



**WHOLE STAFF SICKNESS ABSENCE MANAGEMENT  
POLICY & PROCEDURE**

<b>Date Approved</b>	<b>MAT Board</b>	29 March 2017
<b>Signed</b>	<b>Name:</b> Ven Dr David Jenkins <b>Position:</b> Director	
<b>Date of Next Review</b>	<b>MAT Board</b>	31 March 2018

# CONTENTS

1. Introduction, scope and exclusions .....	3
2. Definitions, aims and principles .....	3
3. Roles and responsibilities.....	4
4. Disability.....	4
5. Pregnancy-related absence.....	5
6. Absence due to alcohol and/or substance misuse.....	5
7. Referral to occupational health.....	5
8. Factors to be considered by occupational health .....	6
9. Possible outcomes following an occupational health assessment.....	6
10. Sickness absence reporting procedure .....	7
11. Certification.....	7
12. Sick pay .....	8
13. Monitoring absence .....	8
14. Unauthorised absence.....	8
15. Trigger points.....	8
16. Short-term and long-term absence definitions .....	9
17. Informal stages: Return to work meeting/informal meeting .....	10
18. Formal stages: Ill health capability review procedure.....	10
19. First Health Review meeting .....	11
20. Second Health Review Meeting.....	12
21. Arrangements at the end of the Final Monitoring Period .....	13
22. Ill-Health Capability Hearing.....	13
23. Appeals.....	14
24. Medical redeployment or retirement.....	15

# POLICY & PROCEDURE FOR ALL STAFF

## 1. Introduction, scope and exclusions

- 1.1 This policy and procedure is intended to assist the Trust, Headteachers and Local Governing Bodies (LGBs) to manage sickness absence by creating a culture of attendance, which is underpinned by clear reporting procedures and active management of absence throughout the Trust.
- 1.2 The impact of ill-health and absence can be significant and affect how the Trust and schools perform and the service that each provides. It is, therefore, important for all staff to understand that repeated or long term absence has a demotivating impact on other colleagues and impacts on the learning and achievement of pupils.
- 1.3 This policy and procedure applies to all employees of the St Edmundsbury and Ipswich Diocesan Multi-Academy Trust ('the Trust'), including those who are centrally employed and not working within a school. It does not apply to:
  - 1.3.1 Individuals who are in a probationary period; nor
  - 1.3.2 Individuals working within the Trust under contract arrangements with external providers.

## 2 Definitions, aims and principles

- 2.1 The use of the term 'manager' throughout this document refers to the person who has responsibility for managing attendance of an employee or group of employees.
- 2.2 In the case of sickness absence arising in respect of a centrally employed member of staff, all references to 'Headteacher/s' in this procedure shall be replaced with 'Chief Executive Officer'; references to 'Local Governing Body' shall be replaced with 'Board of Directors'; and references to 'school/s' shall be replaced with 'the Trust'.
- 2.3 The Trust is responsible for minimising the disruption to the workplace due to the absence of its employees and aims to:
  - Maintain high levels of attendance;
  - Minimise disruption to the education of pupils;
  - Treat employees' absence in a consistent, fair and sensitive manner;
  - Provide a reasonable and safe working environment, appropriate welfare support, and advice on general health issues
  - Enhance employment relations
  - Ensure prompt action is taken
  - Recognise where relevant training is necessary
  - Create a positive culture which supports the health, safety and wellbeing of staff
- 2.4 Good attendance is recognised and valued by the Trust and open communication between managers and employees is greatly encouraged. This procedure is designed to be proactive and support rather than punitive.

## 3 Roles and responsibilities

- 3.1 The **Trust** will monitor and review this policy from time to time; delegate to the Headteacher the necessary discretion to operate absence management procedures and arrangements; and ensure that fair and consistent standards are applied to the management of absence.
- 3.2 The **Headteacher** (with the assistance of senior staff) is responsible overall for the day-to-day management of sickness absence. S/he will also ensure that all line managers have appropriate training/coaching on this policy and its guidelines to ensure consistency of its application. The **Headteacher** is also responsible for ensuring that all employees have a return to work meeting on their first day back from every absence, or as soon as reasonably practicable, regardless of its duration, and that the relevant forms are completed and then passed to the appropriate person (in most cases this will be the Bursar/Business Manager) in a timely manner for recording and monitoring absence.
- 3.3 **Bursars/Business Managers** will ensure that schools have suitable arrangements for enabling employees to notify absence; for communicating information about absence in a timely manner for payroll and other necessary purposes; and for following up absence, as and when appropriate.
- 3.4 **Employees** have a duty to attend for work unless they are unable to do so through sickness or injury, or unless their absence has been otherwise approved. They have a responsibility to report their own absence through sickness or other emergency using school procedures, and to produce medical evidence as required.
- 3.5 Employees are also expected to participate fully in any occupational health or other appropriate medical review process/provision offered by the school, Trust or other agencies, in support of their health and attendance at work. Failure to do so may limit the support or information that the Trust/School is able to consider when making decisions under this procedure.

