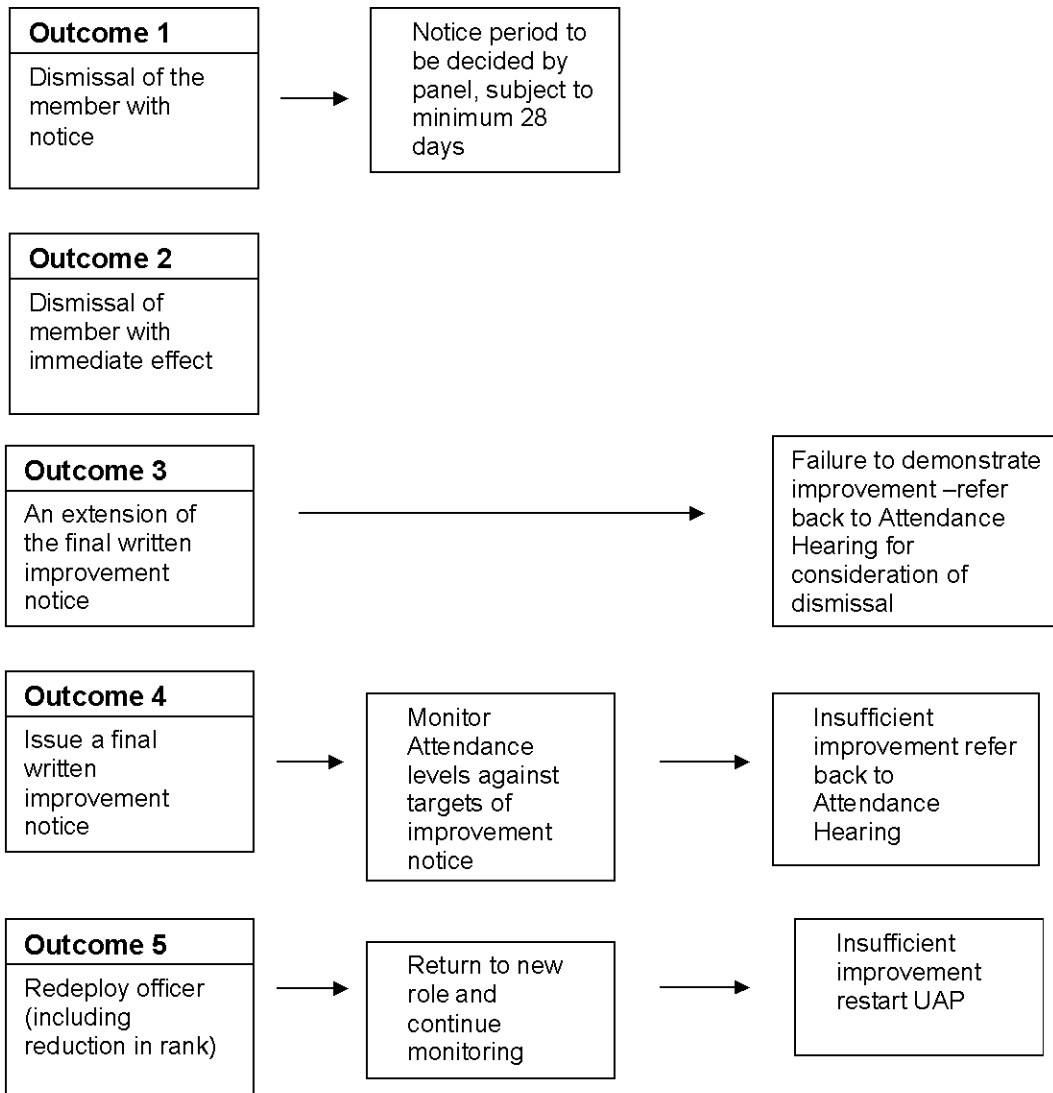
The Third Stage Meeting will be conducted in private and information on the current medical condition will be provided. The meeting will be carried out in accordance with the principles of natural justice and a verbatim record must be taken by tape recording the meeting.

