**Absence and Wellbeing**

**People & Talent**

Cumbria Fire & Rescue Service

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Introduction

This document sets out the absence and wellbeing procedure to be followed by managers when dealing with an employee’s attendance at work. The policy takes a person-centred approach to absence management, prioritising wellbeing, and applies to all Cumbria Fire & Rescue Service (CRFS) employees whether they are operational or corporate. It is recognised that sickness absences can often be complex and unique. CFRS encourages its managers to consider each absence on a case-by-case basis and use creativity and flexibility when managing absences. This procedure aims to ensure that all employees are treated fairly and consistently.

CFRS values the contributions of all employees and aims to maximise employee attendance. CFRS is committed to promoting healthy living for all staff and providing facilities to encourage this. Examples of this include:

* Providing a professional, confidential Occupational Health service
* Risk assessments for known health risks
* Promotion of good management/working practices
* Ergonomic assessments to ensure the working environment and equipment used is suitable
* The provision of a confidential counselling service

The aim of the absence and wellbeing procedure is to minimise absence levels across the fire service, whilst also providing reasonable support to those absent, with the aim of assisting their return to work at the earliest opportunity.

Scope

This procedure applies to all permanent and fixed term CFRS operational and corporate employees, previously referred to as Grey and Green Book staff. Terms and conditions of operational and corporate staff will differ depending on their employment contract.

Principles

CFRS has a duty to manage its services in the most efficient manner. It is committed to the aim of maintaining the health, safety and wellbeing for its employees as far as practicable, while recognising that there may be circumstances where it is necessary to manage absence to secure full attendance at work.

This procedure is based on the following principles and will:

* Maximise employee attendance and engagement at work.
* Promote employee health, safety and welfare; encourage and support employees to manage their own health, safety and wellbeing and to take responsibility for their attendance at work.
* Secure effective and efficient utilisation of all staffing resources
* Explore reasons for employee absence in order to prevent or minimise the possibility of the absence reoccurring
* Address any underlying employee welfare problems
* Ensure appropriate occupational health and medical advice is obtained
* Sustain harmonious employee relations
* Comply with good employment practice and adhere to the law
* Never ignore sickness absence
* Ensure that short term absences or patterns of absences do not go unnoticed
* Ensure prompt action is taken if the absence is work-related
* Keep accurate and up to date employee attendance records
* Develop/maintain an atmosphere that encourages people to come to work
* Deal with each person as an individual – getting to know them will assist in exercising managerial judgement
* Handle attendance problems promptly and sensitively, in a supportive manner
* Treat all staff fairly and consistently
* Reduce the impact on other employees and teams in terms of increased workloads
* Reduce agency costs and the need to use externally provided workers

Process

It is essential that managers deal with absence promptly, fairly and consistently to demonstrate to all employees that it regards absence as a serious matter. If there is no acceptable reason for the absence, the matter should be treated as a conduct issue and dealt with under the disciplinary procedure or Absent Without Leave (AWOL) procedure. It is appropriate to use the formal process where an informal approach has failed to achieve the desired improvements in attendance, or where informal action is deemed not to be appropriate in the circumstances of the case.

It should be noted that sickness absence issues are often complex and unique. Whilst it is important that issues are dealt with in a fair way, the specific interventions used, and the timing of those interventions may differ from case to case.

Once an absence expectation has been breached – usually 3 occasions or 8 calendar days of absence within the last 12 months or a single absence lasting over 28 calendar days – an informal wellbeing support meeting should be held to discuss the reasons for absence and any support to be provided by the manager and any actions or targets for the employee to follow. Attendance expectations will be reset upon a return to work. Following the informal stage, both short and long-term absence must be managed via the formal 3-stage process. The attendance expectations set in response to each individual absence shall appropriately reflect the medical circumstances of the particular absence, and an attendance expectation [action plan (A2)](https://view.officeapps.live.com/op/view.aspx?src=https%3A%2F%2Fwww.cumbriafire.gov.uk%2Fsites%2Fdefault%2Ffiles%2F2025-01%2FA2%2520Action%2520Plan.docx&wdOrigin=BROWSELINK) put in place where necessary. It may be appropriate to hold regular review meetings in between the formal stages and managers should maintain regular, appropriate contact with the employee, captured on a [contact sheet](https://view.officeapps.live.com/op/view.aspx?src=https%3A%2F%2Fwww.cumbriafire.gov.uk%2Fsites%2Fdefault%2Ffiles%2F2025-01%2FA1%2520Contact%2520Record%2520Log.docx&wdOrigin=BROWSELINK).

Where an employee reaches an acceptable level of attendance following one of the formal stages but the level of absence becomes unacceptable again, a monitoring period will begin allowing the service to re-enter the formal absence process if the employee’s absences reach an unacceptable level again.

Absence and Wellbeing Guidance

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# Introduction

It is essential that CFRS deal with all absences promptly, fairly and consistently to demonstrate to all employees that it regards absence as a serious matter. It is important to note that there may be different aspects to explore depending on whether the employee is an operational or corporate staff member. The below guidance shall be referred to, it is also recommended where possible to seek advice from the HR team.

# Absence Reporting, Recording and Monitoring

## Notification

Employees must notify the service via phone call as soon as possible and normally within 1 hour of their expected start time. Employees who work on a rota providing a direct service to the public are asked to ring before the start of their shift wherever possible to give time to arrange cover.

Where possible, employees can notify their managers/stations during their rest days they will not be fit for duty. The absence would then begin from the day their duties were due to begin. This allows managers to source detachments or day duty cover prior to the commencement of the shift.

**Corporate** employees are required to contact their immediate line manager to report their absence. **Operational** employees are required to contact a station-based manager or their line manager to inform them that they will be absent due to sickness. If the absence is of a sensitive nature, they may report their sickness to a station-based manager and contact their immediate line manager to discuss their absence in further detail.

All employees have a responsibility to contact their manager. If for any reason the line is busy, the employee must call back and make reasonable attempts to contact their line manager, as long as this does not prevent them from seeking medical treatment/attention. There may also be exceptional circumstances where it is appropriate for a next of kin to make contact e.g. the employee is in hospital. To contact a colleague or send a text message is not acceptable.

For employees with multiple contracts of employment, they must endeavour to contact each line manager in respect of each of their contracts to report their sickness.

In exceptional circumstances for **operational** employees, where all efforts to contact a supervisory manager have been explored or where the circumstances are time critical, individuals may contact the Duty Manager Emergency Contact Number (0845 5211 943) who will make the necessary arrangements, this should be a last resort and justification will be sought.

Managers should ask the employee if they can do anything to be of assistance or if there is any support that can be organised. Employees are expected to provide relevant information relating to their sickness, including the following points:

* Nature of the absence
* When the sickness began
* Expected return to work date
* Any relevant information about current workload or priorities, including any other contracts of employment they have with CFRS (e.g. an on-call or functional position)
* Telephone number for calling back
* If the absence is related to a disability, in order to assess if additional support could assist

If the employee is still unfit for work after 3 days, they must contact their line manager again and provide an update. This information should be recorded on the [contact sheet](https://view.officeapps.live.com/op/view.aspx?src=https%3A%2F%2Fwww.cumbriafire.gov.uk%2Fsites%2Fdefault%2Ffiles%2F2025-01%2FA1%2520Contact%2520Record%2520Log.docx&wdOrigin=BROWSELINK), including any support provided/arranged by the line manager.

