



# The Societas Trust

## Supporting Attendance Procedure

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N.B For the purposes of clarity, references to;

- Governing Board may also mean Directors' Board
- Governors may also mean Directors and/or Local Academy Representatives (In accordance with the Trust Scheme of Delegation of Authority)

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## **1.0 Introduction**

This procedure has been adopted by the Directors' Board of The Societas Trust (hereon referred to as "the employer") on 6 July 2018 following consultation with the teachers' associations and support staff trade unions.

The procedure will be followed when an employee is unable to attend to work regularly due to sickness. It covers persistent, short term intermittent and long-term absence. This procedure applies to all school managed employees, and centrally employed staff (these staff will hereon be referred to as "employees").

The aim of this policy is to encourage employees in maintaining attendance and attend work regularly and to assist Headteachers/Principals/Managers (hereon referred to as "managers") to reduce levels of absence among staff in a fair and consistent way. The policy aims to balance two considerations; the need for high quality education services for children, and the interests and rights of individual employees.

Any suspected abuse of the procedure will be dealt with under the Disciplinary Procedure and could result in pay being affected.

Special consideration needs to be given to illnesses relating to pregnancy, cases covered under the Equality Act, infectious diseases, alcohol and substance misuse, and industrial injury. Ellis Whittam (hereon referred to as "HR") can offer advice on such cases.

The opinion and advice of Occupational Health should be sought whenever appropriate. An up to date medical opinion should be obtained before any decision is made to dismiss an employee on health grounds.

This policy should also be used in conjunction with the Trust's Formal Meetings and Investigations Procedures.

## **1.1 Principles**

The Trust has regard for the health, safety and welfare of all its employees. A proactive approach to staff welfare is a more effective means of reducing absence than dealing with individual absence cases.

Individual employees have a duty to attend work regularly, and consequently must take all reasonable steps to protect their own welfare, and to assist in the promotion of a healthy workplace.

The impact of absence is significant, e.g. the impact on education of children and the cost of absence to the employer. For these reasons maximising attendance for all staff is very important to provide high quality services to our stakeholders.

Managers have responsibility for monitoring and supporting attendance of staff members and should always tackle sickness absence where it occurs, fairly and consistently, using the procedure. HR are available to provide guidance and support at any stage.

Individual employees are encouraged to involve their trade union representative or professional association whenever management raise concerns regarding their absence.

In our settings, accountability for attendance rests initially with the Headteacher/Principal. Headteachers/Principals may delegate responsibility for managing and supporting attendance to other managers within the setting. Responsibility for the management of attendance of a Headteacher/Principal must rest with the CEO. The management of attendance of the CEO will rest with the Chair of the Trust Board. HR will provide information, support, and guidance to Headteachers, Principals, Managers, and Governing Boards on attendance matters, including updates on employment law and good practice.

This document provides a framework for addressing matters of non-attendance; however, it should be recognised that individual circumstances may necessitate a tailored response. In such circumstances the Manager must use their judgment in order to sensitively address the matter with due fairness and sensitivity, and with regard for the interests of both the individual and the academy.

Appropriate risk assessments and incident reports should be used to help minimise workplace injuries. Where workplace factors are linked to absence, Managers should contact their Health and Safety provider for further advice, in order to minimise reoccurrence.

Employees continue to accrue annual leave whilst they are absent due to sickness. For the purpose of establishing annual leave entitlement whilst off sick, a teacher's leave year will be defined as 1<sup>st</sup> September, in line with the start of the academic year; for support staff, the start of the leave year will be defined as 1<sup>st</sup> April.

For Teachers annual leave will be in line with the Burgundy book/Teachers Terms and Conditions.

For guidance regarding eligibility of annual leave payment following long term absence upon resignation or dismissal, advice can be sought from HR.

### **Whole Year Support Staff Only**

Where an employee has been unable to take their annual leave entitlement within their current leave year due to sickness absence, any remaining statutory entitlement should be carried over into the following annual leave entitlement. This entitlement relates to holidays accrued as per the working time regulations.

Where a whole year employee has booked annual leave and is unwell, they will be required to submit a fit note to cover the period of sickness absence in order to reimburse their statutory annual leave entitlement. The cost of securing a fit note is met by the individual.

## **1.2 Equality Act 2010**

This policy has been written with regard to the Equality Act 2010 (The Act) and therefore consideration should be given to the requirements of the Act when following these guidelines. For the purposes of the Act, a person is considered to have a disability if they have a physical or mental impairment which has a **substantial and long term adverse effect on their ability to carry out normal day-to-day activities**, or have been diagnosed with a specific illness which gains recognition under the act. Further guidance regarding whether an employee's medical condition is likely to fall under the act can be obtained through a referral to Occupational Health.

Under the Act there is a legal obligation on employers to consider reasonable adjustments for employees with disabilities. This could be adjustments to premises, working arrangements, job roles etc. to facilitate access to work for disabled people and to enable an employee who becomes disabled during the course of his/her employment to remain in work. A reasonable recommendation may be that specialist equipment is required and, in this circumstance, the Manager should advise the employee to contact Access to Work (0345 2688489) to arrange an assessment. Provisions should also be made for a risk assessment to be carried out where appropriate.

Where it is not possible to make reasonable adjustments or where the medical condition has deteriorated and the adjustments are no longer working and/or it is not possible to make further adjustments to allow the employee to continue in their post, then consideration needs to be given to options such as supporting the employee in their search for alternative employment and the application for ill health retirement. Should all options have been exhausted, the matter may be referred to the Governing Board or equivalent who will consider the employees continued employment.

For advice regarding specific Equality Act issues Managers should contact HR.

### **1.3 Infectious Diseases**

For guidance with respect to employees absent due to infectious diseases, please see **Appendix A**

### **1.4 Medical Exclusion**

An employee may be excluded from work on medical grounds. This may arise, for example, when there is a difference of opinion between the employee's GP and the Occupational Health Advisor regarding whether the employee is fit to return to, or continue working in, their existing job. During medical exclusion normal pay arrangements will continue, and the situation should be kept under continuous review. The employee is entitled to a written explanation of the reasons for medical exclusion. The maximum period of exclusion is 26 weeks but in exceptional circumstances may be longer. If the period of exclusion is indefinite, consideration may need to be given to the employees continuing employment. Advice should be sought from HR whenever medical exclusion from work is a possibility.

### **1.5 Sick Pay Entitlements**

Staff are subject to occupational sick pay schemes described in full in the relevant scheme of conditions of service which allow periods of full pay and half pay during sickness absence. These increase with length of service.

Sick pay entitlement for teachers is as follows for working days:

- 1<sup>st</sup> year – full pay for 25 days and upon completion of 4 months service, ½ pay for 50 days,
- 2<sup>nd</sup> year – full pay for 50 days and ½ pay for 50 days;
- 3<sup>rd</sup> year full pay for 75 days and ½ pay for 75 days;
- 4<sup>th</sup> and successive years, full pay for 100 days and ½pay for 100 days.

Sick pay entitlement for staff on Green Book Terms and Conditions is as follows:

- 1<sup>st</sup> year – full pay for one month (plus two months half-pay upon completion of 4 months service)
- 2<sup>nd</sup> year – 2 months full pay and two months half-pay
- 3<sup>rd</sup> year – 4 months full pay and four months half-pay
- 4<sup>th</sup> year and 5<sup>th</sup> year – 5 months full pay and 5 months half pay
- After 5 years – 6 months full pay and 6 months half pay

Teachers' terms and conditions of service also include special provisions that apply in relation to absences arising from accidents at work. In these cases, advice should be sought from the Pay and Conditions Service.

The relevant governing board (as determined by the scheme of delegated authority) has discretion to extend sick-pay periods. All costs arising from such an extension will be charged to the relevant budget.