The purpose of the Third Stage Meeting is to review the facts of the case and decide an outcome. In addressing the issues, the meeting will have to decide on the evidence before them and consider if it is reasonable to conclude that the officer's attendance is not of an acceptable standard during the relevant period.

Any finding or decision of the panel shall be based on a simple majority but shall not indicate whether it was taken unanimously or by a majority.

Third Stage Meeting Outcome

The meeting will adjourn as necessary to consider its decision. Once the decision is agreed the chairperson shall issue a notice to the officer within 3 calendar days outlining the decision of the panel, the reason for the decision and the required action. There are 5 possible outcomes -



Following a Third Stage Meeting, a member in certain circumstances, may be able to Appeal to a Police Appeals Tribunal. However, any finding and outcome of the Third Stage Meeting will continue to apply up to the date any appeal is determined.

Attendance at the Third Stage Meeting

In the event that the officer is unable to attend the interview or hearing it will go ahead without them present. Where it is deferred due to the inability of an officer to attend this will not be indefinite.

The validity of this procedure is not impacted by the inability of an officer subject to the Police (Unsatisfactory Performance or Attendance) Regulations (Northern Ireland) 2016 to be present. Where the officer fails to appear without prior notification the chairperson will decide if the meeting will continue or be deferred.

Where the meeting or hearing continues without the officer present the officer can be represented by a 'friend' or submit a written statement.

Role of a Friend

Any person subject to these procedures will be entitled to be accompanied as specified, by a serving police officer or member of staff.

The role of any friend is to:

- Advise and assist the person
- Speak on their behalf
- Produce documentation to assist in the individual's case.

The 'friend' must not be a person who has any line management responsibility for the person or be in any way involved in the decision-making process in any aspect of the procedures in the individual's case.

Formal Process Third Stage Student and Probationary Officers

There is no requirement for a Third Stage Meeting where both an Improvement Notice and a Final Improvement Notice is in place. Please refer to Regulation 6 of the Police Trainee (Northern Ireland) Regulations 2001 and to Regulation 13 of the Police Service of Northern Ireland Regulations 2005 for further information.

Third Stage Meeting (Police Staff)

If following the issue of a Final Written Improvement Notice, the person reached a further trigger and it has been determined that the level of absence is unsatisfactory, consideration will be given to dismissal.

Within two weeks of the outcome of the individual must be informed in writing that sufficient improvement has not been demonstrated in their attendance levels and that a meeting will be arranged with a Senior Manager of a rank not below Chief Inspector or staff equivalent, and HR Strategic Lead.

The HR Case Consultant will make the arrangements for the attendance hearing and will inform the person within 21 calendar days before the date of the hearing in writing that:-

- They are required to attend at the specified time and place.
- Inform them why their attendance is considered unsatisfactory.
- Advise them of the powers of the HR Strategic Lead to dismiss them on the grounds of unsatisfactory attendance.
- Inform the person that they have the right to be accompanied by a Trade Union Representative or another PSNI staff member.

The purpose of the meeting is to review the case, listen and question the person and determine whether the attendance has during the relevant period has shown sustained improvement. A record of the meeting should be taken.

In addressing the attendance levels the outcome will be decided on the evidence presented and the meeting will:-

- Decide whether the level of attendance has failed to meet the accepted standard
- Were there any extenuating circumstances?
- What action is appropriate?

Where the view is that the level of absence is unsatisfactory the HR Strategic Lead may dismiss the individual. The appropriate notice of dismissal must be observed. Any individual who is dismissed for unsatisfactory attendance may be entitled to compensation from Principal Civil Service Pension Scheme.

Role of a Friend

Any person subject to these procedures will be entitled to be accompanied as specified, by a serving police officer or member of staff.