Employees may have a condition or impairment that they wish to keep confidential and they are not obliged to disclose this, however, the manager should advise the employee that sharing this information will enable the line manager to source specific Occupational Health advice and appropriate support.

Any absence due to a workplace injury or illness please refer to [section 5](#_Absence_due_to).

## Certification

Managers and employees need to ensure that either a [self-certification](https://view.officeapps.live.com/op/view.aspx?src=https%3A%2F%2Fwww.cumbriafire.gov.uk%2Fsites%2Fdefault%2Ffiles%2F2024-12%2FSelf%2520Certification%2520Form%2520-%2520Reviewed%25202024.docx&wdOrigin=BROWSELINK) form for an absence of seven calendar days or less **or** a fit note for absences of eight calendar days or more is completed and covers each day of a period of absence. Any gaps will need to be accounted for otherwise pay may cease until the appropriate certification is produced.

[Self-certification](https://view.officeapps.live.com/op/view.aspx?src=https%3A%2F%2Fwww.cumbriafire.gov.uk%2Fsites%2Fdefault%2Ffiles%2F2024-12%2FSelf%2520Certification%2520Form%2520-%2520Reviewed%25202024.docx&wdOrigin=BROWSELINK) forms can be completed prior to or during the employee’s Return to Work interview. The manager should then upload and attach this document to the HR system.

A medical certificate or fit note should be sent by the employee to the manager immediately following issue by the medical practitioner. The manager should then upload and attach this document to the HR system.

Employees who fail to supply the relevant certificate(s) will lose their entitlement to both statutory sick pay and occupational sick pay for that absence, subject to the scheme rules. Where requested, managers will endeavour to provide support for the prompt provision of the certificates. An employee’s continued failure to supply certificates without good reason may result in disciplinary action.

When completing a fit note the medical professional has the choice between two options:

1. Not fit for work
2. May be fit for work

If the medical professional “may be fit for work”, one of the following four options has to be selected:

1. Phased return to work
2. Amended duties (modified duties)
3. Altered hours
4. Workplace adaptions

The medical professional then has the option to make additional comments.

If a referral has been made to Occupational Health for a ‘fitness for work’ review, the suggested requirements of the fit note may be discussed with the employee, where appropriate.

It is the line manager’s responsibility to decide whether the working environment is able to facilitate the requirements of the fit note and manage the return to work accordingly. If the working environment is not suitable to facilitate the requirements, the manager must seek further advice from Occupational Health and HR before attempting to support a return to work.

There is no option on a fit note for a medical professional to advise that an employee is fit for work and it is not necessary for an employee to be signed back to work by a medical professional once the expiry date has been reached If the employee wishes to return to work before the expiry of the fit note they may choose to do so, or the Service may request that they return to their GP practice, who could provide another certificate indicating that the employee “may be fit for work” with certain adjustments to the employee’s duties such as working hours or workplace.  However, where the employee feels fully fit to return and the Service is confident that the appropriate levels of fitness and recovery have been achieved, the individual may return to work earlier than the fit note expiry date without the need for advice from a medical professional (this is reference to fit notes only and not occupational health advice which may be required to support a return to work).

An employee does not always need to be fully fit to go back to work. For example, agreements may be put in place to make some changes to help staff return to work; please see section [8.1 point iii](#_Return_to_Existing) for further guidance on returning to work with adjustments.  However, for operational roles where employees are required to be fully fit to undertake operational duties, it may be appropriate for them to return to modified duties, please see section [8.1 point iv](#_Modified_Duties_-) for further guidance on the modified duties categories and requirements.

If the health condition no longer affects their ability to do their normal duties, staff may be able to return to work even though they may not be fully fit. In these circumstances, or where an employee recovers from their illness or injury more quickly than expected, with the managers agreement and support (and relevant Occupational Health Service advice), they may go back to work or return to their normal duties before the expiry of their fit note. Managers will assess the risks and if it is thought that it is not safe for the employee to return or if this could be detrimental to their health and/or could worsen their condition, they will have to stay off work until the expiry of the fit note.

If managers are unsure whether or not it would be appropriate for an employee to return to work, they can seek confirmation from a medical practitioner that the employee is fit and well enough to attend work.

In all circumstances, where managers feel it is necessary, they will seek advice and guidance from Occupational Health by making or updating a management referral on the **Occupational Health Portal**. Managers may also contact the HR team by emailing HR@cumbriafire.gov.uk.

## Recording

Accurate and prompt recording of information (duration and reason for absence code) on the HR admin system is critical as the data forms the basis for managing and monitoring the sickness absence of employees at a local level. Line managers responsible for on-call employees should record any absence on the HR system and ensure that availability is updated on Gartan. When preparing for a period of annual leave, line managers are expected to deputise their line management responsibility on the HR system to an appropriate alternative manager to ensure records are maintained in their absence.

Information should be entered into the HR system on the day the employee notifies the employer of their absence and updated when a self-certification or a fit note is received. This is to enable managers to have up to date information to allow them to seek advice and/or implement a timely referral to Occupational Health, offer support and carry out reviews when employees breach attendance expectations. The details of the medical certificate should be entered onto the HR system and the certificate uploaded as an attachment. Managers who do not have the facility to scan and upload documents into the HR system should send hard copy certificates to the HR Team for them to filed on the person’s record, making sure they note the employee’s personal number on the certificate(s). Original fit notes have to be confidentially destroyed once uploaded into the HR system.

For guidance on how to do this please contact HR@cumbriafire.gov.uk

## Record Keeping

It is essential that managers keep records of all discussions and meetings with employees regarding their sickness absence. This is to ensure that absence is managed effectively and fairly and records of earlier decisions and actions are readily available to inform future decisions. When an employee is absent due to sickness the manager should complete an [A1 contact record log](https://view.officeapps.live.com/op/view.aspx?src=https%3A%2F%2Fwww.cumbriafire.gov.uk%2Fsites%2Fdefault%2Ffiles%2F2025-01%2FA1%2520Contact%2520Record%2520Log.docx&wdOrigin=BROWSELINK), and where required an [A2 action plan](https://view.officeapps.live.com/op/view.aspx?src=https%3A%2F%2Fwww.cumbriafire.gov.uk%2Fsites%2Fdefault%2Ffiles%2F2025-01%2FA2%2520Action%2520Plan.docx&wdOrigin=BROWSELINK) for each employee, to record all communication and meetings held, these documents may be shared with the employee if they request to see them.

Letters and other useful documentation should be uploaded to the HR Admin and Payroll portal for filing, and a copy sent to the HR team via email toHR@cumbriafire.gov.uk.

When the employee returns to work the manager must close the absence on the HR system and Gartan (where applicable) on the day they return to work. The line manager must also complete a return-to-work meeting with the employee and record this on the HR system. Managers should be aware that this is **not** a wellbeing support meeting and if needed this should be arranged as appropriate.