#### **4 Disability**

- 4.1 The Equality Act 2010 makes it unlawful for the Trust/schools to unjustifiably treat a person with a 'protected characteristic', such as a disability, less favourably than a person who does not have a disability for any reason related to the person's disability. Disability should not be equated with poor health.
- 4.2 The Act also requires employers to consider all reasonable adjustments which would enable an employee with a disability to continue to work. Therefore, schools will ensure that all reasonable adjustments are considered and, where possible, provided, in discussion with the employee.
- 4.3 'Disability' is defined in the Equality Act 2010 as "a physical or medical impairment which has a substantial and long-term negative effect on his or her ability to carry out normal daily activities". Long-term in this definition is taken to mean more than 12 months (i.e. where from the diagnosis, the illness is likely to last more than 12 months). This definition also includes long-term illness such as cancer; HIV; and mental health problems such as clinical depression.
- 4.4 Absence directly related to a disability should be identified separately to other absence for recording purposes, however, a return to work meeting will be still be conducted.

#### **5 Pregnancy-related absence**

5.1 It is recognised that a pregnancy may result in various medical absences at different stages and schools will treat these supportively. No action under the provisions of this procedure will be taken against a female employee who is absent from work due to a pregnancy related illness. However, absence levels will continue to be monitored and where the School has concern about the reasons or lengths of absence, it reserves the right to formally investigate the nature and cause of the absences.

5.2 Absences in the four weeks leading up to the expected week of childbirth may result in maternity leave starting early at the request of the School. Further information can be requested from the Trust's HR Provider.

## **6 Absence due to alcohol and/or substance misuse**

6.1 Where poor attendance is related to alcohol or drug misuse, the Headteacher/line manager should seek advice from the Trust's HR Provider.

## **7 Referral to occupational health**

7.1 Early occupational health advice can be a significant part of supporting an employee to improve their attendance; recover their health; and achieve a successful and sustained return to work. Schools will consider accessing appropriate occupational health advice and support as necessary.

7.2 The Headteacher will normally make a referral, although this responsibility can be delegated to another senior member of staff.

7.3 An employee will be advised that a referral is going to be made and, be encouraged to seek the support of the Trust's wellbeing programme and the support of their professional association if they have not already done so. In some circumstances, it may be necessary to inform the employee in writing.

7.4 An employee will not be compelled to attend a meeting with occupational health, but should be aware that decisions about his/her continued employment may have to be made by the school without a medical opinion, which could be to the employee's disadvantage. Failure to engage with occupational health support may also affect an employee's entitlement to occupational sick pay.

7.5 The support of occupational health can be sought at any stage and need not wait until the employee is absent due to ill health. Normally however, a Headteacher (or other nominated senior manager) will refer an employee when a return to work interview or a 'trigger point' (see section 15) suggests it may be appropriate, or where the employee continues to be absent after ten working days. In some circumstances, referral may not be necessary, for example, where the nature of the medical condition is clear, the prospect of return to work well-defined (e.g. a broken limb or routine surgery) and advice regarding appropriate support and/or adjustments in the workplace is readily available, for example, from the employee's GP or a consultant.

7.6 Where it is known at the outset of the absence that an employee will be absent for an extended period, particularly in the case of stress-related absence, an earlier referral will be actively considered.

