

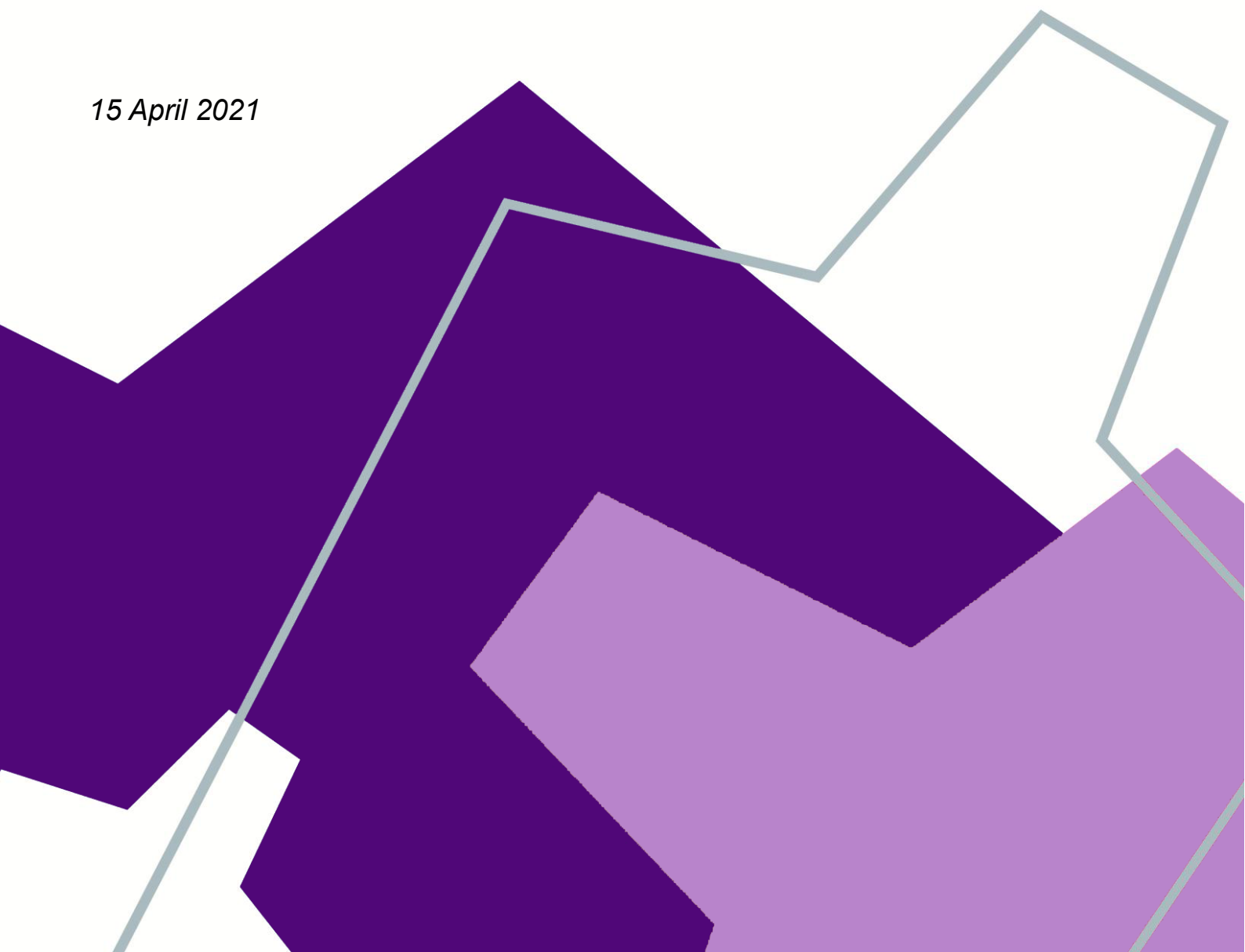


The Scottish Parliament
Pàrlamaid na h-Alba

Improving Attendance Policy and Procedures

Poileasaidh Leasachadh Ìrean
Frithealaidh

15 April 2021





Introduction

As an employer, the Scottish Parliamentary Corporate Body (SPCB) is committed to providing a working environment and fostering a culture which actively encourages positive staff health and wellbeing and promotes work-life balance to facilitate optimum levels of staff attendance. The SPCB values the effective and efficient provision of high-quality professional advisory and support services and recognises that it is essential that staff maintain certain standards of attendance.