## Monitoring Sickness Absence

Line managers must take immediate action to monitor all periods of sickness absence for each individual within their team. Managers should regularly review the sickness absence record of all individuals within their team/s, to enable them to proactively manage sickness absence issues. Sickness absence details are to be recorded on the HR system which managers may access to review relevant information. Managers can only see data relating to employees/teams they line manage. This is to ensure data security and confidentiality of important and sensitive information.

# Wellbeing and Support

Managers should be maintaining regular contact with their employees who are absent due to illness, whether that is a physical illness or mental health related. It is advised that the manager completes a [Workplace Wellness Plan](https://view.officeapps.live.com/op/view.aspx?src=https%3A%2F%2Fwww.cumbriafire.gov.uk%2Fsites%2Fdefault%2Ffiles%2F2024-12%2FWorkplace%2520Wellness%2520Plan.docx&wdOrigin=BROWSELINK) (WWP) with the employee who is absent to get an understanding of the support they require to aid their recovery.

Everyone can complete a WWP; they don't need to have an existing or ongoing health issue to feel the benefits. It enables the manager to have practical steps in place to ensure they are able to support their staff when they need it.

It is better if managers know how they can support their employee’s before they have any health or wellness issues if possible. Checking in with employees regularly is one way to do that.

A WWP is confidential to each employee and should only be read and shared with the individual’s permission.

Other resources that are available to managers in supporting employees in the prevention of sickness, absence and disability are:

* Health & Safety
* Occupational Health referral (via managers)
* Face to face counselling service (via manager and Occupational Health service or self-referral
* HR Team
* National helplines and websites on the [CFRS website](https://www.cumbriafire.gov.uk/cfrs-wellbeing-hub)
* [Firefighters Charity](https://www.firefighterscharity.org.uk/)
* Trade Union Representatives
* [Employee Passport](https://view.officeapps.live.com/op/view.aspx?src=https%3A%2F%2Fwww.cumbriafire.gov.uk%2Fsites%2Fdefault%2Ffiles%2F2024-12%2FEmployee%2520Passport.docx&wdOrigin=BROWSELINK)
* Workplace adjustments

All of this information is available on the CFRS website to all employees, please contact HR for additional support.

## Wellbeing Concerns

If an employee raises a concern or issue in regards to their health or wellbeing, or their manager suspects there may be a problem, it is good to talk to them about it straight away. This may allow the matter to be addressed before it becomes worse or results in absence.

Their manager may be able to make short term adjustments to workload, working hours or specific tasks (where practicable) that may be causing the issue. In some cases, it is encouraged for managers to get creative in making adjustments which may help the employee to sustain attendance and performance. These adjustments will also need to balance the needs of the employee with the requirements of service delivery. Please contact HR for further support.

## Mental Health

Everyone has mental health, just as everyone has a level of physical health, although mental health and physical health are often viewed and treated differently. If someone is experiencing depression or anxiety, as this is not visible, it is important to ensure that the person feels like they are being taken seriously.

The earlier a manager becomes aware that a team member or colleague is experiencing mental ill health, the sooner steps can be taken to prevent it becoming more serious and provide support to help them.

A manager should never make assumptions, but signs of mental ill health can include:

* Changes in usual behaviour, mood or how they interact with colleagues
* Changes in the standard of their work or focus on tasks
* Appearing tired, anxious or withdrawn and reduce interest in tasks they previously enjoyed
* Changes in appetite and/or increase in smoking and drinking
* Increase in sickness absence and/or turning up late for work

Of course, not everyone who experiences mental ill health will exhibit obvious signs. It is important for a manager to regularly ask team members how they are doing and create an environment where staff feel able to be open and honest about how they are feeling.

If managers are struggling with how to support and approach an employee that they suspect may be struggling, they are encouraged to reach out to the HR team for further support. You can also find further support on [CFRS website](https://www.cumbriafire.gov.uk/cfrs-wellbeing-hub).

## Employee Passport

The [passport](https://view.officeapps.live.com/op/view.aspx?src=https%3A%2F%2Fwww.cumbriafire.gov.uk%2Fsites%2Fdefault%2Ffiles%2F2024-12%2FEmployee%2520Passport.docx&wdOrigin=BROWSELINK) can be used for any employee who feels that they may need some additional support at work. It is designed to provide an employee and their manager a basis for discussions about adjustments, a better understanding of how employees circumstances might impact them at work and help to recognise the signs when an employee may be unwell.

 **About the Passport:**

* The Passport can be requested by the employee or offered by the employer and is voluntary
* Is ‘owned’ by the employee and a copy of the Passport should be held by both the employee and their manager/head teacher.
* It can be completed at any point during employment.
* The Passport will need to be reviewed on an annual basis; this may be alongside the annual appraisal process. The employee should be responsible for initiating a review if there are any changes
* Completion of the Passport includes a confidentiality agreement and details for review, this is compulsory. Section 1 requires completion for workplace adaptions (e.g. caring responsibilities or religious requirements), Section 2 requires completion for health and wellbeing requirements and Section 3 for reasonable adjustments (as defined under the Equality Act 2010) and should be completed accordingly.
* A copy of this form may also be given to a new or prospective manager/head teacher with the prior consent of the employee. If the employee changes job, is relocated or is assigned a new manager/head teacher; the new manager/head teacher should accept the adjustments outlined in this agreement as reasonable and ensure that they continue to be implemented. The agreement may need to be reviewed and amended at a later date but this should not happen until both parties have worked together for a reasonable period of time

 **Consideration of a disability or long-term condition has on an individual at work**

 **can include:**

* Effect on co-ordination, dexterity, or mobility.
* Effect on mental health
* Effect on hearing, speech or visual impairment
* Ability to interact with colleagues
* The effect of particular working environments
* Attending medical or counselling appointments
* Learning difficulty or speech impairment
* Other physical or medical conditions

 **Consideration on the impact of personal circumstances has on an individual at**

 **work could include:**

* Receiving phone calls from the person you care for or their carers or being called away because of an emergency
* The mental distress of knowing that the person an employee cares for is currently unwell
* Being late for work or poor timekeeping because of caring or parenting responsibilities.
* Needing to accompany the person an employee cares for to medical appointments.
* Attending medical or counselling appointments
* Needing a quiet space / time away from work during the day to observe daily prayers
* Fasting during religious observances and the effect of fasting on energy and concentration.

 **When deciding on what adjustments may be required, consideration should be**

 **made to the following:**

* Flexible Working
* Additional training
* Specialist equipment (e.g. IT or furniture)
* Seating, parking or desk arrangements
* Allowing a guide or hearing dog into the workplace
* Change in the nature and/or amount of responsibilities
* Assisted evacuation arrangements in the event of an emergency (Personal Emergency Evacuation Plan PEEP)

Each potential adjustment should be reviewed with regard to business need / requirements and budgetary implications and should be considered in accordance with the CFRS’s policies and procedures. The document should be stored securely and confidentially. For advice or further information please contact the HR team.

A copy of the Employee Passport can be found [here](https://view.officeapps.live.com/op/view.aspx?src=https%3A%2F%2Fwww.cumbriafire.gov.uk%2Fsites%2Fdefault%2Ffiles%2F2024-12%2FEmployee%2520Passport.docx&wdOrigin=BROWSELINK).