Where the decision is taken to extend full pay, consideration must be given as to whether to offset this against the employee's half-pay entitlement. If payment is to be set against the employee's half pay entitlement advice should be sought from the Pay and Conditions Service.

A decision to extend full sick pay does not remove the need to manage the absence.

If the relevant governing board agrees to extend an employee's period of full pay, this would not affect their entitlement to incapacity benefit. However, if a period of full-pay is extended and entitlement to SSP has been exhausted the full-pay is reduced by the amount of incapacity benefit entitlement (whether this is claimed or not).

## **2.0 Reporting and Monitoring Absence**

### **2.1 Reporting Absence Procedure**

#### **Employer**

It is the responsibility of the employer to ensure that they update their payroll provider on a regular basis via the appropriate weekly return, ideally, on the day that notification of any absence or return to work is received. This part of the process is critical as accurate, timely absence information is essential for the employer to manage its absence levels.

If an employee attends work but is sent home by their manager then that day will not be counted towards absence triggers and will not be included in monitoring periods. However, should the employee remain absent then all remaining days of the period of absence will be counted. Please note there is an onus on employees to look after their own welfare and wherever possible they should avoid attending work when they are not fit enough to do so. Please note that employees should only be sent home in exceptional circumstances.

Where absence is due to anxiety, depression or a stress related condition, it is particularly important to establish and maintain contact with the employee to provide support to them and where appropriate to identify and address any underlying work related causes that may be preventing their return to work.

## **Employee**

It is the responsibility of the employee to notify their manager of any absence. Please see **Appendix B** for the recommended guidance on notification of absence procedure for staff reporting sickness absence.

### **2.2 Fit Notes**

The Fit Note allows GP's to provide more information on how an employee's condition affects their ability to work and if any adjustments could be made in order to assist the employee back to work sooner. It is recommended that Managers and employees read the guidance note relating to the statement of Fitness for Work attached at **Appendix C**

### **2.3 Return to work**

Any employee who has been absent due to sickness, even if only for 1 day, should be contacted and where possible interviewed by their line manager, preferably on their first day back in work (and in any event within a period, not more than 5 days after their return).

Further advice on Return to Work interviews can be sought from HR. A self-certification form should be completed if not already done so.

### **2.4 Phased return to work**

In certain cases, it will be appropriate for a phased return to work to be undertaken. Advice from Occupational Health should be sought. However, a phased return will not normally be for longer than 4 weeks. However, in exceptional circumstances and subject to advice from Occupational Health, agreement can be given to increasing this and extending over a greater period of time. Payment during a phased period will usually be full pay for up to 4 weeks; however, this is at the discretion of the Manager.

Advice with regards to phased returns may also be provided by GP's on a fit note. Consideration should be given to such recommendations and whether this can be accommodated, especially where this could assist the employee in an early return to work.

### **2.5 Industrial Injury**

In the case of an absence being due to an accident at work, industrial injury or work related medical condition, there is a legal requirement that for the employer to report such an absence to the relevant Health and Safety provider using the appropriate incident/accident form.

Absences owing to industrial injury should be recorded on the Weekly Absence Management Return.

Please refer to **Appendix D** on how to manage and record Industrial Injuries.

## **2.6 Absence data**

Information on absence should be used to monitor and address absence issues in a fair and consistent way. It must also be used to proactively identify absence trends and areas of concern and to improve general workplace well-being thereby reducing absence.

Absence data can be used to estimate the costs to the academy, both direct and indirect, of non-attendance.

The Pay and Conditions Service can assist in recording and monitoring absence levels through its computerised absence management system. Intermittent and long-term absence data will be provided to the Manager on a regular basis by the Pay and Conditions Service. Managers should ensure that they review the information carefully and take appropriate action as detailed within this policy.

## **3.0 Occupational Health**

### **3.1 Referrals to Occupational Health**

Referrals made to Occupational Health are a supportive measure and are intended to provide management with advice regarding the employee's condition and how best to support the employee. Referrals can be made if an employee is absent or in work.

Where an employee cites workplace stress as the reason for their absence the Manager will arrange to meet.

Where an employee cites either stress/anxiety/nervous debility, or any muscular-skeletal/back/spinal condition, a referral to Occupational Health should be completed immediately.

The Manager must make the employee aware if they are to be referred to Occupational Health and explain that this is a supportive measure to provide management with advice on how best to support them in achieving/ maintaining regular attendance at work.

Managers can refer employees using the OHU provider's referral form

The Manager will liaise directly with the OHU provider and the report will be sent directly to the Manager and the individual by the OHU provider.

Recommendations should be considered carefully and if appropriate, further advice sought from HR if necessary. In the exceptional circumstance that the recommendation is that a return to work is unlikely within the reasonably foreseeable future Section 5, Managing Long Term Absence should be followed.

The employer is entitled to require any employee at any reasonable time to attend an examination by its nominated medical adviser where it appears that the employee is unable to perform his/her duties as a consequence of illness, or where pro-active action is thought necessary to support an employee to continue performing their duties. It is better if the employee agrees to be referred and every reasonable effort should be made to achieve this. Where an employee unreasonably refuses to attend a medical appointment, management may consider disciplinary action. It must be made clear to the employee that failing to attend Occupational Health may result in management

making employment decisions without the information an Occupational Health professional can provide.

It is normal practice for the Occupational Health Practitioner to request information from the employee's doctor (whether this be a GP or Consultant). Should further information be required, Occupational Health will discuss this with the employee and appropriate approval sought in accordance with the Medical Reports Act.

Teachers have the contractual right to be accompanied by their own doctor, if they so wish, when examined by the Occupational Health Practitioner.

Employees have the option to be accompanied to their Occupational Health appointment by a friend or relative to give support and to act as an observer. Some employees may choose to be accompanied by a Trade Union representative. In this circumstance **Trade Union representatives should be there to offer support and not to present the employees case.**

Case conferences, with Occupational Health, the employee, Manager, HR, and Trade Union representative all present, provide a useful forum to discuss employee welfare needs. These can be arranged through HR.

### **3.2 Confidentiality**

As with any other employee details the attendance records and any other information relating to health matters are confidential under the Access to medical reports Act and Data Protection legislation, employees have the right to see medical reports and records held relating to their attendance.

## 4.0 **Managing short-term/intermittent absence**

### 4.1 **Overview**

The procedure for managing short-term/intermittent absence consists of the following 4 stages:

1. **Informal review**
2. **Formal Review Stage 1**
3. **Formal Review Stage 2**
4. **Formal Review Stage 3 – Referral to Governors or Senior Management**

It is recommended that the above procedure should be initiated when an employee hits one of two possible triggers: -

- **9 days absence in any 12-month period OR -**
- **5 occasions of absence in any 12-month period.**

These triggers include both certified and self-certified sickness absences.

Headteachers, Principals, Managers, HR or Governors, should consider whether action is needed whenever someone has reached one of the triggers above. However, action set out below should not take place automatically as soon as a trigger is reached. It is important that Managers consider the individual circumstances relating to the absences. Advice should be sought from HR and/or Occupational Health as necessary.

Managers may hold further informal interviews between each formal stage if they consider circumstances warrant it. A written record summarising the main points from each conversation should be made and a copy kept on the employee's file.

Managers should update HR with details regarding any informal review or formal meeting that has taken place, including:

- The name of the employee
- Which stage of the process has been held and date of the meeting
- What attendance targets have been set for the employee (if different from those set out within the policy)?

In all cases advice and assistance, to Headteachers, Principals, Managers and Governors, is available through HR.

### 4.2 **Written notification**

It is important that for any **formal meeting** under this procedure, the employee is given **5 working days written notification** of the meeting, which must also state their right to be accompanied by Trade Union representation or a work colleague. Once the meeting has been held, a summary of what has been discussed should be compiled within an outcome letter.