7.7 There is no self-referral process for employees, although an employee may request to be referred by the school.

## **8 Factors to be considered by occupational health**

- 8.1 Depending on the questions asked by the school as part of the referral, the occupational health service is likely to consider the following:
- Whether or not the employee is likely to attend work regularly and resume the full duties of the post in the foreseeable future
  - Whether there is a disability; how any disability affects the employee; and whether any adjustments are required
  - Any recommendations on convenient and effective ways in which duties or circumstances could be re-arranged, on either a temporary or permanent basis, taking in account the fitness and ability of the employee and recognising the individual circumstances of the school and its over-riding need to provide a high quality education for its students
  - If an employee is unlikely to attend work regularly and resume the full duties of the post in the foreseeable future, whether there are other kinds of work which would suit his/her abilities, or which, with further training, could be considered
  - Whether ill-health retirement is an option
    - Whether there is any other support the school, or other agencies, could reasonably consider offering.
- 8.2 Following an employee being assessed by Occupational Health, a report will be sent to the Headteacher, or to the senior manager who has made the referral. In the case of a Headteacher, this will be sent to the Trust's Chief Executive Officer who will liaise with the Chair of the LGB.
- 8.3 Where Occupational Health advice is that the employee is fit for normal duties, they should return to work upon expiry of the current medical certificate. The report may recommend a phased return to work and/or light or limited duties for a limited period.
- 8.4 In situations where Occupational Health recommends a therapeutic or a phased return to work, every reasonable assistance will be provided to the employee to facilitate this. All returns to work should be agreed within a specific timescale and the employee's progress reviewed by the line manager at regular intervals throughout the period.

## **9 Possible outcomes following an occupational health assessment**

- 9.1 **Fit for work with no adjustments:** The employee is fit to return to work with no adjustments to his/her working pattern. It is vital that the Headteacher or nominated person arranges a return to work meeting to discuss the employee's return to work.
- 9.2 **Continue to Monitor:** it may be that no immediate action is necessary other than to continue to monitor the situation and to organise temporary cover. This approach will be appropriate where a full recovery is likely within a timescale that will not cause unacceptable operational difficulties.
- 9.3 **Reasonable Adjustments:** Occupational Health may suggest reasonable adjustments to the employee's working environment or role in order to facilitate his/her return to work. It is for the school to decide what adjustments are reasonable having considered the suggestions made in the report.
- 9.4 **Therapeutic visits:** Where a therapeutic return is recommended, it will usually consist of a series of short visits to the school without the expectation that the employee will perform their normal contractual duties and will normally precede a phased return. During such therapeutic visits, the employee is still absent due to ill health and in receipt of appropriate sick pay benefits. In cases of long-term illness, schools may require a period of sustained therapeutic attendance at work, before agreeing to the commencement of a phased return.

- 9.5 **Phased Return to Work:** There may be certain cases where, following a long term illness, Occupational Health recommends that it would be beneficial for an employee to return to work on a reduced hours basis, until his/her health has fully recovered. It is expected that a phased return to work should last no more than 4 to 6 weeks. The school will be required to pay the employee his or her normal full salary during the duration of the phased return but for no longer than 4 to 6 weeks.
- 9.6 **Change of Role:** Occupational Health may suggest that the employee would benefit from a change in role or change of duties sufficient for it to be considered a new role. In some cases, it may not be possible to accommodate this suggestion in the same school. In these circumstances, the school will seek advice from the Chief Executive Officer on any options for supporting the employee to find suitable alternative employment.

## **10 Sickness absence reporting procedure**

- 10.1 On the **first day of absence** the employee must personally notify his/her line manager of his/her absence due to ill health as early as possible in the circumstances, and no later than his/her normal start time. The reason for the absence and an indication of its likely duration should also be given. Unless otherwise agreed, the employee should contact the school on each subsequent day of absence.
- 10.2 Unless the employee is seriously ill or incapacitated, the employee should contact the school, rather than asking a friend or relative call on their behalf. Only in the most serious and exceptional of cases, will it be acceptable for a text message or e-mail to be sent instead of making personal contact.
- 10.3 If the employee has been unable to speak to his/her line manager at the time of reporting the absence, they may expect further contact from the school to clarify the nature of the absence, its likely duration, any immediate work commitments that will need to be covered or re-arranged, and to discuss any support the school may offer, as necessary.
- 10.4 Failure to follow the school's local reporting arrangements could result in the absence being recorded as unauthorised. Failure to comply with the reporting and certification procedures may result in loss of sick pay; and persistent failure to comply may result in disciplinary action.
- 10.5 If the absence is due to an accident or injury sustained during the course of work duties, this information and the name of the person to whom the incident was reported must be made known. This is to ensure that the school has properly recorded the incident and, where necessary, taken appropriate remedial action.