The role of any friend is to:

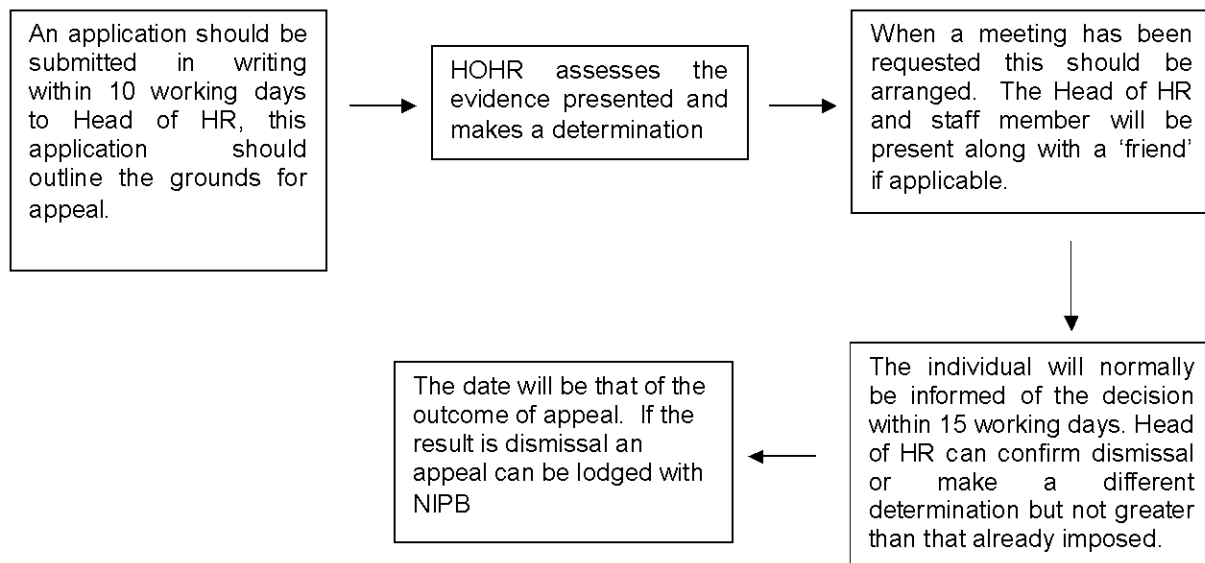
- Advise and assist the person
- Speak on their behalf
- Produce documentation to assist in the individual's case.

The 'friend' must not be a person who has any line management responsibility for the person or be in any way involved in the decision-making process in any aspect of the procedures in the individual's case.

Appealing the Outcome of a Third Stage Meeting (Police Staff)

Appeals will only be considered where it can be demonstrated that: -

1. The process was not applied correctly.
2. The decision was made in ignorance of a material fact.
3. The decision was unfair.



APPENDICES

Appendix A

OHW Referrals

OHW's main aim is to improve the health and wellbeing of police officers and police staff. This is delivered through a multi-disciplinary team of Occupational Health professionals encompassing the following services:

- Medical and Nursing Services
- Employee Support and Mental Health Services
- Musculoskeletal Services
- Physical and Health Education Services
- Well-being project

Line managers may make a referral at any time, however, particular consideration should be given to making an early referral for those officers or staff who report sick with what appear to be stress/psychological related absences. Similarly, officers/staff who are long term absent or have frequent occurrences of short term absence should be considered for referral (at the 28 day stage in respect of absences that are considered likely to long term in nature).

Referrals can only be made via e-services and individuals are strongly encouraged to attend the appointment. **Line managers are advised of the appointment details and it is their responsibility to inform the individual.**

In the event of non-attendance at an appointment, the Line Manager may have to make a decision in the absence of any advice from OH&W.

Initial referrals via e-services through Line Manager will be triaged by the Occupational Health Nursing Adviser (OHNA) for the Area, District and or Department

Note: where referrals are made in respect of stress/psychological related absences, the triage process will be prioritised, so as not to unduly delay the appointment with a clinician.

The OHNA is a Case Manager who takes account of any identified role-related risks to prior to undertaking a range of Health assessments, provision of reports or consultancy advice to individuals and managers within PSNI.