## Occupational Health

Occupational Health are available to advise managers at any time about how best to support an employee who is off sick.  Managers are encouraged to contact Occupational Health as soon as possible to agree the appropriateness of a referral to investigate clinical options. Managers can seek advice from Occupational Health.

When an employee reports absent from work and informs the manager that they are likely to be absent from work for 3 weeks or more the manager should contact Occupational Health for advice and if necessary make an immediate referral. For a mental health/stress related illness/condition, work related injury, or musculoskeletal injury the manager should make an immediate referral.  Employee consent is always required for a referral to be submitted. Managers are expected to discuss the referral form with the individual before submission and should be aware that the individual will see the referral form at their visit.

If a manager feels that a referral may not be necessary, for example where an employee has a broken limb with no complications and a clear recovery timescale ahead, they should seek advice from Occupational Health and HR on whether a referral is appropriate.

The manager will complete a referral form and must provide as much information as possible, asking any specific questions they want answering to ensure Occupational Health can then provide a sufficient response.  Occupational Health will arrange an appointment with the individual upon receipt of the referral and will also notify the manager of the date via email.

Occupational Health may deem it necessary to refer the employee for counselling or physiotherapy. The employee will initially be given access to 4 sessions of counselling or physiotherapy, however Occupational Health will advise if they need more sessions and seek consent from the service to proceed.

Where necessary, Occupational Health will arrange for the individual to consent to complete the Access to Medical Records declaration form and make a request to the employee’s doctor for a medical report.

Employees are entitled to see the medical report written by the doctor/specialist before it is sent to Occupational Health.  If employees wish to see the report, they should contact their doctor and arrange to do so as soon as possible as this will ensure that the service can assess what can be done to help from the earliest opportunity.  If the individual has not seen the report within 3 weeks of the doctor/specialist preparing the report, it will be sent to Occupational Health without the individual seeing it.  An employee may request a copy of the doctor report from Occupational Health at any time.

Employees may be asked to attend a variety of medical assessments in addition to seeing Occupational Health (e.g. Independent Medical Examination).  Travel expenses will be met by the service and may be claimed in the normal way.  The employee will be given reasonable notice of any appointment.

The line manager and employee will all receive a copy of the report from Occupational Health. If a HR Advisor has been named on the Occupational Health referral, they will be notified that a report has been completed but will not receive a copy. The manager should then arrange to meet with the employee to discuss the outcomes of the report and any recommendations; following the process outlined below.

Failure to co-operate with a referral to Occupational Health, completion of the Access to Medical Records declaration form, or to attend medical assessments may mean that the service will have to make decisions based on the information available.  This could have a detrimental effect on the level of support that could be given.  Repeated failure to attend appointments without a satisfactory reason may result in employees losing their entitlement to sick pay and may result in disciplinary action (which could include dismissal).

If the employee’s absence, to which the appointment relates, is disability-related then consideration should be given to any reasonable adjustments that may be appropriate to facilitate the employee’s attendance. An employee passport may be used to capture and aid discussions around support and reasonable adjustments.

When an employee is absent due to work-related stress, the absence management meetings should be used to facilitate a discussion about the exact cause/s of the stress and how these could be mitigated. A stress risk assessment may be recommended to help support the employee. Once the employee returns to work, the manager must organise to meet with the employee no later than 7 days after the absence has concluded in order to complete their return to work meeting; the discussion should include the reasons for the absence and to plan support as appropriate.

Discussions must include:

* Stress causes, including the definition between personal stressors and any work-related issues causing stress.
* Action which can be taken to support the employee and minimise the likelihood of further stress episodes
* An agreed review date to identify whether a reduction in stress has been achieved – this date should not exceed 4 weeks.  If concerns remain thereafter the manager must contact HR for advice.

Details of this meeting must be recorded in writing and a copy shared with the employee and retained on the employee’s personnel file.

In cases where the manager is immediately concerned about the reasons which have been quoted by the employee as factors which have caused stress, advice must be sought from HR in order manage the case appropriately.

## Directed Medical Absence

Where there is a genuine concern and belief that the employee’s continued presence at work may constitute a hazard, either to the individual concerned or to others, an immediate referral to occupational health, with suspension on full pay pending the outcome of the referral, is likely to be necessary. However, it is important to remember that this should only be considered as a last resort if there are no alternative measures available.

The following principles should be followed:

* Undertake an immediate risk assessment of the dangers.
* Discuss the situation with the employee (in person if possible and appropriate) to obtain as much information as possible, and to seek their views and opinions.
* If appropriate / possible involve a trade union representative at an early stage.
* Explain to the employee the proposal to refer them to occupational health and the purpose of the referral
* Discuss the immediate options with the employee (pending receipt of medical advice) and determine the appropriate immediate action. This might include:
* interim adjustment of duties
* temporary alternative duties
* sickness absence
* ‘Directed Medical Absence’ i.e. suspension from duty
* Complete the referral to occupational health as soon as possible. Occupational health Service will then contact the employee to arrange a meeting and explain the purpose of the meeting.
* Review action/decision and undertake a further risk assessment with the employee concerned in light of the medical information/advice. Possible outcomes might include:
* immediate return to work
* reasonable adjustment in the job/workplace
* alteration of duties (temporary or permanent)
* redeployment/transfer to other duties (temporary or permanent)
* Sickness absence (for medical treatment, etc.)
* Continued Directed Medical Absence for medical treatment/further reports etc.
* ill health retirement
* dismissal under the capability procedure (as a last resort)
* Undertake further reviews/risk assessments as necessary, ensuring that there is adequate consultation with the employee.

Directed Medical Absence should only apply in urgent circumstances, and for a short period only until the proper medical position can be ascertained. It is not intended that this will provide for long term absence on full pay and entitlements to sick pay will not be exceeded by virtue of this procedure.

One of the aims of directed medical absence is to ensure adequate consultation with the employee BUT there may be circumstances where it will not be appropriate to accept or agree with the employee’s views/wishes. The final decision rests with the manager.

If you have any questions regarding the use of directed medical absence then please contact the HR team.

# Sick Pay Entitlements

Sick pay entitlements are calculated differently depending on whether the employee is corporate or operational. Please refer to the appropriate section below.

## Operational Staff

An employee on authorised sick leave shall be entitled to full pay for six months in any twelve-month period. Thereafter CFRS may reduce pay by up to half for six months.

An employee on authorised sick leave as a result of an illness or injury arising out of authorised duty shall be entitled to full pay for twelve months. Thereafter the fire and rescue authority may reduce pay by up to half for six months. Fire and rescue authorities have the discretion to extend the period of sick pay in exceptional cases.

For on call firefighters, and in accordance with a Local Agreement, a single day’s pay for the purposes of sick pay is calculated at a day rate of 1/365th of the previous 12 months earnings; regardless of the days lost due to sickness absence in the preceding 12 months. A day’s pay for On-call staff includes the following elements:

* *Turn out*
* *Attendance*
* *Disturbance*
* *Gartan (other paid duties) e.g. medicals*
* *Gartan training*
* *Sick pay (previous twelve months)*

The following elements make up the fixed monthly payment:

* *Retainer*
* *Annual leave*
* *Core training payments*
* *CPD*

Occupational sick pay may be withheld if the notification and certification procedures are not adhered to. Sick pay exclusions include:

* If an employee abuses the sickness scheme
* If the sickness absence is due to or attributable to deliberate conduct which is harmful to the employee’s recovery.
* If the employee’s absence has been caused by their own misconduct or neglect
* If the employee’s absence is due to active participation in professional sport
* If a wholetime employee is injured while working in their own time on their own account for private gain or for another employer
* If an employee fails to attend Occupational Health and medical appointments or maintain contact without good reason.