You are required to undertake your role in a professional and responsible manner and in accordance with the attendance expectations established by the SPCB as your employer. Your line manager will inform you of the standards of attendance required of you and these will be monitored in accordance with the Attendance Management Policy. If you are not sure about the standards of attendance expected of you, you should consult your line manager.

This Policy details the procedures which will be followed if you do not meet the standards of attendance expected by the SPCB, with a view to assisting you, if appropriate, to improve your attendance to a level that is acceptable to us. These procedures do not form part of your contract of employment.

The procedures associated with this Policy - including a list of potential sanctions - are set out in the 'Improving Attendance Procedures' on page 5; and the list of posts with authority to dismiss staff on grounds of unacceptable attendance can also be found in the procedures. Further guidance on the application of these procedures is set out in the Guidance for Managers and Staff.

Purpose

The procedures are intended as an aid to good management and are designed to ensure that if your standard of attendance is not acceptable, you are given the appropriate guidance and support to help you to improve your attendance through positive management intervention and support; or to manage, appropriately, your exit from the organisation if you are unable, through long-term illness, to meet the required standards. You should not, therefore, see them as being primarily punitive in nature, although particular circumstances may result in sanctions being imposed, up to and including dismissal. The procedures set out a clear framework to enable managers to resolve issues relating to unacceptable attendance in a fair and consistent manner and without undue delay.

These procedures link to the Attendance Management Policy which is designed to ensure that managers take a proactive approach to attendance management and to identify and address any concerns at an early stage. If your attendance falls below an acceptable standard, your manager will normally address that informally in the first instance through the Attendance Management Policy. If you fail to make the necessary improvements, your attendance will be managed through the Improving Attendance procedures. If you are unable, through long-term absence to meet the required standards of attendance, then your absence will be managed under the Attendance Management Policy. Ultimately, however, a Hearing may be convened to consider whether you should be retired on grounds of ill-health (if you have refused to accept ill-health retirement) or dismissed on grounds of capability.



Application

The Policy for Improving Attendance reflects legislative requirements and takes account of relevant Codes of Practice, case law and recognised good practice. It applies to all staff employed by the SPCB, with the exception of staff on probation. If you are on probation, the procedures that apply if your attendance is below an acceptable standard are set out in your letter of appointment.

Definition

Your written terms and conditions of employment set out your normal working pattern and the hours you are required to work to meet your contractual obligations to the SPCB as your employer. The SPCB recognises that circumstances may arise which prevent staff from attending work due to ill-health and will approach such matters in a sympathetic and fair manner and in accordance with statutory responsibilities.

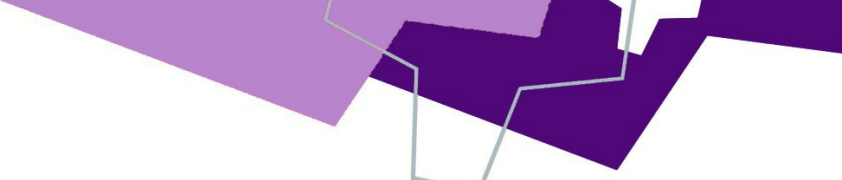
Unacceptable attendance may result from long-term or persistent short-term sickness absence. As an aid to consistency, the Attendance Management Policy sets out flags which, if breached, will normally result in formal action being taken under the Improving Attendance Procedures. These flags may be adjusted to accommodate particular individual circumstances, for example, in relation to disability-related absences, pregnancy-related illness (which should be recorded but not counted towards the flags) or a history of unacceptable attendance.

If you are absent from work without authorisation or if there is evidence to suggest that your absence is not the result of genuine ill-health, this will be treated as misconduct and will be dealt with through the Disciplinary Procedures.