It is the Managers responsibility for the completion and distribution of the relevant letters.

### 4.3 Representation

Employees are entitled to be accompanied by their trade union representative or a work colleague at formal meetings under this procedure. At the informal review (including any further informal reviews between formal stages), it would not be considered necessary for the employee to be accompanied to the meeting. However, a request to be accompanied should not normally be refused.

### 4.4 Informal Stage

If an employee reaches either of the triggers set out in 4.1 above, the Manager should commence an informal review.

It is important that Managers explore the cause of the absences and ways in which acceptable levels of attendance can be supported and maintained. Further guidance on what should be discussed at this meeting can be found in **Appendix E**.

Whilst conducting the meeting, Managers should take notes and both parties should check and sign the notes at the end of the review. It is important that the impact of the employee's absence is made clear and their responsibility to attend work on a regular and sustained basis.

Managers must make it clear to the employee that their absence will be monitored for a period of 12 months. It is recommended that the following attendance targets are set:

- **No more than 5 days or 3 occasions of absence over a 12-month period.**

The new attendance targets should start with effect from the day following the last period of absence. It is important therefore that Managers conduct the informal review in a timely manner.

If a Manager feels that it would not be appropriate to progress an individual's absence case, it is recommended that they take further advice from their usual HR contact.

### 4.5 Formal Stage 1

If following the Informal Review the standard of no more than 5 days absence or 3 occasions of absence in the 12-month period has not been met, it will be necessary for the Manager to consider meeting with the employee on a formal basis. A letter inviting the employee to the meeting must be sent, which will give them 5 working days of the meeting. The employee should also be informed that they are entitled to be accompanied at the meeting by their trade union representative or a fellow colleague.

It is important that Managers explore the cause of the absences and ways in which acceptable levels of attendance can be supported and maintained. Further guidance of what should be discussed at a formal stage 1 absence meeting can be found in **Appendix F**.

Managers should make it clear to the employee that they have failed to achieve the required levels of attendance and therefore their absence will be monitored for a further period of 12 months. It is recommended that the following attendance targets are set:

- **No more than 3 days or 2 occasions of absence over a 12-month period.**

The new attendance targets should start with effect from the day following the last absence. It is important therefore that Managers conduct the formal stage 1 review in a timely manner.

It is recommended that Managers use their professional judgement and consider individual circumstances in relation to the progression of an absence case. Should a Headteacher feel that it would not be appropriate to progress an individual's absence case, it is recommended that they take further advice from their usual HR contact.

If the employee maintains the targets set, they will return to normal monitoring.

#### **4.6 Formal Stage 2**

If following formal stage 1 it is evident that the employee's attendance has not met the required standard of no more than or 3 days or 2 occasions of absence in the 12 month period, it will be necessary for the Manager to meet with the employee to instigate formal stage 2 of the process. It is important that Managers explore the cause of the absences and ways in which acceptable levels of attendance can be supported and maintained. Further guidance of what should be discussed at a formal stage 2 absence meeting can be found in **Appendix G**.

Managers must make it clear to the employee that they have failed to achieve the required standards of attendance and therefore their absence will be monitored for a further period of 12 months. It is recommended that the following attendance targets are set:

- **No more than 3 days or 2 occasions of absence over a 12-month period.**

The new attendance targets should start with effect from the day following the last of absence. It is important therefore that Managers conduct the formal stage 2 review in a timely manner.

Due to the seriousness of the position, options to facilitate regular attendance e.g. job redesign, change in working arrangements or redeployment where an employee is no longer able to continue to carry out the full range of duties of their role should be very carefully considered. The Manager should explore any opportunities for redeployment (pay protection will not normally be offered should any role identified be of a lesser grade).

It is recommended that Managers use their professional judgement and consider individual circumstances in relation to the progression of an absence case. Should a Manager feel that it would not be appropriate to progress an individual's absence case, it is recommended that they take further advice from their usual HR contact.

In the unlikely event that the employee has not been referred to Occupational Health, a referral must be made as soon as it is evident that the employee's attendance has not met the required standard and that Formal Stage 2 will need to be instigated. It may be necessary to obtain an up-to-date report where one has already been obtained earlier

The employee must be informed at this meeting that failure to achieve the required levels of attendance may result in the matter being referred to the relevant Governing Board who will consider dismissal. This must also be put in writing to the employee

within 10 working days of the meeting. HR can provide support at the meeting if required.

#### **4.7 Formal Stage 3**

Where the employee has been unable to make or sustain any improvement to their attendance record as specified within formal stage 2 of the process, the matter should be presented to the relevant Governing Board, who will consider dismissal for repeated levels of non-attendance. Sufficient written notification of the meeting (not less than 5 working days) should be given. HR should also attend this meeting to advise the Governing Board.

An up to date medical report should be obtained from Occupational Health and a determination as to whether, if the employee's employment is terminated on ill health grounds, they would qualify for Ill Health Retirement. A determination regarding Ill Health Retirement will only be necessary where the employee is suffering from an on-going medical condition, which is or might be responsible for the employee's absence.

The employee must be warned that dismissal is an option that could be considered by management in the invitation letter to the meeting. Any information that will be utilised at the meeting e.g. OHU reports, return to work, copies of letters etc should be supplied to the employee and their trade union representative/colleague, Governors and their HR Officer at least 5 working days before the meeting is to take place (this includes information from both the management and the employee).

If Governors decide that the employees attendance is likely to improve with adjustments made, or that taking into account the employees personal circumstances and all the circumstances of the case, the employees absence level is insufficient to justify dismissal, the Governors should set a further review period and further targets for absence, and warn the employee that failure to meet these targets will result in a further Stage 3 meeting being held to consider their continued employment.

Where all reasonable options to assist the employee to sustain regular attendance have been explored without success, the Governors may decide to give notice to the employee to terminate the contract of employment on the grounds of capability in that the employee is incapable of satisfactorily undertaking the duties required of them for health reasons.

The Governors decision and the reasons for it must be confirmed to the employee in writing within 5 working days. Where the decision is to dismiss, the letter must include the date on which employment will end and the right of appeal, and the period of notice will be in accordance with the statutory minimum or as specified in the individual's contract of employment, whichever is greater. There is a requirement to pay the employee in full (less any benefits) during statutory notice (as set out in the Employment Rights Act 1996) even though the full sick pay entitlement might have expired.

#### **4.8 Appeals**

Appeals must be submitted in writing to the Chair of the relevant Governing Board via the Manager, within ten working days of receipt of the employer's decision, and must identify the reasons for appeal. The appeal will be heard by a different panel of governors and they will review any decision to end the contract of employment.

## 5.0 Managing Long term absence

### 5.1 Overview

The recommended process for managing long term absence consists of the following 3 stages

1. **Welfare review**
2. **Formal Reviews**
3. **Sickness Absence Hearing - Referral to Governors or Senior Management**

This Policy recommends that sickness absence is treated as long-term under these guidelines once an employee has been absent continuously for 2 weeks. However, it is not necessary for two weeks to expire before action can be taken under this policy; if an employee submits a Fit Note for a duration of 2 weeks or more, or the manager or employee reasonably believes the employee's condition will result in an absence of 2 weeks or more, a referral to Occupational Health should be made immediately. This is separate from arrangements for absence insurance cover.

It is the responsibility of Managers to manage absence; HR are available to support when required. The actions outlined below should not be deferred, as deferral or delay of actions may result in prolonging the period of absence at the detriment to the employee's health.

Managers are responsible for ensuring regular contact is maintained with the employee, in order to;

- Keep informed as to the employee's progress
- Try to establish a return to work date
- Inform the employee of any work-place developments they may have missed
- Ask what support the academy can provide, etc.