Where an employee is absent and approaching the end of their full pay entitlement, the line manager should seek advice from HR where a possible extension to sick pay may apply.

HR advice must be sought in circumstances where an employee who is off sick may be suspended as a result of a disciplinary procedure.

## Corporate Staff

The Service’s Occupational Sick Pay (OSP) provisions for corporate staff are as follows:

During 1st year of service 1 month’s full pay and (after completing 4 month’s service) 2 month’s half pay

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During 2nd year of service 2 month’s full pay and 2 month’s half pay

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During 3rd year of service 4 month’s full pay and 4 month’s half pay

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During 4th and 5th years of service 5 month’s full pay and 5 month’s half pay

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After 5 years’ service 6 month’s full pay and 6 month’s half pay

For corporate employees, the rate of sick pay is calculated by deducting from the employee’s entitlement on the first day, the total number of days absence during the twelve months immediately before the first day of absence.

Occupational sick pay may be withheld if the notification and certification procedures are not adhered to.

# Absence due to Illness or Injury Arising out of Authorised Duties

If during the initial notification of sickness, the employee states that their absence is due to injury or illness sustained whilst at work, the manager must ensure that an accident form is completed at the time of the event and if necessary, an investigation carried out. The injury or illness must be reported to Health & Safety. Once the event has been reported to the Health and Safety team, they will ensure due process is followed and whether they require any further information. The service must be satisfied that the absence is service related and therefore any accidents should be reported and, where necessary, an investigation carried out. In some cases, the investigation may take some time, therefore the service reserves the right to temporarily treat an absence as service related, and to revert to treating it as non-service related (including in relation to sick pay entitlement) should any investigation conclude as such.

Managers who receive reports of employees sustaining illness and/or injury in work need to ensure an occupational health referral is made at the earliest opportunity.

Following an accident or an incident of violence in the workplace, employees are required to comply with the reporting procedure.  The immediate impact of such events may not be obvious until a period of time has elapsed; employees are recommended to access support via national helplines and websites on the [CFRS website](https://www.cumbriafire.gov.uk/cfrs-wellbeing-hub) and/or access the [counselling service](https://genohsisportal.cumbria.gov.uk/Portal/login.aspx?ReturnUrl=%2fPortal) if they experience symptoms such as anxiety, panic attacks, fear or any associated problems.

It is the responsibility of the line manager to accurately record the reason for absence on the HR system. Absence in respect of illness or injury arising out of authorised duty should be recorded as: ‘Accident on Duty’.

Injuries confirmed as arising out of authorised duties/industrial injuries shall be dealt with in accordance with the Grey and Green Book terms and conditions depending on whether the employee is a corporate or an operational employee. In these instances, advice must be sought from HR and a referral made to Occupational Health.

Further information on accidents at work is available from the Health and Safety team.

# Third Party Accidents

If an employee has an accident outside of work and where a third party is liable for the absence and an insurance contract payment will be made, the Service reserves the right to ‘loan’ Occupational Sick Pay (OSP) until a settlement is reached from the third party and this could mean the arrangement of a ‘loan agreement.’

Where it is evident that the employee has or will receive a compensation payment (e.g. in receipt of insurance policies for accidental injury, income or mortgage protection), the Service reserves the right to ensure that pre-sickness income is not exceeded.  In all cases, subject to the rules, SSP will be paid to employees but OSP will be adjusted to take into account other sources of money. Employees in receipt of such monies are required to declare it to the Service. It is the employees responsibility to refund to the authority the total amount of such allowances or the proportion thereof represented in the amount of damages.

Any such accident should be recorded as sickness in the normal way, but their manager shall have due regard for the fact that liability has been acknowledged by a third party when reviewing the overall sickness record, including an assessment of any previous triggers set. Managers are encouraged to seek support from HR when reviewing triggers and utilising the absence process, as in some circumstances it may be appropriate for managers to adjust their approach to take into account third party involvement. Managers and employees should be aware that identification of liability could take a significant amount of time therefore accurate records should be kept.

# Sickness Absence Management

It is essential that the service deals with absence promptly, fairly and consistently to demonstrate to all employees that it regards absence as a serious matter. If there is no acceptable reason for the absence, the matter should be treated as a conduct issue and dealt with as a disciplinary matter. It is appropriate to use the formal process where an informal approach has failed to achieve the desired improvements in attendance, or where informal action is deemed not to be appropriate in the circumstances of the case.

It should be noted that sickness absence issues are often complex and unique. Whilst it is important that issues are dealt with in a fair way, the specific interventions used and the timing of those interventions may differ from case to case.

Long term absence should also be managed via the formal 3 stage process as detailed below, however, it may be appropriate to hold regular review meetings in between the formal stages and managers should maintain in regular appropriate contact with the employee.

On occasion, employees may have a combination of both long term and short term absences as defined by the policy.  In this scenario the principle remains that the absences shall be managed within the three stage process, however, the triggers set in response to each individual absence should appropriately reflect the medical circumstances of the particular absence.

Where an employee reaches an acceptable level of attendance following one of the formal stages but the level of absence becomes unacceptable again, the service reserves the right to re-enter the formal process at the point it ended previously.

## Informal Process:

## Wellbeing Support Meeting

Where an employee has breached the standard attendance expectation (3 occasions or a total of 8 days in a 12-month rolling period or 28 calendar days), a pattern or trend, or there is a cause for concern in regard to their health or affecting their ability to do their job, then arrangements should be made to hold a wellbeing support meeting. The purpose of this meeting is to support an employee’s health problem and gain an understanding of how the service and can support the individual to maintain expected levels of attendance. When appropriate, meetings will be held with employees whilst they are absent. Employees are expected to be available to attend meetings at such times as they would normally be in work. The employee’s manager will make contact by letter to arrange a meeting to see what can be done to help. This meeting is intended to support the employee and discuss any matters relevant to the absence(s).

Normally this meeting should take place in the workplace, as this helps the employee to keep in touch with the workplace and prevents isolation. In exceptional cases, where it is not possible for the meeting to occur in the workplace (e.g. where the medical condition prevents this or travel is prohibitive) a meeting at another suitable venue should be arranged. If this is at the employee’s home, then it is recommended that the manager is accompanied. The employee should be advised that this meeting is informal, however employees may arrange to be accompanied by a trade union representative or work colleague of their choosing, provided this does not unduly delay the meeting.

Items to discuss:

* Update on absence
* Update from Occupational Health if relevant
* Any reasonable adjustments or additional support required
* Advise them of the National helplines and websites on the CFRS website
* Provide a copy of the Absence Management procedure and discuss the next steps of the process.
* Set appropriate attendance expectations (e.g. no more than 8 days or 3 occasions of absence in a 12 month rolling period for repeated or short term absences or return to work in 6/8 weeks for absences likely to exceed 28 calendar days)

The manager should accurately record the content of the support meeting and any improvement targets set in the discussion on the employee’s action plan and confirm this to the employee in writing.