## **11 Certification**

- 11.1 All employees must complete a self-certification form on their return to work for all absences up to and including seven consecutive calendar days. For all absences of eight consecutive calendar days or longer, the employee must provide a doctor's certificate ("Fit Note"). The requirement for sickness absence to be certificated includes school closure periods.
- 11.2 The employee must keep the school informed of progress. For longer term absence, the school will seek to agree a regular pattern of contact, usually weekly, with the absent employee. Headteachers/line managers should keep a record of their contact with the employee. Other than in the most exceptional circumstances, it is not acceptable for there to be no contact between the school and its employee.

## **12 Sick pay**

- 12.1 Employees have an entitlement to receive sickness pay during any period of sickness. This consists of Statutory Sickness Pay and an Occupational Sickness Pay entitlement.
- 12.2 In exceptional circumstances Headteachers may consider using their discretion to extend an employee's entitlement to occupational sick pay, in the knowledge that any costs of doing so will fall to the school's budget. In the case of teachers absent due to accident, injury or assault attested by an approved medical practitioner to have arisen out of and in the course of the teacher's employment, the period of full sickness pay is automatically extended up to the date of recovery, but not exceeding six calendar months.

### **13 Monitoring absence**

- 13.1 To ensure that any action taken against an employee for unacceptable levels and/or pattern of absence is appropriate, it is important that an accurate and consistent method of monitoring has taken place.
- 13.2 Effective monitoring of absence is dependent upon effective recording of absence. As part of induction, new employees will be made aware of the school's absence reporting arrangements and the expectations that the school has of good attendance. All employees will be made aware that the school will address concerns about absence levels.
- 13.3 It is the responsibility of the Headteacher to determine whether formal action is taken. The decision will be based on the cause, amount and frequency of the absence. In the case of a Headteacher's sickness absence, it will be the responsibility of the Chair of the LGB.
- 13.4 It should be noted that none of the definitions set out as part of this procedure prevents earlier intervention if appropriate, nor is it necessary to wait until sick pay has expired before further action is taken.

### **14 Unauthorised absence**

- 14.1 It is the employee's responsibility to adhere to the absence reporting procedures as set out above. However, if an employee fails to report for work, without informing their line manager, it is important that the situation is investigated and the employee given an opportunity to explain. If, after all reasonable efforts have been made to contact the employee, they remain absent without leave, it may be treated as an unauthorised absence without pay and may warrant an investigation under the Trust's Disciplinary procedures.

### **15 Trigger points**

- 15.1 To enable managers to monitor absence levels trigger points have been agreed. The Headteacher (or in the case of a Headteacher's sickness absence, the Chair of the LGB) will continuously monitor these levels, and will investigate with the employee any levels or patterns of absence which cause concern and decide whether any action (informal or otherwise) is required.
- 15.2 In any event, absence that reaches any of the following trigger points will be investigated in every instance:
- **Three occasions, or ten working days or more, absence in a rolling three months' period;**
  - **All long term absences (10 or more working days);**
  - **Unacceptable patterns of absence (e.g. regular Friday and/or Monday absences or school closure periods).**

- 15.3 Due regard must be taken of the Equality Act 2010 in relation to disability and pregnancy so as to ensure employees are not placed at a disadvantage as a result of these protected characteristics. Therefore, absence relating to rehabilitation, assessment and treatment of a disability and pregnancy related absence should be excluded from the triggers (see paragraphs 4 and 5 above). Due support and regard should also be given to an employee who may be experiencing the effects of drug or alcohol misuse or domestic abuse.
- 15.4 It should be noted that the above trigger points do not prevent earlier intervention if appropriate. Any employee who the school finds to be abusing the Trust's sickness absence management arrangements will be subject to disciplinary procedures, which may lead to dismissal.

## **16 Short-term and long-term absence definitions**

- 16.1 For the purpose of this procedure, short-term absence has been defined as including any of the following scenarios:
- Occasional short-term absence, or
  - Recurrent short-term absence where the causes differ and appear to be unrelated, or
  - Recurrent short-term absence with an underlying medical condition, or
  - Unacceptable patterns of absence (.g. regular absences either side of weekends or school closure periods).
- 16.2 For the purposes of this procedure, long-term absence is defined as follows:
- Continuous absence for a period exceeding 10 or more working days, or
  - Where the actual and anticipated future health of the employee makes a return to their current role very unlikely, at least in the immediate future, or
  - Recurrent long-term absence with an underlying medical cause.
- 16.3 The school recognises that an employee facing a substantial period of absence from work due to ill health may feel anxious and vulnerable. Headteachers and line managers will be sensitive to these feelings and provide support and reassurance wherever possible. It is important to maintain contact during the absence; the nature and frequency of which is best defined as early as possible between the line manager and the employee. On occasion it may be appropriate to meet at a neutral venue, or to make a home visit (although this should only occur with the express permission of the employee). Employees should also be asked if they would like to receive news, information or briefings available to other colleagues. If an employee requests that there should be no contact at all during sickness, the reason for this should be explored with him/her (or a nominated representative) – the assistance of the Trust's HR provider should be sought, if necessary.
- 16.4 As with short-term absence, there is a need to follow a consistent procedure. At all stages, the Headteacher / line manager should advise the employee of their rights.