**Where an employee cites either stress/anxiety/nervous debility, or any muscular-skeletal/back/spinal/other degenerative condition, a referral to Occupational Health should be completed immediately.** The Manager must make the employee aware if they are to be referred to Occupational Health and explain that this is a supportive measure to provide management with advice on how best to support them in achieving/ maintaining regular attendance at work.

Managers should update HR with details regarding any welfare and formal reviews that have taken place, including:

- The name of the employee
- Which stage of the process has been held and date of the meeting
- What target return to work date has been set for the employee

This information is vital in ensuring that the absence management system and data produced for the Headteacher monthly reports are up to date and accurate.

In all cases advice and assistance, to Headteachers, Principals, Managers and governors, is available through HR.

## 5.2 Welfare Review

A welfare review should be initiated as soon as the Manager is made aware that an employee's sickness is likely to last for a period of 2 weeks or more. Guidance on what should be covered in a welfare review can be found in **Appendix H**. In any case of absence, regular and frequent contact should be established and maintained throughout and a note kept of all contact made. Employees should also ensure that they are contactable. Home visits may be arranged but only with the prior consent of the employee. (Please see **Appendix I** for guidance on undertaking home visits).

It is usual that Managers conduct the welfare review without HR present, however if support is required Managers should contact their usual HR contact.

At the welfare review, it would not be considered necessary for the employee to be accompanied to the meeting. However, a request to be accompanied should not normally be refused

The outcome of the welfare review should be confirmed to the employee in writing.

## 5.3 Formal Reviews

If the employee does not return to work, a further meeting should be arranged to discuss this (even if no specific medical advice can be given at that time). A letter inviting the employee to the meeting must be sent, which will give **5 working days written notice** of the meeting which must also state their right to be accompanied by a Trade Union representative or a work colleague.

At the meeting the Manager should discuss measures that may facilitate an early return to work e.g. redeployment, reduced duties whilst awaiting tests etc. If the Occupational Health report gives a likely timescale for a return to work and this is within a reasonable time, then the employee should be set this as a return. The employee should be advised that if they have not returned to work within this period, the matter could progress to the relevant governing board.

If the Occupational Health report indicates the employee is likely to recover within a reasonable time, but does not give a specific return to work date, the Manager should consider the report, any other evidence available and the views or comments of the employee and decide based on these what a reasonable recovery period might be and set this as a target return to work date.

Whilst this may be a relevant factor Managers should not simply set a target date based on when the employee's latest medical certificate expires. Where the Occupational Health advice is the employee is unlikely to return to work at all, or any acceptable time frame, after all appropriate advice has been taken, the matter may be referred to Governors.

Once the formal meeting has been held, a summary of what has been discussed should be compiled within an outcome letter. It is the Managers responsibility for the completion and distribution of the relevant letters.

Where the absence is prolonged or the employee has been unable to return to work on the date established in their previous meeting, it is necessary for the Manager to hold a formal review. Guidance on what should be covered in a formal review can be found in **Appendix J**.

It is impossible to give set guidance in relation to how many formal review meetings should be held, and the timescales associated with this. Much will depend on the medical prognosis and the operational effect of the absence. Further up to date medical reports should be obtained from Occupational Health and when received further meetings should be arranged to consider whether it is reasonable to allow a further period of recovery and how long this should be. If all options to facilitate a return to work have been explored, and on the advice of Occupational Health, a return to work in the foreseeable future is unlikely or if it is not reasonable in the circumstances to wait any longer for the employee to recover and alternatives have been explored, the matter should be referred to the relevant Governing Board for consideration of the termination of employment.

#### **5.4 Returning to Work**

When an employee returns to work following a period of long-term absence, this will count towards trigger points and targets under the intermittent absence process. Therefore, when an employee who has been absent for a long-term period returns, they will be placed on the applicable stage of the intermittent absence process. (For the avoidance of doubt, days which an employee did not work because their hours were reduced under a phased return to work will not count as “absences” for the purpose of the intermittent absence procedure.)

#### **5.5 Sickness Absence Hearing Referral to Governors**

If relevant, before referring the matter to Governors, a determination should be made as to whether, if the employee’s employment is terminated on ill health grounds, they would qualify for ill-health retirement (**Appendix N**).

Once this has been done, the case and any relevant information (e.g., letters to employee and OH reports) should be sent to a nominated panel of Governors.

A letter of invite should be sent to the employee who should be advised that dismissal is a possible outcome and that they are entitled to be accompanied by a trade union representative or colleague at the meeting. All relevant information (including a copy of the employee’s absence record, any letters sent to employee, the records of the previous meetings held under this procedure and OH reports) should be sent to the employee no later than 5 working days before the meeting is due to take place.

The recommended procedure for Sickness Absence Hearing can be found at **Appendix K** along with Guidance for Governors in making a decision at a Sickness Absence Hearing can be found at **Appendix L**.

If Governors are of the view that there is more that can be done to assist the employee to return to work, either in their existing or another capacity and / or the employee may return to work within a reasonable period of time, then a further return to work date should be set. The Governors should also advise the employee of any further assistance that will be given to assist the employee to return.

If the Governors are of the view that, although the employee is unlikely to return to their existing post, there is a possibility that the employee might be successfully re-deployed in another post, and the employee is willing to consider re-deployment, then the

Governors should speak to the Manager to determine if there are any suitable alternative vacancies.

If the decision is to set a further target date for return, whether or not with redeployment being considered, the employee should be advised that a further Governors meeting will be held if the employee is still absent from work and has not been successfully redeployed after the target date.

If the Governors are of the view that there is nothing that can be done to assist the employee to return to work, that re-deployment is either not practical or has been attempted and has been unsuccessful, and either the employee is unlikely to return to work within the foreseeable future or it is not practical to continue to hold the employee's post open during the employee's absence, then the Governors may decide to terminate the employee's employment on ill health grounds.

A letter will be sent to the employee within 5 working days of the meeting to confirm the outcome and the reasons for the decision and the period of notice will be in accordance with the statutory minimum or as specified in the individual's contract of employment, whichever is greater. There is a requirement to pay the employee in full (less any benefits) during statutory notice (as set out in the Employment Rights Act 1996) even though the full sick pay entitlement might have expired.

If the decision is that the employee's employment is to be terminated, the letter must state the date of termination and the right of appeal.

It is not a requirement of the Supporting Attendance Procedure that a person's entitlement to sickness payments must have expired before their employment can be terminated on the grounds of capability

## **5.6 Appeals**

Appeals must be submitted to the Chair of the relevant Governing Board within 10 days of the written receipt of the decision by the employee and will be heard by a panel of 3 new governors. Guidance on conducting appeals can be found at **Appendix M**.

## **6.0 Supporting the search for alternative employment**

There is a responsibility on the employer to do whatever is reasonable and practicable to retain employees whose health prevents them from continuing in their present job but who, in the opinion of the Occupational Health Advisor, are still able to carry out useful work. However, there are limits to what can be achieved and the resources, including time, which can be devoted to it. Employees should be committed to being proactive when seeking alternative employment. It is important to note that when faced with this situation advice is available to managers, from HR and Occupational Health.

Occupational Health's advice might be that, although the employee is permanently unfit for the job they do, because it made demands of a very specific type, they are fit enough to do other work. Alternatively, the employee may be able to remain in the existing job with reasonable adjustments, e.g. to the role, working hours, or physical environment. Consideration should be given to reorganising the existing job before exploring the possibility of other kinds of work. In these circumstances please refer to separate guidance on "**Managing Employees with a Disability**"

Employees in receipt of ill health pension should be advised to obtain advice and guidance from either LGPS or TPS as appropriate upon the effects of further employment on their pension before accepting alternative employment.