Line Managers must complete and regularly review their local risk assessments and utilise these in conjunction with OH&W advice particularly in relation to interpreting Duty Adjustments and subsequent deployment decisions.

If appropriate the OHNA case manager will advise on how the officer or police staff member may be supported within the OH&W multidisciplinary team. Dependent on need the OHNA Case Manager may refer the client onto other Specialist OH&W services for further assessment, treatment or advice. However, the Case Manager will remain the point of contact for management regarding the case. The OHNA case manages by liaising with the individual, OH&W and local management ensuring that with the clients consent relevant and timely information is available on SAP. This enables advice on supportive management of the individual from an occupational health perspective.

Clinic Locations are as follows:

- **Belfast Area**, OH&W clinics are located at Garnerville – and on occasions at Lisnasharragh to accommodate health surveillance
- **North Area**: OH&W clinics are located in Maydown, Antrim and Seapark
- **South Area**: OH&W clinics are located in Garnerville, Mahon Road and Omagh

OH&W Appointment Scheduling

OH&W will consider the following factors when scheduling appointments:

- OH&W availability
- Line Manager / Ops planning approved officer availability.

As the main objective is to reduce abstraction from their place of work OH&W nurses will triage referrals for those officers and staff that are in work to the clinic nearest to their place of work. In the case of officers and staff who are absent from work OH&W nurses use their knowledge and all readily available information on the referral to

request the most appropriate location for the appointment. The location will be clear on the OH&W Appointment Screen on E-Services and the Appointment email to officer, Line and Countersigning Manager.

Depending on OH&W capacity and waiting times for a particular location, a manager may request and agree abstraction for an earlier appointment at a more distant OH&W clinic location. It is the manager's decision for any additional spend incurred. OH&W will make every attempt to facilitate such a request provided there are available appointments in the alternative clinic location.

Note: Refusal to attend a medical appointment with OH&W may result in management considering the withdrawal of Occupational Sick Pay (OSP) or discipline proceedings. Failure to attend a medical assessment without reasonable notice (at least 48 hours) will be raised by line management for appropriate action

It may, on occasion, be useful for OH&W to request medical evidence from your GP or specialist - this requires your informed written consent before any such request will be made. You have the right to see any medical report relating to you and where it has been decided that a medical retirement is appropriate you are required to authorise the release of medical reports pertaining to you to enable the decision making process to progress. OSP may be suspended if it is proven that you have contributed to a delay in the medical retirement process.

Appendix B

Further Information to consider prior to and during the Appeal Stages

The reasonableness test for appeals in Attendance matters:

The Regulations afford grounds for appeal on the following basis:

- (a) That the finding of unsatisfactory performance or attendance is unreasonable
- (b) That any of the terms of the improvement notice are unreasonable
- (c) That there is evidence that could not reasonably have been considered at the first stage meeting which could have materially affected the finding of any of the terms of the improvement notice
- (d) That there was a breach of the procedures or other unfairness which could have materially affected the finding or terms of the improvement notice.

The concept of "reasonableness" is found in three of the four appeal grounds therefore it is important that individuals charged with making decisions have an understanding of what is expected in acting reasonably in respect of both findings and improvement notices. The starting point would be to guide officers on what is "reasonable" in terms of their actions in the attendance process. This will not only serve to ensure integrity with the management of the process but will also prove helpful when tasked to consider the merits of an appeal. Individuals can look to ensure that the behaviour falls within the reasonable parameters described below in order to confirm whether there are merits for an individual's appeal.

Definition of reasonable

In respect of these Regulations reasonable is not a defined term within the legislation. The equivalent Regulations in England have been in force since 2012 and there has been no case law specific to this issue that could assist in determining this matter. Further, there is no definition in the Home Office Guidelines or DOJ guidance.