The employee should be made aware that escalation from informal through to the relevant formal stage will occur without delay if the level of non-attendance reaches an unacceptable level as determined by the Service; examples of this may include breaching previous attendance expectations set or an emerging pattern or trend of absence.

The manager will send written confirmation of the outcome of the meeting using the appropriate templates. A copy should be sent toHR@cumbriafire.gov.uk and a ticket raised for the HR Admin and Payroll portal for filing on the employee’s personnel file.

## Formal Process:

## Stage 1 Absence Meeting

A stage 1 meeting should be organised if the employee does not meet the necessary absence targets, breaches attendance expectations set at the wellbeing support meeting or any subsequent review meetings or remains absent past the target return to work date, depending on the circumstances of the individual’s absence. This meeting will re-confirm the issues discussed at the wellbeing support meeting. Where appropriate they should review the level of sickness absence and seek to identify the reasons for the employee’s failure to achieve the required level of attendance. There should then be a discussion about how the employee can improve their attendance level and identify what, if any, support the manager can provide to assist the individual with this.

A station manager, suitable equivalent or above will chair the meeting; however, the employee’s line manager who held the support meeting may be present to detail how the absence has been managed up to that point.

The employee will be given 7 calendar days’ written notice of the stage 1 meeting and informed of their right to be accompanied at the meeting by a trade union representative or work colleague.

The manager should try to identify the cause of the absence and discuss ways to reduce further absence with the employee. This would normally include:

* A review of the employee’s attendance record and the reasons for their sickness absence
* An opportunity to discuss whether the absences are linked to an underlying medical condition
* Discussion about whether the employee has asked for or received any support e.g. from their GP, consultants/specialists, counsellors
* Discussion about whether any sickness problems may be work-related and if so, any adjustments that would help the employee to achieve an acceptable level of attendance at work.
* If a referral to Occupational Health has not already been completed then a referral may need to be made as an outcome to the meeting.

Where Occupational Health has suggested that the absences are linked to an underlying medical condition that meets the definition of a disability under the Equalities Act 2010, the manager and employee should discuss any reasonable adjustments that could be put in place to support the employee to achieve an acceptable level of future attendance at work. Advice should be sought from the HR team on how to set appropriate attendance expectations in these circumstances, based on the reasons for absence and possible links to the employee’s disability and whether this could increase their absence levels.

During the stages of the absence management meetings, the manager will advise the employee of the improvements required in relation to their attendance and the consequences of failing to achieve these. A reasonable attendance expectation (e.g. 8 days or 3 occasions in 12 months) will be set for repeated absences and a review meeting will be scheduled to assess progress against the required improvements. In relation to long-term absence, timescales for returning to work and attendance expectations should be set with consideration of medical advice and based on the details of the particular case. In all cases, managers are encouraged to use an action plan detail actions discussed at the meeting for both the employee and manager to undertake.

The manager may also consider the following actions:

* Requesting the employee to submit a medical certificate from their GP for every instance of absence
* Other support mechanisms as identified in the meeting such as reasonable adjustments or other forms of support

The manager will send written confirmation of the outcome of the meeting using the appropriate templates. A copy should be sent toHR@cumbriafire.gov.uk and a ticket raised for the HR admin and Payroll portal for filing on the employee’s personnel file.

## Stage 2 Absence Meeting

A stage 2 meeting should be set up if the employee does not meet the targets, breaches attendance expectations set at the stage 1 absence meeting or any subsequent review meetings or remains absent past the agreed expected return date. The second meeting will re-confirm the issues discussed at the stage 1 meeting and seek to identify the reasons for the employee’s failure to achieve the required level of attendance.

A group manager, suitable equivalent or above will chair the meeting; however, the employee’s line manager who held the support meeting may be present to detail how the absence has been managed up to that point.

The employee will be given 10 calendar days’ written notice of the stage 2 meeting and informed of their right to be accompanied by a trade union representative or work colleague.

The manager will advise the employee of the improvements required in relation to their attendance and the consequences of failing to achieve these. A reasonable attendance expectation (e.g. 8 days or 3 occasions within each of the next 18 months) will be set and a review meeting will be scheduled to assess progress against the required improvements.

In relation to long-term absence, timescales for returning to work and attendance expectations should be set with consideration of medical advice and based on the details of the particular case.  In all cases, managers are encouraged to use an action plan to detail actions discussed at the meeting for both the employee and manager to undertake.

The manager may also consider the following:

* Requesting the employee to submit a medical certificate from their GP for every instance of absence
* Other support mechanisms as identified in the meeting such as reasonable adjustments or other forms of support
* The manager should discuss the Alternative Employment Programme with the employee and if appropriate place on the programme.
* It may be appropriate to refer the employee to the Occupational Health Service for an assessment for ill health retirement.

At this stage the manager must also advise the employee that no significant improvement in their level of absence will result in a stage 3 absence meeting that may lead to their dismissal.

The manager will send written confirmation of the outcome of the meeting using the appropriate templates. A copy should be sent toHR@cumbriafire.gov.uk and a ticket raised for the HR admin and Payroll portal for filing on the employee’s personnel file.

## Stage 3 Absence Meeting

A stage 3 meeting is the final formal meeting in this process and could potentially lead to the dismissal of the employee. This meeting should be set up if the employee does not meet the targets or breaches attendance expectations set at the stage 2 absence meeting, or any subsequent review meetings. Where an employee’s absence has been long term, a stage 3 meeting should be convened once all possible options have been explored, these are detailed below under point 9. The purpose of the meeting is to determine whether there are further actions that can be taken by the Service to assist the employee in continuing their employment.

The employee will be given 21 calendar days’ written notice of the meeting and advised of the right to be accompanied by a trade union representative or work colleague. The employee should be notified of the nature of the concerns and possible outcome, and provided with all relevant documentation in relation to their sickness absence and any documentation requested that the individual deems relevant to their sickness absence.

This meeting will be chaired by an Area Manager, suitable equivalent or above where appropriate.  The manager who has overseen the earlier stages of the process should attend this meeting to present the case, this should be done in the format of a stage 3 absence report which includes the following information:

1. A chronology of the absences and actions taken by the manager
2. Details and copies of Occupational Health referrals and reports
3. Copies of all correspondence/communication relating to the absence
4. Details of all interventions applied to resolve or reduce absences

A HR advisor will also attend to provide advice and a note taker will be present.

In reaching their decision, the hearing manager will consider such issues as:

* The impact of the employee’s absence on service delivery
* The employee’s absence record
* The actions that have been taken to support the employee in trying to improve their attendance
* Advice received from Occupational Health and, where applicable, the employees own GP or specialist.
* The needs and resources of the Service in relation to the work which the employee is employed to undertake
* The effect of the employee’s absence upon other employees and in particular those who are engaged in the same section
* The likely duration of the employee’s illness
* Redeployment opportunities

If the hearing manager concludes that the employee and the process have been managed fairly, that the required level of attendance is fair and achievable and that the employee has been given all reasonable opportunity to improve to an acceptable standard but failed to do so, they will be able to consider formal action, including the termination of the employee’s employment for failure to meet an acceptable level of attendance.