## **7.0 Considering ill-health retirement**

If relevant, before an employee's case is referred to the relevant Governing Board, a determination should be made as to whether, if the employee's employment is terminated on ill health grounds, they would qualify for ill health retirement. Guidance notes can be found at **Appendix N**

## **Supporting Attendance - Appendices**

- A. Dealing with Infectious Diseases
- B. Notification of Absence Guide for Managers and Employees
- C. Guidance on Statement of Fitness for work (Fit notes)
- D. How to manage and record Industrial Injuries

### **Managing short-term/intermittent absence**

- E. Guidance for conducting informal review meetings
- F. Guidance for conducting Formal stage 1 meetings
- G. Guidance for conducting Formal stage 2 meetings

### **Managing long term absence**

- H. Guidance for conducting a welfare review meeting
- I. Guidance on Home visits
- J. Guidance for conducting formal review meetings

### **Sickness Absence Hearing**

- K. Recommended Procedure for Sickness Absence Hearing
- L. Guidance for Governors in making a decision at a Sickness Absence Hearing

### **Appeal**

- M. Recommended procedure for appeal hearing
- N. Guidance on Ill Health Retirement

## **Appendix A**

### **Dealing with Infectious Disease**

Monitoring of infection is important in identifying outbreaks of infection. Managers must take steps to ensure that infections are controlled and not spread.

#### **Reporting Infections Diseases**

The following symptoms are associated with outbreaks of infectious disease:

- Diarrhoea and / or vomiting;
- Cough; and / or dripping or runny nose / sneezing; and
- Itchy skin lesions, rashes, abscess or open wounds.

Staff carrying out food-handling duties and / or working in food preparation areas, or who are employed in care homes or as day- or community-care staff developing any of the above symptoms whilst at work should immediately inform their line manager.

#### **Gastro-intestinal Symptoms (Diarrhoea and / or Vomiting<sup>1</sup>)**

Managers must exclude any person reporting gastro-intestinal symptoms from food-handling duties and / or entering any rooms or areas where open food areas is stored or handled until at least 48 hours after both symptoms and any medical treatment have ceased. If staff are subsequently excluded from the workplace, then the first 48 hours of absence should not count towards attendance triggers.

Managers must also ensure that staff who are attending to children who have gastro-intestinal symptoms do not handle or prepare food.

Subject to the above, however, staff who have had gastrointestinal symptoms but are now clinically well do not need to need to be excluded from the workplace if the above restrictions are complied with.

#### **Other Infectious Diseases**

If staff are diagnosed with or suspected of having any the following infectious diseases, they must not carry out any food-handling duties or, in the case of staff who provide any personal care to children for the periods set out below:

##### **Rashes and Skin Infections**

Chickenpox	Until all vesicles have crusted over
German Measles (Rubella)*	4 days from onset of rash
Impetigo	Until lesions are crusted and healed, or 48 hours after starting antibiotic treatment
Measles*	4 days from onset of rash
Scabies	24 hours after treatment commenced
Scarlet fever*	24 hours after starting appropriate antibiotic treatment

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<sup>1</sup> Vomiting alone is slightly different as there could be a number of reasons for it (which are not necessarily a transmissible virus). Pregnant women for example may well experience nausea and vomiting. Therefore, returning to work following vomiting alone (without diarrhoea) would need to be considered on a case by case basis.

Shingles Exclusion only required if rash is weeping and cannot be covered

### **Respiratory Infections**

Flu Until recovered  
Tuberculosis\* Advice must be taken from local PHE centre  
Whooping Cough\* 5 days from starting antibiotic treatment or 21 days from onset of illness if no antibiotic treatment

### **Other Infections**

Diphtheria\* Advice must be taken from local PHE centre  
Hepatitis A\* 7 days after onset of jaundice or 7 days after symptom onset if no jaundice  
Meningococcal meningitis\* Until recovered  
Meningitis due to other bacteria\* Until recovered  
Mumps\* 5 days after onset of swelling

\* These denote a notifiable disease. It is a statutory requirement that doctors report a notifiable disease to the proper officer of the local authority. In addition, organisations may be required via locally agreed arrangements to inform their local PHE centre.

Staff who provide personal care for children who are clinically well and able to perform their duties before the end of the above restricted periods should inform their manager and may be permitted to return to work carrying out alternative duties, but only after taking advice from Public Protection; contact details are given below.

### **Outbreaks of Infectious Disease**

If more than one individual develops similar symptoms in a 48-hour period, a common source of infection may be present, and managers must:

- Notify the relevant manager in the Public Protection Division and Public Health England using the contact details below;
- Provide information regarding the names of staff and / or residents or clients affected with the date of onset of symptoms; and
- For staff provide details of their duties and whether or not the person is still at work.

### **Contact details are as follows:**

Public Protection Team, Hanley Town Hall, Albion Street, Stoke-on-Trent  
Tel: (01782) 237788 / (01782) 232065  
Email: publicprotection@stoke.gov.uk  
Public Health England - Tel: 03442253560

### **Classification of Illness as Industrial Injury etc**

Unless staff contract an infectious disease as part of an outbreak confirmed by Public Protection or the Health Protection Agency under other infectious diseases, infectious diseases will not be classified as industrial injuries unless medical evidence is provided proving that the disease was contracted in the course of staff carrying out their duties.

Staff absences due to infectious diseases (including any precautionary absence as set out in paragraph) will still be counted towards absence monitoring triggers and targets, whether or not classified as an industrial injury.

## **Appendix B**

### **Notification of Absence – A Guide for Managers and Employees**

- Managers should ensure that all employees are aware of the arrangements for notifying sickness absence.
- All employees must be advised that if they fail to comply with the notification arrangements, without good cause, their pay may be affected.
- On their first day of absence, employees must contact the nominated person, in accordance with the relevant reporting procedure to let them know that they are unable to attend work, the reason for absence and when they expect to be able to return.
- If unable to return by the date given, the employee must notify the line manager to keep them informed.
- Absence must be communicated in accordance with the relevant reporting procedure.
- Employees should complete a self-certificate covering all absences of up to and including 7 calendar days and this should normally be submitted by the fourth day if absence extends beyond 3 days.
- If the absence continues for more than 7 calendar days, a Statement of Fitness for Work should be submitted to cover the remaining period of absence. Please see **Appendix C** for guidance on 'Fit Notes'.
- In exceptional circumstances (for example when there is a persistent pattern of absences for minor ailments) and following discussion with the employee concerned, a manager may require an employee to provide a medical certificate from the first day of absence. Such a requirement should be kept under regular review (not more than 3-month intervals) and removed when no longer appropriate. The cost of such a certificate will be reimbursed by the employer.
- The line manager and employee should maintain regular contact throughout any period of absence.
- Where absence is due to anxiety, depression or a stress-related condition, it is particularly important to establish and maintain frequent contact with the employee (either directly or through a work colleague) to provide support to them and where appropriate to identify and address any underlying work-related causes that may be preventing their return to work (see the Stress policy on dealing with stress at work for further guidance).
- The employee needs to be aware that their contract of employment continues during their absence and therefore full co-operation is expected at all times. This will include the employee providing a contact point during their absence and attending, when requested, an appointment with the Occupational Health Unit or other appropriate expert of the employer's choice, including any meetings as required in line with the Procedure.

- An absent employee should not undertake any work – paid or otherwise – during their absence unless they have informed their manager. If therapeutic work is recommended as part of the phased return, then attempts will be made to identify suitable duties for the employee.

#### **Failure to Notify - Unauthorised Absence**

- If an employee fails without good cause to follow the notification arrangements, the absence should be treated as unauthorised. In this situation, Managers should contact HR for guidance.