## **17 Informal stages: Return to work meeting/informal meeting**

- 17.1 Wherever possible, the employee should inform the school no later than the day before the anticipated date of return.
- 17.2 The school will conduct return-to-work meetings for all absences, irrespective of length. The meeting should take place on the first day of the employee's return to work wherever possible. The aim of the meeting is to:
- Ensure that the employee is fit to return to work

- Ensure, as appropriate, the employee has taken / is taking all reasonable steps to manage their health and attendance, including accessing medical support as necessary
- Help to identify the cause(s) of the absence and any underlying problems that the employee may be experiencing
- Update the employee on anything that they need to know and, as necessary, assist with re-prioritising their workload following their absence
- Signal to the employee that attendance (and therefore absence) is a high priority for the school
- Ensure that the absence is recorded in line with local procedures and that the relevant documentation completed
- Make the employee aware if s/he is approaching a trigger point (see section 15), discuss what other support / action might be needed to reduce the employee's level of absence and advise the employee that unless attendance improves, the school will be left with little choice but to adopt a formal approach (see section 18).

17.3 A record of the return to work meeting will be made, a copy given to the employee and a copy kept on the employee's personal file.

17.4 Before action is taken under the formal stages of this procedure, the employee should be informed in writing and invited to a meeting to discuss the evidence in more detail.

17.5 In many circumstances, significant evidence will have already have been gathered as part of the return to work process, which the school will simply collate and summarise as evidence.

## **18 Formal stages: Ill health capability review procedure**

18.1 Once the level of absence has been identified as a concern, and having taken into consideration the points in earlier sections of this procedure, the Headteacher (or in the case of a Headteacher's sickness absence, the Chair of the LGB) should consider taking action as outlined in this ill health capability review procedure.

18.2 The Headteacher should decide whether he/she or another senior colleague should conduct the meetings at each stage. If the Headteacher is the subject of concern the Chair of the LGB would be responsible for such a case.

18.3 The First and Final Health Review Meetings of this procedure are designed to deal with persistent short-term ill-health cases.

18.4 When considering long-term ill-health of an employee who is a member of the pension scheme and if the opinion of Occupational Health is such that it is not possible for the employee to discharge the duties of his/her post, then consideration of early retirement on grounds of ill-health may be considered. If retirement is not considered an option but the prospects of a return to work within a reasonable period are unlikely, the school may consider starting the procedure at the Ill-Health Capability Hearing stage.

18.5 Return to work meetings will continue to be conducted for absences that arise between any formal meetings.

## **19 First Health Review meeting**

19.1 If an employee's sickness absence levels have not improved despite being addressed in their return to work meetings, and the employee has reached any of the trigger points (see section 15), the Headteacher/Senior manager will invite the employee to a First Health Review Meeting.

- 19.2 The invitation will be in writing, giving the employee at least 5 working days' notice and will:
- 19.2.1 set out the date and place of the meeting
  - 19.2.2 provide the reason for the meeting
  - 19.2.3 state that they may be accompanied by a trade union representative or work colleague
  - 19.2.4 As necessary, inform that a member of the Trust's HR provider and/or a note-taker may also be present at the request of the school.
- 19.3 The Headteacher/Senior manager will prepare for the meeting by ensuring that they have clearly identified the employee's sickness absence levels and the support that has been provided.
- 19.4 At the meeting the Headteacher/Senior manager will:
- Explain the concern about the absence level and reasons for that concern, such as operational difficulties caused
  - Listen to reasons and respond appropriately
  - Consider whether to refer the employee to Occupational Health (if no referral has yet been made)
  - State that sustained improvement in attendance is expected and set an appropriate monitoring period and specified target for improvement. In most cases this will be a target of fewer than three incidences of absence in the following three months or fewer than 10 working days in the following three months
  - Arrange a date for the next meeting (at the end of the monitoring period)
  - Identify any support required
  - If appropriate, issue the employee with a **first written warning** (for a period of between six and twelve months) and explain that continued failure to improve attendance to the specified level may lead to further action under this policy and procedure, which could lead to his/her employment being put at risk.
- 19.5 Following the meeting, the Headteacher/Senior manager will write to the employee confirming the details of this meeting, including any conclusions reached (such as details of the first written warning), attendance targets for the monitoring period, points of disagreement and the date of the Second Health Review Meeting.
- 19.6 If there is a further, significant deterioration in attendance, the Headteacher may bring forward the date of the Second Health Review Meeting, provided that five days' written notice is given.