The Service will only consider dismissing an employee on the grounds of capability due to ill health when it has considered all the available facts and medical reports, and where the appropriate options of returning to their post (with or without adjustments), redeployment, phased return to work have been examined and found not to be possible or applicable.

**Section** **8****. vi.** provides further information on circumstances where ill-health retirement has been authorised. A stage 3 meeting should still be arranged as per this procedure, following consideration of IHR under the **IHR Procedure**.

The hearing manager will confirm the decision in writing within 5 calendar days of the hearing and the employee will have the right to appeal within 7 calendar days of written notification of the decision.  The letter will set out the employee’s contractual entitlement to notice pay and details of the right of appeal against dismissal.

If the employee wishes to appeal, they must set out the reasons for their appeal in writing to the hearing manager and the appeal will be heard by an appeal panel. Please refer to the appeals section for further information.

# Absence Considerations for Long Term Absences

Long term sickness absence is normally an absence which lasts for 28 calendar days or more. Long term sickness cases are often linked to an underlying medical reason; however, this may not always be the case.

In cases of long term sickness absence, managers should make a referral to Occupational Health on behalf of the employee, with their prior consent. Following receipt of a report from Occupational Health, the manager should then arrange a formal meeting with the employee in line with the three absence management stages above.

Given the time that it may take for a clear diagnosis of the employee’s condition, or for a review of the effectiveness of any treatment, it may be that a number of formal meetings need to occur before final advice can be implemented. Whilst the Service will take all reasonable steps to assist the employees return to work, it is not possible to wait indefinitely for an employee’s condition to improve. The formal stage meetings should therefore set a date for return, subject to an employee’s fitness to do so. Whilst each case will be judged on its particular circumstances, managers should endeavour to ensure that appropriate action in line with the below options is actioned as soon as possible. Should the target return to work date or attendance expectations applied to the absence be exceeded then progression through the formal stages must apply.

The purpose of the meeting is to discuss Occupational Health advice and from this, the prospects/timescale for the employee’s return to work and/or ability to maintain an acceptable attendance level in the future. This will include, if appropriate, the consideration of which of the options below are most appropriate for the employee in light of Occupational Health advice. A reasonable timescale should be set to explore the appropriate options and sufficient time should be given for the employee to consider the options. The employee should be informed in writing of the actions to be pursued and the timescale over which they would be considered.

Normally the following options would be considered in the order that they are listed below:

1. Return to/continuation in existing post
2. Phased return to work
3. Return to/continuation in existing post with adjustments
4. Modified Duties
5. Redeployment to another post within the service (Alternative Employment Programme)
6. Dismissal on health grounds – where an employee is dismissed on the grounds of ill health and they meet the qualifying criteria in the relevant Fire Pension Scheme Regulations or green book equivalent, then they may qualify for ill health retirement.

More detailed advice on these options is contained below. Advice and support in pursuing these options is available from the HR team. If option a – e above are not practical and dismissal on the grounds of ill health may be the only option left to the Service, the manager should ensure that the employee is made aware of this at the earliest opportunity.

## Return to Existing Post

This may be with a phased return to work – see below. In these circumstances, a manager may consider setting a monitoring period and have a formal meeting with the employee and their representative to consider this. When an individual has been off sick for 28 calendar days or longer their line manager must consider whether there is a need to organise an operational assessment once the employee returns to work.

For operational staff, on occasion and to ensure continuity of service delivery through the maintenance of skills and establishment, there may be a requirement to make cover moves for individuals who are off through long-term sickness absence. Managers may therefore make changes to balance shortfalls. If these moves are required then the service will attempt to ensure positions remain open, while all staff will return to the same role it cannot be guaranteed that individuals will return to their original workplace.

Absence may be due to a disability and managers should be aware of the provisions of the Equality Act 2010, particularly the duty of reasonable adjustments (see 9. iii.) when considering dealing with long term absence.

## Phased Return

A phased return is an arrangement where the line manger can authorise a period of usually no more than 4 - 6 weeks whereby the employee may gradually build up their working hours week by week until they achieve their full contractual hours by the final week of the arrangement.

The purpose of the phased return is to support the employee to steadily build up their fitness or ability to attend work.

If the employee had pre booked annual leave during a phased return to work programme, the phased return arrangement will be reviewed on the employees return from annual leave and may be extended by a period of time equal to the period of annual leave if necessary.

If sickness absence occurs during a phased return to work programme sick pay entitlements will be initiated. On the employees return to work the phased return arrangement will be reviewed and continued, extended, or ended as appropriate.

## Return to Existing Post with Adjustments

When considering implementing adjustments please see the information below and contact the HR team if further guidance is required. There are two types of adjustments described below:

**Reasonable Adjustments**

These adjustments relate to protected characteristics associated with the Equality Act 2010. Adjustments may include changes to hours, duties or location of the role, the use of particular equipment or improving access or facilities. Such adjustments are usually be made on a permanent basis but will mutually be agreed with the employee and the line manager.

The manager will need to assess whether these changes can reasonably be accommodated without having a detrimental effect on the service.

As part of the consideration of such adjustments, further specialist advice may be sought from Occupational Health or outside organisations such as the disability advisory service offered by Job Centre Plus, the RNIB or the Shaw Trust. This additional advice may be referred from Occupational Health or approached directly by the manager. Further information can be sought from the HR Team.

**Temporary Adjustments**

Temporary adjustments are usually made for employees returning from a period of absence in order to facilitate a return to work, particularly after long term illness or where a recovery period is required.

Temporary adjustments are a reduction or amendment to ‘tasks’ required in an employee’s role.

Temporary adjustments should usually last no longer than 4 – 6 weeks and may be part of a phased return. Advice should be sought from the HR team and Occupational Health provider if the temporary adjustments are likely to exceed 4 - 6 weeks.

Each case should be considered on an individual basis, taking into consideration the medical grounds and impact on service delivery. All arrangements for temporary adjustments should be agreed with the employee and recorded on the A13 Action Plan, including the objectives to be met at the end of the period, how the employee will be supported to achieve these and the arrangements for measuring and monitoring progress throughout. If at the end of the period of temporary adjustments, an employee is still unable to fulfil the requirements of their role, the employee may be required to remain absent until they are fit enough to return to full duties.

Temporary adjustments cannot last any longer than 6 months and at this point the adjustments would need to be reviewed. Any extension to a period of temporary adjustments can be considered in exceptional circumstances and must be authorised by a senior manager and a formal decision recorded. At this point there should also be a decision on whether the adjustments should be made permanent under the Equalities Act 2010.

## Modified Duties - Operational Staff

When an employee is returning to work from sickness absence Occupational Health may advise that they should return for a period of time on modified duties.

Modified duties mean duties which have been changed to accommodate the limitations of a medical condition and are applied on a short-term temporary basis only.

For operational employees who undertake operational duty as part of their role, modified duties will be in place for a maximum period of 6 weeks (within which the employee will need to attend and complete appropriate fitness assessments). If Occupational Health considers that these timescales cannot be achieved, employees will remain on sickness absence until such time that the 6-week modified duty period can be achieved.