## **Appendix C**

### **Guidance on Statement of Fitness for Work (Fit Notes)**

#### **1. Content of the Fit Note**

GPs can advise that staff are either: -

- a) Unfit for work; or
- b) May be fit for work

Where staff are deemed 'may be fit for work' the GP should indicate what adaptations they recommend either to the staff member's current working practices or environment which will support the staff member to return to work. On the 'Fit Note' there are four tick boxes for: -

- a) Phased return to work
- b) Altered hours
- c) Amended duties
- d) Workplace adaptations

In addition, they may also provide written comments.

The Fit Note will also provide information about the duration of the suggested measures and whether the individual needs to return to the GP at the end of the time period. The maximum period for a Fit Note is three months. Where the GP has indicated that they do not need to see the staff member again, in most cases they should be expected to revert to their usual duties at the end of the relevant period.

#### **2. Action to be Taken on Receipt of a Fit Note**

Upon receipt of a Fit Note, Managers should check whether the staff member has been certified as *unfit for work* or *may be able* to return to work.

If the staff member has been certified that they *may be able* to return to work, the Manager should consider the advice provided by the GP. In order to fully consider the recommendations, the Manager may need to speak to the staff member (in some circumstances it may be appropriate for them to be supported by their Trade Union representative) and seek advice from HR or Occupational Health.

The information provided on the note is for the employer's information; it is not binding. If the measures suggested by the GP cannot be accommodated, the Fit Note serves as certification for the staff member's continued absence; they do not need to return to the GP for a further note.

If the Manager is able to accommodate the recommendations, a return to work date should be agreed at the earliest opportunity. It should be noted that where a staff member is undertaking a phased return to work or altered hours, their workload should be amended to ensure that they are not expected to carry out a full workload over a shorter time period.

If the line manager is not able to accommodate the recommendations, the staff member should be clearly informed in writing. A note of the conversation and reason why the recommended adjustment could not be accommodated should be made by the manager.

### **3. Return to Work**

On the staff member's return to work, a Return to Work Interview should be held in the normal way. At the interview the Manager should discuss with the staff member: -

- a) The duration of any agreed alterations to their normal work and how these will be reviewed and revised to enable a return to full duties by the end of that period.
- b) A review date. This will normally be at the expiry of the Fit Note but will take place within 4 weeks at the latest.

A note should be made of the discussion, by the Manager, with a subsequent note being made of the review meeting. These should be kept with the Return to Work form. A copy of the notes should be given to the employee, if requested.

The Manager should close the absence with the Payroll provider in the normal way. The Fit Note should then be sent to Payroll in the normal way together with details of the actual return to work date.

## **Appendix D**

### **How to manage and record Industrial Injuries**

Industrial Injury occurs when an employee has been injured in the course of their employment. It should be decided at an early stage whether any absence will be recorded as industrial or not.

An absence will be an absence due to an industrial injury where:

- The person was carrying out their normal duties;
- An injury was sustained when carrying out those duties; and
- The injury led to the absence.

Absence due industrial injury is still regarded as absence and should be managed in line with the Supporting Attendance Procedure and associated process.

Managers should ensure that these absences are recorded accurately through their Payroll provider.

For Industrial injury's relating to Teachers – refer to Burgundy book regarding payment

## **Appendix E**

### **Intermittent absence: Guidance Note for Conducting Informal Review Meetings**

The bullet points below are intended as a guide only. For further advice and guidance Managers may contact HR.

- Advise the employee that this is an informal review meeting within the Supporting Attendance policy. Signpost the employee to a copy of the policy and explain how it operates.
- Confirm the employee's absence record as correct and reasons for absence, identifying any patterns of absence if appropriate (e.g. regular Fridays or Mondays, or on the days before or after closure periods).
- Whether or not the employee has a disability.
- Discuss with the employee's health and well-being to establish if there is an underlying reason for their high level of non-attendance and how this might be resolved.
- Consider any 'non-medical' (especially work-related or welfare) issues which may be contributing to the absences. Sickness absence may only be a symptom; there is a managerial responsibility to search for the underlying problem and, if possible, to support the employee in addressing it.
- Discuss what support can be offered if there is an underlying reason for the absences, discuss a referral to occupational health if this has not been done already.
- Discuss, with due sensitivity, what external medical help the employee is getting.
- Ensure the employee is aware of the level of absence, the acceptable standard of attendance, and get their commitment to reach it. Recommended attendance targets can be found in 4.4
- Set a period during which attendance will be monitored, typically 12 months.
- Advise the employee that if attendance does not meet the acceptable standard the matter may be dealt with through formal stage 1 of the policy.
- NB the review period commences on the day the employee returns to work and not the day of the review meeting.
- If the employee maintains the targets set for the 12-month monitoring period they will return to normal monitoring.

#### **Note to Managers:**

- It is recommended that Managers use their professional judgement and consider individual circumstances in relation to the progression of an absence case.
- It is important to record an accurate account of what was discussed during the meeting. Therefore, Managers may wish to bring a note Taker to keep a full written record of the meeting.
- During the meeting the Manager must complete a review form, details of which can be found in 4.4.

## **Appendix F**

### **Intermittent absence: Guidance Note for Conducting a Formal Stage 1 Meeting**

The bullet points below are intended as a guide for what should be discussed/considered at the meeting only. HR are available to support/advise at all such meetings to provide further guidance.

- The employee should be informed in writing, 5 days prior to the meeting, of their right to be accompanied by their trade union representative, and given time to arrange this
- The employee's absence record should be confirmed as correct (number of days, occasions and reasons).
- What discussions have already been held at the informal review stage.
- The employee should be given the opportunity to explain any further factors which may have arisen and contributed to their levels of absence.
- Whether or not the employee has a disability.
- Whether there are any underlying medical reasons for absence.
- Consider any 'non-medical' (especially work-related or welfare) issues which may be contributing to the absences. Sickness absence may only be a symptom; there is a managerial responsibility to consider any the underlying problem and, if possible, to support the employee in addressing it. Work related reasons for absence should be addressed as far as reasonably possible.
- The manager should highlight any operational problems the absence may be causing for example, increased workload, impact on team morale, financial impact of cover etc and reinforce the Policy Statement about maximising attendance.
- Support should be offered to assist the employee in reaching an acceptable standard of attendance, this could include flexibility in working arrangements, job redesign, change in working arrangements, or redeployment where an employee is no longer able to continue to carry out the full range of duties of their role.
- Whether any risk assessments need to be carried out
- Employees own views about support or assistance that can be given to enable them to affect the necessary improvements to their attendance.
- Referral to the Occupational Health Practitioner should be initiated, (if not already undertaken), unless there are good reasons for not doing so.
- By the end of the meeting, Managers should after considering the particular circumstances:
  - Restate the level of attendance required and set a period during which this standard should be achieved. Recommended attendance targets can be found in 4.5. Typically, the monitoring period will be 12 months.
  - Explore any respects in which the school (perhaps with support from HR) may be able to help;
  - Explain to the employee clearly about the possible outcomes if they fail to meet the agreed targets i.e. moving to formal stage 2 of the policy and ensure the employee is aware of the possible consequences if regular attendance cannot be sustained i.e. referral to Governors to consider dismissal if the individual is incapable for health reasons of effectively carrying out the duties required of them under their contract of employment.

#### **Note to Managers:**

- It is recommended that Managers use their professional judgement and consider individual circumstances in relation to the progression of an absence case.
- Prior to the meeting the Manager must have given the employee 5 working days written notice of the meeting. More information can be found in 4.2.

- It is important to record an accurate account of what was discussed during the meeting. Therefore, the Manager may wish to bring a note taker.
- Following the meeting, the Manager must complete and distribute a letter to the employee summarising the discussion. More information can be found in 4.2.