Principles

The main principles governing the Policy for Improving Attendance are that:

- the SPCB will ensure that a range of appropriate measures are in place to minimise the potential for unacceptable attendance. They include effective processes in relation to induction, probation and attendance management as well as proactive measures to support positive staff health and wellbeing;
- you will be made aware of the standards of attendance expected of you through the operation of the Attendance Management Policy and discussions with your line manager;
- you will be advised at the earliest opportunity, normally within the context of the attendance management arrangements, if you breach the flags set out in the Attendance Management Policy and/or your attendance is unacceptable and you will be given the opportunity to discuss that with your manager before any decision is made to use the formal unacceptable attendance procedures;
- where appropriate, attempts will be made to resolve matters informally in the first instance and appropriate support will be provided to help you to improve your attendance within the context of the attendance management arrangements;

- 
- attendance which breaches the flags and/or which is below an acceptable level will be managed in a way that is sensitive to both your needs and the needs of the business. Information relating to the management of individual attendance cases will be strictly restricted and accessible only to those who need to know it in order to carry out the responsibilities of their role;
 - in accordance with the Equality Framework, the SPCB will not discriminate in the application of these procedures in respect of age; disability; gender; race; nationality; ethnic or national origin; religion or belief; sexual orientation; trade union membership or non-trade union membership. Reasonable adjustments will be put in place, as appropriate, to support staff with a disability;
 - at all formal stages of the procedures set out on page 6 of this Policy, you will have the right to be assisted by a trade union representative or work colleague. You may not be accompanied by a legal adviser at any stage. “Assisted” means that your companion may put forward your case on your behalf; sum up your case on your behalf; and respond on your behalf to any view expressed at any formal meeting or Hearing, including the Appeal Hearing. However, the person hearing the case or the appeal has the right to put questions directly to you and to receive responses directly from you;
 - the procedures set out on page 5 will be progressed without any unnecessary delay;
 - you will have the right to appeal against any sanction imposed, in accordance with paragraphs 14 - 19 of the procedures; and
 - the SPCB reserves the right to invoke the procedures at any stage and to miss out a step or steps in the procedures if it considers it appropriate in the circumstances. If that occurs, reasons will be given.

Improving Attendance Procedures

1. In applying these procedures, managers should always consider the possibility that the member of staff may have a disability. The SPCB must give due regard to the requirements of the Equalities Act 2010 (as amended) and provide “reasonable adjustments” that would enable the member of staff to perform adequately in their role. If a manager knows or thinks that a member of staff has a disability, he or she should contact the People and Culture Office on 86500. Specific, tailored, advice will be given on how to ensure that the individual’s needs are taken into account.

Informal Stage

2. Prior to taking formal action, and where appropriate, the manager will normally deal with any attendance issues on an informal basis by taking the opportunity, normally through a return to work discussion, to:

- advise the member of staff of the attendance issue;
- counsel and/or coach the member of staff on what must be done to improve; and
- give the member of staff the opportunity and time to make such improvement(s).

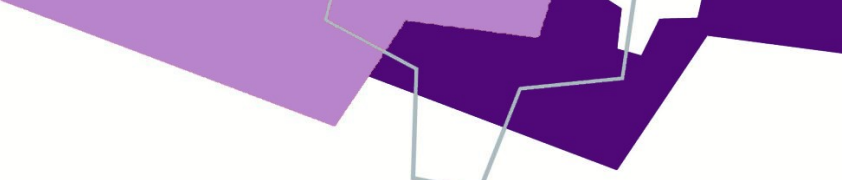
3. This stage falls under the Attendance Management Policy where managers should ensure that a member of staff has been given the proper support, opportunity and time to improve before they decide to invoke the formal procedures.

4. It is at this stage that managers should ensure that medical information, any known disability and any other mitigating factors are taken into consideration before they decide to invoke the formal procedures. Where appropriate, consideration will be given to and support provided for reasonable adjustments that may be implemented on a temporary or permanent basis, depending on the circumstances. Further guidance on the process for dealing with issues through the informal stage is set out in the Guidance for Managers and Staff.

5. Managers may seek advice about the Improving Attendance Procedures from their People and Culture representative at any time. However, managers must consult the People and Culture representative for advice and guidance prior to taking any formal action under these procedures. Managers will consult the People and Culture representative if attendance levels:

- reach a flag set out in the Attendance Management Policy;
- reach a flag which has been set according to particular individual circumstances; and
- if attendance has not improved following attempts to resolve the matter informally.