As there is no statutory definition reasonable proceeds to be defined by its ordinary dictionary definition that is:

“Having sound judgment, fair and sensible. As much as it is appropriate or fair. “

Further supplement can be given to this definition with an extract from ACAS who offer the following guidance:

“The principle is to look at the circumstances of the situation and weigh up the factors. If your judgement is based on rational, fair, sensible and unbiased thinking an employment tribunal should view your action as reasonable. A second test is to consider whether an outsider would consider your decision extreme or excessive.”

It is considered appropriate to work with this basic definition given the policy intent of the Regulations was not to be overly legalistic or bureaucratic. Complementing this with a “Framework for Decisions” detailed below this will provide the practical guidance that should ensure that individuals have confidence in their decisions, understand their responsibilities and also to ensure a level of consistency

Framework for making decisions: An Aide Memoire

Whilst there is no definition we are assisted by both the Home Office and DOJ guidelines as it does provide commentary on how good decisions can be made. Supplementing this with knowledge of issues that arise in AMP appeals we can look at providing assistance and clarity around the decision-making process.

If individuals address their minds to the points below it will assist in making a good decision and serve to also determine whether a correct assessment of the matter has been made and act as an initial screening of the appeal.

The decision-making process

Ultimately the individual wants to be in a position to confirm that they have exercised reasonable judgement and given appropriate consideration to the evidence. It is suggested that they could do this by asking the following questions:

How have they made this decision?

There are two considerations-

- Has their decision been within reasonable behaviour, the benchmark for this is described above but *also* have they applied the correct standard.
- In deciding matters the standard that applies is the proof required in civil cases, "*the balance of probabilities*"

The Home Office/DoJ Guidelines advise the following:

"Unsatisfactory performance or attendance will be proved if the person conducting the meeting is satisfied by the evidence that it is more likely than not that the performance or attendance of the police officer is unsatisfactory."

What Questions have been considered:

The Home Office/DoJ Guidelines suggest the following should be considered when deciding whether to take action must treat each case on its merits and consider all of the pertinent facts available to them.

- a. the nature of the illness, injury or condition;
- b. the likelihood of the illness, injury or condition (or some other related illness, injury or condition) recurring;
- c. the pattern and length of absence(s) and the period of good health between them;
- d. the need for the work to be done i.e. what impact on the force's performance and workload is the absence having;
- e. the extent to which an individual has co-operated with supportive management action;
- f. whether the individual was made aware, in the earlier supportive action, that unless an improvement was made, action under the Performance Regulations might be used;

- g. whether the selected medical practitioner (SMP) has been asked by the local policing body to consider the issue of permanent disablement and/or the local policing body is considering medical retirement;
- h. the impact of Disability legislation

What material have they based their decision on?

Have they considered all the relevant material? It is good practice to record the material that you are basing your decision on.

Has the decision be recorded?

Transparency will give confidence in the procedure. Individuals should show that they have had regard to all the circumstances of the particular matter. You do not want it to appear that managers have mechanically applied the procedure without having regard to individual circumstances. To illustrate we could draw on experience of AMP appeals wherein it was argued that no cognisance was had that the injury was as a result of an IOD and did not have regard to the officer being back at work. On reflection it would have assisted if both these facts were noted in the determination.

Occupational Sick Pay

Police Officers (Regulars)

Officer's sick pay is governed by Regulation 27 of Police Service of Northern Ireland Regulations 2005. This provides for: -

- Full pay for the first 183 days cumulative absence, then
- Half pay for a further 182 days cumulative absence

The period of entitlement for sick pay is based on the cumulative sickness absence for the period in the calendar year prior to the first day of the current period of sick absence.

Extensions to sick pay

The Regulations give the Chief Constable (delegated to the Head of HR) a discretionary authority to extend pay, which may be exercised considering each case on its merits. Although each case will be considered individually, the following circumstances are likely to be given particular consideration (see Service Procedure 8 / 2009 for more detail):

- The officer's incapacity is directly attributable to an injury that was sustained in the execution of their duty
- OHW opinion is that the absence is related to a disability (as defined by the Disability Discrimination Act 1995) and the Head of HR considers that it would be a reasonable adjustment to extend sick pay, to allow further reasonable adjustments to be made to enable the officer to return to work
- The officer has been recommended by OHW for Ill Health Retirement, and is awaiting a decision by the Northern Ireland Policing Board

Each case is assessed entirely on its merits and is personally reviewed by the Head of Attendance and Wellbeing before a decision is made.