## **20 Second Health Review Meeting**

- 20.1 At the end of the agreed monitoring period, the employee's attendance will be reviewed at a Second Health Review Meeting, at which the employee will have the right to be accompanied by a trade union representative or work colleague.
- 20.2 At the Second Health Review Meeting the Headteacher/Senior Manager will advise the employee of one of the following outcomes:
- 20.2.1 **The required standard of attendance has been met and sustained:** The employee's attendance will be managed under normal absence management arrangements and the first written warning will remain active until expiry; or

**20.2.2 The required standard of attendance has not been met or significant progress has not been made towards attaining the required attendance level, in which case the Headteacher/Senior manager will:**

- 20.2.2.1 Explain the concern about the continued absence level and reasons for that concern, such as operational difficulties caused
- 20.2.2.2 Listen to reasons and respond appropriately
- 20.2.2.3 Consider whether any (further) occupational health advice should be sought
- 20.2.2.4 State that sustained improvement in attendance is expected and set an appropriate Final Monitoring Period and specified target for improvement. In most cases this will be a target of less than three incidences of absence in the following three months or less than 10 working days in the following three months
- 20.2.2.5 Arrange a date for the next meeting (at the end of the monitoring period)
- 20.2.2.6 Identify any support required
- 20.2.2.7 If appropriate, issue the employee with a **final written warning** (for a period of between six and twelve months) and explain that continued failure to improve attendance to the specified level will lead to his/her employment being at risk of dismissal.

20.3 Following the meeting, the Headteacher/Senior manager will write to the employee confirming all the details of this meeting (such as details of the final written warning), including any conclusions reached, attendance targets for the Final Monitoring Period, points of disagreement and the date of the next review meeting (to take place at the end of the monitoring period).

20.4 In some cases targets may be achieved, but the sickness absence record may be of such concern that extended periods of monitoring are required.

**21 Arrangements at the end of the Final Monitoring Period**

21.1 At the end of the Final Monitoring Period, where the Headteacher/Senior manager considers that the required standard of attendance has been met and sustained, a **Final Review Meeting** will be convened with the employee. The employee will have the right to be accompanied by a trade union representative or work colleague.

21.2 Possible outcomes of this meeting will be either that:

21.2.1 The employee's attendance will be managed under normal absence management arrangements and the final written warning will remain active until expiry; or

21.2.2 The Final Monitoring Period will be extended for a further specified time with attendance targets being set.

21.3 It is expected that the outcome set out in paragraph 21.2.2 will apply in circumstances where attendance targets have been achieved but where the employee's sickness absence record remains a serious concern.

- 21.4 Following the meeting, the Headteacher/Senior manager will write to the employee confirming the details of this meeting.
- 21.5 At the end of the Final Monitoring Period, where the Headteacher/Senior manager considers that there has been no, or insufficient, improvement in attendance or where improved has not been sustained the case will be presented for full review at an **Ill-Health Capability Review Hearing**.