The manager should also notify the Head of Office/Group.



6. If it is decided that the formal stages (as opposed to the informal stages embedded in the Attendance Management Policy) of these procedures should be invoked, then as part of Stage 1 – Investigation, the People and Culture representative will seek professional advice from our Occupational Health provider. The Occupational Health adviser may wish to obtain medical information from the member of staff's General Practitioner in accordance with the Access to Medical Reports Act 1988.

7. The informal stage will not normally apply to long-term absence caused by ill-health since this type of absence will be managed through regular contact with the member of staff throughout the absence.

Formal Stages

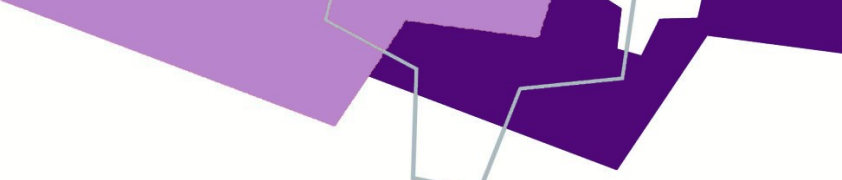
Stage 1 - Investigation

8. Where a manager considers that formal action may be appropriate, he or she will provide the member of staff with a note of his or her absence record and invite him or her, in writing, to attend a formal meeting. This meeting is to allow the Investigating Officer, who is normally the manager, to assess whether there is a need for the matter to progress to a formal Hearing. The Investigating Officer will be accompanied by a representative from the People and Culture Office. If the member of staff refuses to attend the meeting or is unable to attend after the manager has made two attempts to convene it, the manager may proceed in the member of staff's absence. The representative from the People and Culture Office will advise the manager on the content of the letter inviting the member of staff to attend the formal meeting. The letter will set out clearly the reasons why attendance is unacceptable, with reference to the particular flag reached; the history of unacceptable attendance (if appropriate); and the impact of the member of staff's non-attendance on the business. The member of staff is entitled to be assisted at this meeting by a trade union representative or a work colleague.

9. Following that meeting, the manager will produce a full report for the Head of Office/Group. If the Head of Office/Group concludes that a Hearing should be arranged, the member of staff will be invited to attend.

Stage 2 – The Formal Hearing

10. The Hearing Manager will give the member of staff a minimum of seven working days' notice of the Hearing. At the Hearing, the member of staff may make oral and/or written representations and he or she will be entitled to be assisted by a trade union representative or work colleague. If the date and time of the Hearing are unsuitable for the member of staff and/or the companion, he or she can suggest an alternative date and time within seven working days of the date originally proposed. The member of staff and his or her companion must take all reasonable steps to attend the Hearing.



11. The Hearing will normally be conducted by the Head of Office/Group of the relevant business area (the “Hearing Manager”). The Clerk/Chief Executive has delegated authority to all Heads of Group and to a number of Heads of Office who do not report to a Head of Group to impose sanctions up to and including dismissal. Heads of Office who report to a Head of Group have not been delegated such authority by the Clerk/Chief Executive. Such Heads of Office may however, still undertake the role of Hearing Manager and have the authority to impose sanctions up to but not including dismissal. If the Hearing Manager does not have the authority to dismiss and considers that the correct sanction is dismissal, he or she must make a recommendation to dismiss to their Head of Group who will ultimately make the decision and, if appropriate, sign any letter of dismissal. If the Head of Office/Group has been previously involved, the Assistant Clerk/Chief Executive with line responsibility will take the decision. If that Assistant Clerk/Chief Executive is unavailable or has been previously involved, the case will be referred to another Assistant Clerk/Chief Executive nominated by the People and Culture Office. A representative from the People and Culture Office will also be present.

12. If the member of staff subject to the Improving Attendance Procedures is Grade 8, the Clerk/Chief Executive will manage the case at Stage 1, a nominated member of the SPCB will manage the case at Stage 2 and an appeal at any stage will be heard by the Presiding Officer.