Police Staff

EXTENSION OF OCCUPATIONAL SICK ABSENCE PAY BEYOND THE PRESCRIBED MAXIMA

In line with provisions contained in the NICS Staff Handbook, an extension of Occupational Sick Pay may be allowed to a staff member who has exhausted entitlement to full pay and half pay due to a long illness or injury and then falls sick again after return to duty.

Up to 40 days' paid sick absence at full pay will be allowed for:

- i. continuance of the original illness or injury;
- ii. continuing treatment or debilitating side effects of the original illness or injury; and/or
- iii. minor ailments unrelated to the original illness or injury

Absences for both unrelated ailments and treatment of the original illness will contribute towards reaching the allocation of 40 days.

In addition to the 40 days, up to a further 20 days' paid sick absence may be allowed for the continuance of the original illness or injury, where it is necessary to be away from work to receive treatment or to recover from its side effects.

As the concession is designed to deter people from attending work when they are not fit to do so, it follows that there is no case for a retrospective conversion of unpaid sick absence into sick absence on full pay.

ABSENCE MANAGEMENT PANELS (AMP)

The First Stage Absence Management Panel will consider all cases that have breached the pre-determined trigger.

Note: As well as discounting pregnancy related absences for the purposes of Bradford Triggers, there may be occasions when a case can be made for other absences (e.g. absences directly and causally related to a confirmed injury received in the execution of duty, or where absences related to a terminal illness). There is a responsibility on the part of management to highlight such circumstances to the Attendance Management team for consideration

The purpose of the First Stage AMP is to consider the impact of the absence(s) and to set the Organisational Standard for attendance, and to make a recommendation to the Reporting Officer as to whether the level of absence should be considered unsatisfactory.

Unsatisfactory levels of Absence can be defined as one, or a combination of the following.

- **Short Term** - *one day or more but less than 28 Days.*
- **Frequent Absence** - *repeated periods of short term absence. This can include unrelated reasons for absence or a reoccurrence of a related medical condition*
- **Long Term Absence** - *one or more absence in excess of 28 calendar days attributable to a specific condition(s).*

How to Submit an Application to a First Stage AMP

Line manager advises individual in writing of breach of trigger point upon receipt of notification of the automated Monitoring Trigger.

Within 14 calendar days of being notified of the AMP, the individual should submit a completed Form 90/1 and any relevant additional information they wish the panel to consider to the HRSC via Post or/the HR Knowledge Centre.

Note: Relevant Information is not intended to include 'medical' documentation, and there is no requirement or expectation that information that would otherwise be considered 'medical in confidence' should be requested from GPs or OHW for the purposes of providing this to an AMP

HRSC staff will collate all returned documentation and forward to the relevant Area/Department for the case to be reviewed at the next available AMP

In the event that no Form 90/1 is submitted, the case will be presented at AMP for consideration on that basis.

First Stage AMP – Area/Department level

The First Stage AMP will consider all relevant information submitted on Form 90/1 and associated documents against the impact of the absence on the efficiency and effectiveness of providing a service within the individuals Area/Department. There is no opportunity for an officer or a staff member to attend a First Stage AMP therefore it is essential that Officers/Staff submit a Form 90/1 and any relevant information that they wish the panel to consider.

Access to all available records of line management action will be made available to the AMP.

The First Stage AMP should be comprised of 3 persons and be gender representative. It is suggested that the Absence Management Panel Chairperson is a senior manager not below the rank of Chief Inspector or the police staff equivalent. There should also be a staff association/trade union representative. Where it has not been possible to secure a staff association/trade union representative the appropriate association should be approached to nominate an alternative member, if none are available the AMP should proceed but a second senior manager should be

nominated. The membership of the AMP should remain as static as possible to ensure that a consistent approach is provided.