## **22 Ill-Health Capability Hearing**

- 22.1 Where the long-term absence of an employee continues due to the nature of the illness or the circumstances set out at paragraph 21.5 apply, the case will be presented for full review at an Ill-Health Capability Hearing in order to consider termination of employment.
- 22.2 The hearing will be heard by the Headteacher, if he/she has not been the decision-maker at earlier stages of the procedure and has the delegated authority to consider dismissal, or to a panel of members of the school's LGB Hearings' Committee.
- 22.3 The hearing will be set at the earliest possible date, but normally by no later than fifteen working days following the decision to move to this part of the procedure. For cases relating to long-term absence, it is anticipated that the school will have maintained appropriate, regular contact with the employee.
- 22.4 The employee will be advised in writing that a possible outcome of the hearing could be that the Headteacher/panel determines that they should be dismissed.
- 22.5 Details of the case and notification of any witnesses to be called will be circulated to all parties at least ten working days before the hearing. The employee will be invited to submit documentation and details of all witnesses, as appropriate. This must be provided at least five working days before the hearing to the Headteacher/panel.
- 22.6 This will include the manager presenting the case and detailing the level of absence, its impact and referring to any documentation that has been circulated prior to the meeting, including any medical reports.
- 22.7 For guidance on the procedure of the hearing, please refer to paragraph 20 of the Trust's Disciplinary Procedure.
- 22.8 The employee (or representative) will have the opportunity to respond and present evidence in support of their position.
- 22.9 In reaching a decision about whether to terminate the employee's employment, the Headteacher/panel must consider the relevance of factors including:
- Sickness record, including length/periods of and reasons for absence
  - Impact of the absence on the school
  - The practicality and reasonableness of providing cover for the absence
  - Responses to requirements to improve where these have been notified
  - Medical advice, including whether the employee can be confirmed by Occupational Health as being likely to give regular and reliable service in the foreseeable future
  - The employee's own wishes and views
  - The support provided to the employee to date
  - The likelihood of an improvement in attendance
  - The attitude and response of the employee in recognising and addressing the impact of their absence
  - If reasonable adjustments have been explored where relevant

- Whether all appropriate options, for example, Ill Health Retirement procedures, have been properly explored
- Any other factor deemed relevant to the employee's position.

22.10 A decision to terminate the employee's employment will be on notice and will, wherever practicable, be notified to the employee at the hearing together with reasons. The employee will also be informed of his/her right to appeal.

22.11 Confirmation of the termination and appeal arrangements will be detailed in writing to the employee normally within five working days of the hearing.

22.12 Where the Headteacher/panel exercise discretion to extend the monitoring period and set a further attendance target (as an alternative to termination of employment), full reasons will be recorded.

## 23 Appeals

23.1 All employees have the right to appeal against any formal actions, i.e. warnings or dismissal, taken against them under this policy and procedure.

23.2 **Warnings:** any appeal arising as result of a warning, must be made in writing within fourteen calendar days of the receipt of the decision and including full details of the grounds for appeal and any relevant supporting information. If the warning is given by a line manager, the appeal will be to the Headteacher. If the warning was given by the Headteacher, the appeal is to the Chair of the LGB. If the Headteacher is the subject of the formal action, the appeal will be to the Chief Executive Officer.

23.3 **Dismissal:** Any appeal arising as a result of a dismissal must be made in writing within fourteen calendar days of the receipt of the decision. The appeal will be to a panel of the LGB's Appeals Committee and must not include any members who have been previously involved in the case.

23.4 At an appeal any sanction or penalty imposed will be reviewed, but cannot be increased.

23.5 The employee has the right to be accompanied by a trade union representative or work colleague. The Headteacher is likely to present the school's case at the appeal hearing. If the Headteacher is the subject of formal action, the Chair of the LGB will adopt this role.

23.6 If the recommendation for dismissal is not upheld, the Appeals Panel may decide to issue a further warning or, in appropriate cases, to demote the employee rather than dismiss. Demotion involves a change in the employee's contract such that, unless there is a contractual right to do so, his/her consent to the new arrangement will be required.

23.7 Wherever possible, the employee will be informed of the decision at the conclusion of the appeal hearing and in any case, in writing normally within five working days, together with reasons for the decision.

23.8 There will be no further right of appeal for the employee following the decision of the Appeals' Panel. The employee will not be able to re-open matter that has been considered by looking to invoke a different procedure, such as the Grievance Procedure.

## 24 Medical redeployment or retirement

24.1 Any employee who is deemed to be permanently unfit for work, will leave the school's service in a managed and supported way, with any pension benefits to which they are entitled.

24.2 In managing medical redeployment or retirement, all staff will be treated equally and consistently. Medical redeployment and retirement will not be applied as a punitive or disciplinary measure.

24.3 The Trust/schools will endeavour to:

- Monitor and support staff who are absent due to long-term sickness.
- Promote and liaise with the Occupational Health Service, keeping staff advised of the process.
- Make reasonable adjustments where required by law to existing jobs and workplaces to facilitate a return to work.

Trust staff and recognised unions were consulted on this document on:	
It was ratified by the Trust Board on:	