In exceptional circumstances an extended period of modified duties may be authorised for a maximum of 6 months in line with Occupational Health advice and agreement from Workforce Development Group. Where it has been advised that the employee would benefit from an extended period of modified duties, an application shall be made to Workforce Development Group. The employee’s manager should get advice about how to process this request from HR.

The two categories of modified duties are:

**Category 1**

Firefighters and managers on Category 1 are deemedfit to undertake all general duties including:

* Driving
* Carrying out operational training and exercises

*But not fit to respond to blue light incidents.*

Firefighters can stay on category 1 for up to a period of 2 weeks at which point it would be expected they should be in a position to return to full operational duties.

**Category 2**

Firefighters and managers on Category 2 are deemed fit to undertake all general duties including:

* Driving (where appropriate)
* Carrying out any rehabilitation programme advised by Occupational Health or the Fitness Advisor.

*But not fit to carry out operational Training or Exercises*

Firefighters can stay on this category for up to a maximum period of 4 weeks after which point it would be expected they should be in a position to move to Category 1 duties.

Employees may stay on Category 2 for no longer than 4 weeks and no longer than 2 weeks on Category 1.

Occupational Health can provide advice on the transition from Category 2 to Category 1 to ensure that the individual is fit to return to operational duty within the 4-week timescale.

These timescales cannot be extended and employees who are unable to return to work within the specified timeframe will be notified of the requirement to return to sickness absence which will need to be certified with a fit note.

Operational employees will also be required to undertake any training deemed necessary to refresh their key skills in order to maintain their competencies – the timescales for this will depend on their length of absence.

Wholetime operational employees will undertake modified duties at a suitable location as determined by management, in discussion with the employee, and for any number of hours up to their maximum contracted hours per week (subject to advice from Occupational Health).

On call employees will undertake modified duties in accordance with the availability they have given on their Availability Contract (Form 124a). This will ensure that their minimum contractual hours are met and that the manager is able to organise appropriate work in a suitable and productive way.  Where the employee is required to undertake training in order to return to full duties, the employee may be required to participate in a drill night at an alternative station or with a wholetime Watch in order to complete the training.

When wholetime firefighters undertake an agreed return to existing post with reasonable adjustments programme or modified duties, they will receive their normal salary. For on-call firefighters, and in accordance with a Local Agreement, they will received a single day’s pay, calculated at a day rate of 1/365th of the previous 12 months earnings; regardless of the days lost due to sickness absence in the preceding 12 months.

## Redeployment through Alternative Employment Programme (AEP)

If it is not possible for the employee to return to their post either with or without adjustments, the manager should consider placing them on the Alternative Employment Programme (AEP) where it is mutually agreed. For Cumbria Fire & Rescue Service employees this would relate to existing posts within the service which become vacant but would not require the service to create a post specifically for the purposes of redeployment.

When considering the AEP, advice from Occupational Health can be obtained in relation to the tasks the employee is capable of undertaking and on the type of posts that the employee would be fit to be redeployed into. It is also important to consult the employee on such matters.

The manager would then set a timescale (usually up to 12 weeks) during which the employee would seek alternative employment. During the redeployment search the employee would have priority status and be considered before other applicants for a post (other than other candidates on the AEP for redundancy reasons), provided that they meet the minimum requirements of the role. For more information please see the AEP guidance.

All Cumbria Fire and Rescue Service vacancies can be accessed via the CFRS[website](https://www.cumbriafire.gov.uk/our-vacancies).

Should employees wish to apply for a vacancy, they can do so via the website above and they can email recruitment@cumbriafire.gov.uk for advice regarding the process.

If a suitable alternative employment opportunity is identified, it may be appropriate to offer a trial period of up to 4 weeks. This will allow both the employee and the service to see if the post is suitable.

Employees who refuse to consider or accept a suitable alternative employment opportunity should note that this may limit the service’s ability to continue their employment.

Employees should also be aware that there will be pension implications if an employee moves from a grey book role to a green book role and further information should be sought from their pension provider.

## Application for Ill Health Retirement

Where it has been identified at a formal absence management meeting that an employee is unable or unlikely to be able to return to full work duties within a reasonable timeframe, and there is no further support which can be implemented, the employee may be dismissed on the grounds of ill-health capability.

In circumstances where the individual is a member of the pension scheme then the service should initiate a process to identify whether ill health retirement will be awarded following an assessment of the criteria by Occupational Health.

In these circumstances, managers should read the **Ill-Health Retirement Procedure** and seek advice from HR. Managers are also encouraged to provide the employee with the **‘IHR, What to Expect’ document** that is intended to help employees understand the steps involved in the process, including the regulations that must be applied.

In cases where an employee no longer has the capacity to communicate their views and wishes due to their medical circumstances, and therefore cannot consent to the consideration or Ill-Health Retirement or make any decisions themselves in respect of their employment, the line manager should contact HR for advice and support.

Termination of employment is considered when other reasonable attempts to support the employee back to work are inappropriate due to health matters or have been proven unsuccessful.

If the application for ill health retirement does not meet the requirements of the appropriate pension scheme and all other options have been explored, the manager will continue to follow the Absence and Wellbeing procedure.

# Appeals

Following a stage 3 meeting and the outcome results in a dismissal the employee has the right to appeal this decision. The appeal should be made in writing to the original hearing manager stating the reasons for the appeal within 7 calendar days of written notification of the decision.

Where an employee appeals against the action taken against them they must put their grounds of appeal in writing. The appeal can either be conducted as a part/full rehearing or as a review. This will be determined by the service taking in to account the reason for appeal.

All appeals will be heard by a panel of appropriate senior officers which will include a Principal Officer, Head of People and Talent and one other member of SLT. However, the appeal panel may still go ahead if two of the three members are available.

## Re-hearing

A rehearing would normally be required in the following instances (this is not necessarily an exhaustive list):

* There was a procedural defect at the original hearing such that the hearing was unfair.
* New evidence has come to light which needs to be heard in full.

The rehearing in part or full will be chaired by the panel. The presenting manager from the original meeting will be in attendance to present their stage 3 report. Documentation from the stage 3 meeting should be available for the panel to enable them to review the decision made by the previous manager, the previous hearing manager may attend if appropriate. The panel will then allow the appellant to explain their grounds of appeal.

## Review

Where the appeal hearing is conducted as a review, the appeal panel will have available all the documents presented to the original hearing. They will also have a copy of the record of the hearing, the letter confirming the outcome of the original hearing, the letter of appeal and all other relevant information. The appeal panel will reach findings based on the documentation and the submissions at the appeal hearing from all parties.

## Appeal Outcome Options

The outcome of the appeal will be either:

* The case against the employee is upheld and therefore the employee will remain dismissed.
* The case against the employee is not upheld (in whole or part); the employee may be

reinstated with an agreed action plan.

In cases of dismissal, employees shall be given contractual notice of dismissal following the hearing. Every effort will be made to conclude any appeal process within the notice period. Where it has not been possible to conclude the appeal process within the notice period, notice may be extended for a reasonable period with a view to concluding the appeal process within the notice period. If the dismissal is not upheld on appeal, the employee will be reinstated and their pay back dated to their dismissal date.

In cases of sanctions other than dismissal, the sanctions should not be implemented until any appeal process has been concluded.

# Process Flowchart