## **Appendix G**

### **Intermittent absence: Guidance Note for Conducting a Formal Stage 2 Meeting**

The bullet points below are intended as a guide of what should be discussed/considered at the meeting. HR are available to support/advise at all such meetings to provide further guidance.

- The employee should be informed in writing, 5 days prior to the meeting, of their right to be accompanied by their trade union representative and given time to arrange this
- The employee's absence record should be confirmed as correct (number of days, occasions and reasons).
- What discussions have already been held at the informal review stage
- The employee should be given the opportunity to explain any further factors which may have arisen and contributed to levels of absence.
- Whether or not the employee has a disability.
- Whether there are any underlying medical reasons for absence.
- Consider any 'non-medical' (especially work-related or welfare) issues which may be contributing to the absences. Sickness absence may only be a symptom; there is a managerial responsibility to search for the underlying problem and, if possible, to support the employee in addressing it. Work related reasons for absence should be addressed as far as reasonably possible.
- The manager should highlight any operational problems the absence may be causing for example, increased workload, impact on team morale, financial impact of cover etc. and reinforce the Policy Statement about maximising attendance.
- Support should be offered to assist the employee in reaching an acceptable standard of attendance; this could include flexibility in working arrangements, job redesign, change in working arrangements, or redeployment where an employee is no longer able to continue to carry out the full range of duties of their role.
- Whether any risk assessments need to be carried out
- Employees own views about support or assistance that can be given to enable them to affect the necessary improvements to their attendance.
- Referral to the Occupational Health Practitioner should be initiated, (if not already undertaken).
- By the end of the meeting, Managers should after considering the particular circumstances
  - Restate the level of attendance required and set a period during which this standard should be achieved. Recommended attendance targets can be found in 4.6. Typically, the monitoring period will be 12 months.
  - Explore any respects in which the school (perhaps with support from HR) may be able to help;  
Ensure the employee is aware of the possible consequences if regular attendance cannot be sustained i.e. referral to Governors to consider dismissal if the individual is incapable for health reasons of effectively carrying out the duties required of them under their contract of employment.

#### **Note to Managers:**

- It is recommended that Managers use their professional judgement and consider individual circumstances in relation to the progression of an absence case.
- Prior to the meeting the Manager must have given to employee 5 working days written notice of the meeting. More information can be found in 4.2.

- It is important to record an accurate account of what was discussed during the meeting. Therefore, the Manager may wish to bring a note taker.
- Following the meeting, the Manager must complete and distribute a letter to the employee summarising the discussion. More information can be found in 4.2.

## **Appendix H**

### **Long term absence: Guidance Note for Conducting Welfare Review Meetings**

Welfare review meetings provide an opportunity to follow up some or all of the following issues as appropriate in the individual circumstances:

- Prognosis enquiry about the employee's health and general welfare.
- Discuss the report from Occupational Health.
- Discuss with the employee the reasons and/or cause(s) of their absence and whether their condition is likely to affect their ability to do their job in the long term.
- Discuss with the employee the effect of their continued absence from work. This should be done objectively and in a manner that is sensitive to the nature of the illness.
- Consider whether reasonable adjustments or measures, e.g. changes to the environment, tasks/duties, contractual changes to working hours etc., could be made to facilitate an earlier return to work and enable them to sustain their attendance at work.
- If adjustments to the physical environment are required, the employee should be advised to contact Access to Work. The employee's agreement to contact Access to Work should be clearly noted in the letter and the Manager should ensure that this is followed up.
- Agree a target return to work date when the employee is likely to return to work and agree what support the school and the Trust can provide to help achieve this.
- If medical information is available that indicates that the employee may be unable to resume in their current job early consideration should be given to alternatives such as redeployment, ill health retirement etc. The employee should be provided with information regarding these options.
- Advise the employee they can contact their union for further support, and teaching staff can also contact the Teacher Support Network.
- Ensure that the employee has received a copy of the Supporting Attendance policy.
- Explain that if the employee does not achieve the agreed return to work date, a formal meeting will be held to discuss the absence further.

#### **Note to Managers:**

- It is important to record an accurate account of what was discussed during the meeting. Therefore Managers may wish to bring a note taker to the meeting
- Following the meeting, the Manager must complete and distribute a letter to the employee summarising the discussion. More information can be found in 5.2.

## **Appendix I**

### **Guidance for Managers Conducting Home Visits**

#### **Home visits should only be considered where all other alternatives are not possible**

- Please be aware that managers should not arrive at someone's home without their prior knowledge and approval.
- Managers should contact their HR team to seek advice if they have never conducted a home visit to an employee before.
- After consideration of the nature of the absence it may be appropriate to contact the employee via the telephone to arrange the visit. If a manager is unsure as to whether they should contact an employee by telephone, then they should contact HR for further advice.
- If contact is made via the telephone, confirm the appointment date and time in writing to the employee, this can be either via a letter or personal email.
- If contacting an employee by telephone proves difficult or is not deemed appropriate then contact should be made in writing, giving at least 5 days' notice of the date and time of the appointment for the home visit to take place. In the letter the employee should be given the option of meeting at a neutral place rather than their home if they would prefer. A contact number needs to be provided in the body of the letter.
- An employee can request that their Trade Union Representative is present during the meeting -the employee arranges this independently.
- When conducting a home visit, managers should consider the health and safety aspect of the visit. If a manager is visiting an employee of the opposite sex, consider appropriate gender balance during the visit for the comfort of all concerned.
- The meeting should be conducted in accordance with the applicable stage of the applicable attendance management procedure.

## **Appendix J**

### **Long term Absence: Guidance Note for Conducting Formal Review Meetings**

The bullet points below are intended as a guide for the meeting only. HR are available to support at all such meetings to provide further guidance.

- Prognosis enquiry about the employee's health and general welfare.
- Discuss the report from Occupational Health.
- Agree a target return to work date and agree what support the school and the LA can provide to help achieve this.
- Give details of outstanding sick pay entitlement.
- Consider whether any reasonable adjustments can be made to facilitate a return to work.
- If adjustments to the physical environment are required, the employee should be advised to contact Access to Work. The employee's agreement to contact Access to Work should be clearly noted and confirmed in writing and the Manager should ensure that this is followed up.
- Advise the employee that failure to agree a target return to work date, or to achieve an agreed target return to work date, may result in the matter being referred to Governing Board / Strategic Manager or equivalent to consider termination of the employment contract.
- If medical information is available that indicates that the employee may be unable to resume in their current job early consideration should be given to alternatives such as supporting the search for alternative employment, ill health retirement etc. Employees should be provided with information regarding these options.
- A decision to terminate employment should only be taken after adjustments and other alternatives have been fully investigated. (See 6.0 and 7.0 for information regarding the search for alternative employment and ill health retirement)
- Advise the employee to consult with their professional association or trade union regarding the matter, if they have not already done so.

#### **Note to Managers:**

- Prior to the formal review meeting the Manager must have given the employee 5 working days written notice of the meeting. More information can be found in 5.3.
- It is important to record an accurate account of what was discussed during the meeting. Therefore, the Manager may wish to bring a note taker.
- Following the meeting, the Manager must complete and distribute a letter to the employee summarising the discussion. More information can be found in 5.3.