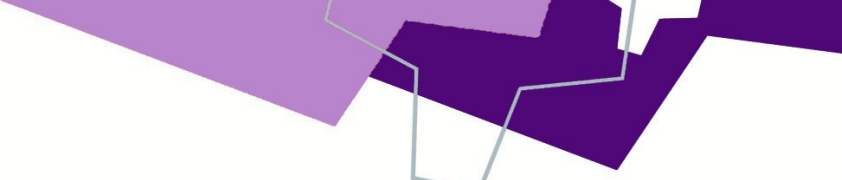
13. Having heard the representations, the Hearing Manager will adjourn to consider the evidence and to determine whether a sanction is appropriate. The sanctions which the Hearing Manager has the authority to impose are first written warning, final written warning or termination of employment. When a decision is made, the Hearing Manager (or the Head of Group where appropriate) will reconvene the Hearing, on the same day if practicable, and will inform the member of staff of the decision, the reasons for the decision, the sanction where appropriate, and the procedures for lodging an appeal, including details of the person to whom any appeal should be addressed. Those details will then be confirmed in writing, normally within seven working days of the date on which the member of staff was informed of the decision.

Stage 3 - Appeal

14. The member of staff can appeal against any sanction under Stage 2 of these procedures. If the member of staff wishes to appeal, he or she must set out the reasons for the appeal in writing and submit it to the Appeal Manager within seven working days of the date of written confirmation of the decision.

15. An Appeal Hearing will be arranged at which the member of staff may be assisted by a trade union representative or a work colleague. If the date and/or time of the Appeal Hearing are unsuitable for the member of staff and/or the companion, he or she can suggest an alternative date and time which must be within seven working days of the day originally proposed. The member of staff and his or her companion must take all reasonable steps to attend the Appeal Hearing.

16. Appeals will normally be heard by the Assistant Clerk/Chief Executive with line responsibility for the business area. A representative from the People and Culture Office will be in attendance to assist the Appeal Manager and provide procedural advice. If the Assistant Clerk/Chief Executive has been formally involved in any previous stage of the procedure, an alternative Appeal Manager will normally be nominated by the People and Culture Office if that is practicable. The member of staff will be told who the nominated alternative is when he or she is informed of the outcome of any formal meetings or Hearings held under this procedure.



17. Having heard the representations, the Appeal Manager will adjourn to consider the outcome of the appeal. The Appeal Manager may decide to:

- uphold the appeal; or
- dismiss the appeal; and/or
- uphold the sanction (if applicable); or
- impose a lesser sanction (if applicable).

18. When a decision is made, the Appeal Hearing will be reconvened on the same day if practicable, and the member of staff will be informed of the decision and the reasons for it. The member of staff will receive confirmation of those details in writing within seven working days of the Appeal Hearing. The decision of the Appeal Manager is final.

19. If the member of staff fails, refuses or is unable (after more than two attempts to arrange the meeting/Hearing) to attend any formal meetings or Hearings, the meetings/Hearings will proceed in his or her absence and he or she may be subject to disciplinary action.

Order of Events

20. Ordinarily the Improving Attendance Procedures will follow the sequence outlined. However, the SPCB reserves the right to invoke these procedures at any stage in the process where the circumstances are deemed sufficiently serious to merit it and to miss out an individual sanction or sanctions (but not any of the stages) in the procedure if it considers it appropriate in the circumstances.

21. If at any stage during the formal procedures it has been identified that the member of staff has a disability for which a reasonable adjustment has not already been made, the procedures will be temporarily suspended to establish whether absence is related to disability and whether any reasonable adjustments need to be put in place.

Records

22. A record of any action taken and/or any sanction applied in relation to the Improving Attendance Procedures will be kept on the member of staff's personal file within the People and Culture Office in accordance with the Data Protection Policy and the Records Management Policy and will be removed where appropriate after the specified time limit has elapsed.

Monitoring and Review

23. The SPCB will review and monitor these procedures on an ongoing basis, taking into account legislative requirements, recommendations and identified good practice. The People and Culture Office representative(s) involved in the case will conduct debriefing sessions with managers on the conclusion of each case to inform the continuous review and enhancement of these procedures.

Improving Attendance Policy and Procedures

For further information contact:

HumanResources@parliament.scot

0131 348 6500