It is recommended for AMP's dealing with police officers, that where possible there are two serving officers on the panel – one for the management side and a staff association representative.

The AMP will consider the information which has been submitted. Where the individual or OH&W has highlighted that some or all of the absences are/may be DDA related the AMP must reference how this has been considered in reaching their outcome.

There are two possible outcomes that can be determined at the AMP: -

- Absence(s) to date is/are currently acceptable (for ongoing review) - NFA.
- Absence(s) is/are unsatisfactory and a Written Improvement Notice should be issued.

Attendance Management Panel – DDA Considerations

Where an absence (or absences) being considered at AMP, or being assessed by Management is as a result of a DDA condition, the Attendance Management Panel ***must consider and record*** that they have given due cognisance to the fact that the absence(s) is as a result of a DDA condition. It will be documented that, in considering if management action is appropriate, the AMP have fully considered the legal obligation to make a reasonable adjustment.

Consideration of reasonable adjustments on a case by case basis may include:

- Relaxation of the Bradford trigger point (OH&W/HR opinion should be factored)
- Impact of altering working patterns
- Deferral of management action at that time

In determining what is reasonable the panel should consider:

- History of absences
- Anticipated future attendance (through OHW)
- Impact on service delivery including costs to backfill, overtime etc
- Impact on other individual's e.g. overtime working, ability to avail of leave, increased workload etc.

This list is not intended to be exhaustive but to act as a guide

It is for the **AMP/Management to evidence** that they have fully considered the duty to make a reasonable adjustment in the management of DDA.

Important Considerations before and during the AMP process:

Consider the constitution of the AMP panel

In terms of a checklist it is recommended that if there are particular issues such as mental health or pregnancy then the panel should be gender balanced.

An additional point and one that may go some way to reducing the number of appeals is if officers were more informed about the process.

There were issues resonating in AMP appeals that I have considered below and if there were better information it might (1) ensure a consistent application and (2) obviate the need for officers to appeal:

- An IOD will not discount your periods of absence
- An Informal Note in the first instance does not affect promotion or transfer prospects
- Not querying the validity of an absence but emphasising that the impact of the absence is considered against service delivery

If in doubt, advice can be sought from the HR Service Centre via Ext 44444

Appendix E

Annual Leave accrued during periods of Absence

Every Police Officer /Staff member is entitled to a minimum number of paid holidays each year. This entitlement is contained within the working time regulations and is currently 28 days (pro rata for part time staff). The minimum entitlement includes statutory (or public) holidays and annual leave. Most officers and staff will have a contractual entitlement to more than the statutory minimum number of days. Those who are unable to avail of the statutory minimum numbers of days leave due to sickness absence may carry forward up to 28 days to be taken within 18 months of the end of the year in which it was accrued.

If an officer or staff member has been absent on sick leave extending over two leave years it should be noted that only one period of up to 28 days may be carried forward and utilised within 18 months of the end of the year in which it was accrued

Appendix F**The Bradford Factor**

To monitor both Short and Long Term absence levels, PSNI currently uses a number of monitoring triggers. Short Term, frequent absences are monitored using Bradford Factor, as a tool to highlight individuals whose absence levels may require closer scrutiny. **Long term absences are monitored every 28 days.**

A 'Score' or number of days is set as a trigger point to initiate the Absence Review. The monitoring triggers are set on a graduated scale to reflect the range of management action required over a rolling 12 month period. When an individual's Absence Level reaches a pre-determined monitoring trigger the Absence Review process is initiated.

The Bradford factor formula is: - $S \times S \times D$.

Where **S** = occurrences of absence and **D** = total calendar days absent.

For Example

3 occurrences of absence totalling 7 calendar days would be calculated as $3 \times 3 \times 7 = 63$

Current Monitoring Triggers are:

Constable to Chief Superintendent and all Police Staff

Absence Review Stages	Monitoring Trigger
Line Manager Case Review	Every 28 Days
Local Absence Management Case Review	All Absences in Excess of 28 days
Central Absence Management Case Review	All Absence in Excess of 28 days escalated by Local Absence Management Case Review Team
First Stage (Formal Process)	Bradford Score 90
Second Stage (Formal Process)	Bradford Score 60
Third Stage (Formal Process)	Bradford Score 20

Probationer Constables

Absence Review Stages	Monitoring Trigger
Line Manager Case Review	Every 28 Days
Local Absence Management Case Review	All Absences in Excess of 28 days
Central Absence Management Case Review	All Absence in Excess of 28 days escalated by Local Absence Management Case Review Team
First Stage (Formal Process)	Bradford Score 55
Second Stage (Formal Process)	Bradford Score 20
Third Stage (Formal Process)	Bradford Score Any

(Note – the Attendance Management process in respect of Student Officers is presently under review)

Note: The Bradford Trigger should not be viewed by an individual or their Line Manager as a potential deterrent to returning to work, in situations where it is anticipated that an individual may require further periods of sickness absence within the monitoring period. This is likely to be particularly applicable following a period of long term absence.

Example, for purposes of explanation:

An individual has been off on a long period of sickness absence following treatment for a condition / illness. However, they now feel well enough to attempt a return to work on a phased capacity. However, there is a possibility that they may require further treatment for their condition which could mean further periods of sickness within the next couple of months. Consequently, they are fearful that a further sickness absence would breach a further Bradford Trigger.

The Line Manager should reassure the individual that attempting to return to work in such circumstances would not lead to punitive action. Indeed, should the individual have to avail of further period(s) of sickness, which results in a breach of the Bradford Trigger, the existing Attendance Management procedure allows for Line Managers to put forward the rationale for not issuing an Improvement Notice in such circumstances. Any queries of this nature should be raised with the Attendance, Wellbeing and Diversity team if there particular concerns.

Appendix G

Further Considerations (pregnancy and post pregnancy sickness absences)

Sick Absence during Pregnancy

Periods of sickness during Pregnancy, which are directly related to Pregnancy, are not counted towards the Triggers points for managing attendance.

Pregnancy related illness

There have been a number of AMP appeals that relate to pregnancy related illness around post-natal depression being discounted in respect of absence. The position is that we should not be automatically discounting periods of sickness in respect of post pregnancy conditions

North Western Health Board-v-Margaret McKenna, This case ruled that a sick leave scheme which treated post pregnancy related illness in the same way as normal non pregnancy related was not discriminatory. It was determined that anything that followed after the protected period had finished the employer was entitled to treat a pregnancy related illness from that point in the same way as a man's illness.

"The protected period"

Women are protected in equality legislation from being treated unfavourably because of their pregnancy or illnesses related to their pregnancy but this is significantly in the "protected period". The 'protected period' starts from the beginning of pregnancy and stops at the end of maternity leave, or when the individual has returned to work.

At AMP, panels aren't dealing with 'pregnancy' or indeed 'maternity leave' absences. Rather, they are dealing with individuals who have ended their maternity and gone onto sick absence, therefore the protected period has ended.

The legislation is there to protect pregnant woman so that they should suffer no detriment however this is not indefinite period.

Managing pregnancy related absence:

The McKenna case confirmed that any period of absence for an illness connected with childbirth or pregnancy after maternity leave can be compared with any period of sickness of a man when deciding on appropriate action.

The following illustration is provided by way of example:

Post-natal depression

Depression is not exclusive to women therefore it should be treated in the same way as a man suffering depression. It therefore follows that post-natal depression is not to be discounted in terms of absence.

Applying the McKenna case to the above scenario the litmus test is: "*Pregnancy related illness after maternity leave may lead to reductions of pay if other illnesses are treated the same way.*"

The above is intended to be indicative and should not be interpreted as an exhaustive list. Rather, if a particular set of circumstances arise it can be referred to HR and Legal Services Branch.