## **Appendix K**

### **Recommended procedure for a Sickness Absence Hearing**

1. Welcome and Introduction by Chairperson: explanation of procedure, confirm received invite letter, clarify all evidence to be presented including the management report has been submitted and copies provided to all parties within the timescales identified.
2. The Manager should present the report.
3. Employee (or representative) may ask questions of the Manager.
4. The person/committee conducting the hearing and HR representative may ask questions of the Manager.
5. Employee (or representative) should present their submission.
6. The Manager may ask questions of the employee.
7. The conducting person/committee and HR representative may ask questions of the employee and ask further questions of the Manager regarding the case made on behalf of the employee.
8. The Manager to sum up case.
9. The employee (or representative) to sum up case.
10. The Governor panel and their HR representative adjourn for deliberations.
11. The Committee to consider the case and notify the parties of their decision. This may be conveyed at the conclusion of the hearing but will in any case be confirmed in writing, with information on appeal rights where appropriate. Thank all for attending.
  - a. If the decision is not to terminate the employee's contract, then the employee should be set further absence targets and informed that if this target is not met, the Sickness Absence Hearing will be reconvened, and a further decision taken.
  - b. If the decision to terminate the contract has been made, the decision must be given to the employee in writing within 5 working days, which will include notifying the employee of the right of appeal. The notice given will be in accordance with the contract of employment.

**This procedure may be varied by agreement of all the parties.**

## **Appendix L**

### **Guidance for Governors in making a decision at a Sickness Absence Hearing**

When making a decision at a Sickness Absence Hearing, Governors must take the following into consideration: -

1. Has the employee been given at least 5 working days' notice of this meeting in writing?
2. Has the employee been informed in the letter that dismissal may be a possible outcome of the meeting and the grounds for the action which is proposed?
3. Has the employee been offered the right of representation?
4. Do you have a full sickness absence history at the meeting to consider?
5. Has an up-to-date medical opinion from Occupational Health been obtained for this meeting including a determination as to whether the employee is eligible for ill health retirement?
6. Is the employee disabled under the definition in the Equality Act 2010? (If so then check that the guidance at section 1.2 has been followed.)
7. Have the previous stages of the policy been conducted properly and fairly. Has every step reasonably possible been taken by the Manager to make clear the standards expected and to help the employee reach the required level of attendance?
8. Has the employee been warned previously of the consequences of continued absence due to sickness i.e. that dismissal may result if he/she does not meet the required standards of attendance?
9. Has the required standard been made clear to the employee at each stage of the policy?
10. Are there any other measures that you think could have been taken to assist the employee to maintain attendance?
11. Are you convinced that all underlying causes for the absence have been explored and no further support could have reasonably offered by the Academy?
12. In the case of repeated absences, have any of the periods of absence been due to an operation(s) or other one-off occasions which are unlikely to be repeated?
13. What is the employee's own view on their absence including when they are likely to return to work?
14. What has been the employee's previous attendance record?
15. If the employee is currently absent, how long is it likely to be before they return to work?
16. If the employee is currently at work, or likely to return, what level of absence is the employee likely to have in the future?
17. If the employee has been repeatedly absent from work, how are their absences affecting the employee's ability to perform their duties?
18. What is, or is likely to be, the effect on the service due to the employee's absence or level of absence?
19. Given the above, and taking into account the employee's length or service, employment record and other personal factors, can the Academy reasonably be expected to continue employ the employee?
20. If the decision is not to terminate the employee's contract, then the employee should be set further absence targets or a further target date to return to work, and informed that if this target is not met, the Sickness Absence Hearing will be reconvened and a further decision taken.
21. If the decision to terminate the contract has been made, the decision must be given to the employee in writing within 5 working days, which will include notifying the employee of the right of appeal. The notice given will be in accordance with the contract of employment.

## **Appendix M**

### **Recommended procedure for Appeal Hearing**

1. Welcome and Introductions by Chair, confirm invite letter has been received, explanation of procedure, (clarify process is an appeal not a re-hearing).
2. Clarify what additional evidence has been submitted since the decision meeting. Should either party wish to table more evidence on the day of the appeal, the panel should consider whether this will be allowed.
3. Appellant or representative to state his/her grounds for appeal.
4. First Committee representative/Manager may ask questions of appellant.
5. Appeals Committee members/Directors' Board representative may ask questions of the appellant.
6. First Committee representative/Manager to respond to any points in appeal on which they can provide comments.
7. Appellant (or representative) may ask questions of First Committee representative/Manager.
8. Appeals Committee members/Directors' Board representative/HR representative may ask questions of First Committee representative/Manager.
9. Appellant (or representative) to sum up case. \*
10. First Committee representative/Manager to sum up case. \*
11. Adjourn for deliberations. Directors' Board representative may remain with the Appeals Committee to offer advice

\* N.B. New evidence or material must not be allowed at this stage.

Appeals Committee to consider the case and notify the parties of their decision. This may be conveyed at the conclusion of the Appeal hearing and then confirmed in writing or confirmed in writing at a later date by the Committee.

**This procedure may be varied by agreement of all the parties.**

## **Appendix N**

### **Permanent Incapacity (Ill Health Retirement)**

#### ***Support Staff only***

If the decision is taken that an employee's employment is to be terminated on ill health grounds, then they may be entitled to receive an ill health retirement pension. This may apply whether the termination is due to long term sickness absence or an unacceptable high level of intermittent absence.

Determining whether an employee would be entitled to an ill health retirement pension is a separate issue to whether it is appropriate to terminate their employment, and the applicable supporting attendance process must still be followed before an employee's employment is terminated, regardless of whether they will qualify for a pension.

It is good practice, however, for a determination as to eligibility to be made before a final decision is taken as to the employee's employment, and relevant Governing Board deciding whether to terminate an employee's employment may take into account the availability of an ill health retirement pension in determining what action to take.

Nevertheless, Governors should not terminate an employee's employment until they have thoroughly investigated whether an alternative to termination of employment can be found, even if the employee is entitled to an ill health retirement pension and does not object to being retired.

Where an employee's employment may be terminated on medical grounds, a determination as to their eligibility for ill health retirement should be made before any final decision concerning their employment is taken. If for whatever reason a Dismissal on absence grounds is held before this has been done, then a determination should be made before notice is issued.

#### **Discussing the Matter with the Employee**

If the termination of an employee's employment on ill health grounds is being contemplated, then the matter should be discussed with the employee to determine whether they would be interested in taking ill health retirement.

Managers discussing these issues with an employee should be mindful of the employee's medical condition, as they may be discussing ill health retirements with an employee with a short life expectancy, and as such any home visits or meetings needs to be handled in a very sensitive manner. HR support is available if required.

#### **Obtaining a Medical Report**

If the employee indicates that they might be interested in ill health retirement should the decision be taken to terminate their employment, then the employee will be asked to sign a consent form for the release of their medical records. The Manager will then complete the appropriate application form and liaise with Occupational Health re the application.

An appointment will be arranged for the employee to be assessed by the appropriate independent medical practitioner who must be authorised by the relevant Pension Scheme to make decisions on ill health retirement.

## **Determining Eligibility**

On receipt of the medical opinion from the independent medical practitioner, the CEO (or Chair of the Trust Board for the CEO) will consider it and, based on its findings, determine whether the employee meets the criteria for ill health retirement and, if so, at which of the three tiers the employee's retirement can be approved.

If ill health retirement is approved, the Manager completes a request for an estimate of retirement benefit indicating at which level the ill health retirement has been approved.

If ill health retirement is refused, or the employee is dissatisfied with the determination of the tier that applies, the employee can appeal against the opinion of the independent doctor using the internal disputes resolution procedure; the employee has 6 months to appeal this decision.

## **Next Steps**

Once a determination has been made concerning whether an employee would or would not be eligible for ill health retirement, the applicable supporting attendance process should be concluded, and a decision made as to the employee's employment.

If the decision is taken to terminate their employment and they have been determined to be eligible then the employee will be retired on ill health grounds.

Managers should ensure that employees who are ill health retired:

- Are treated with dignity and respect;
- Are informed about the leaving process and what is involved in good time.

The arrangements for termination will be the same as for any normal ill health dismissal, in that the notification of leaver form needs to be completed by the Manager and copies need to be forwarded to payroll provider, except that in addition the original Medical Certificate - Active Member authorising ill health retirement needs to be included with the copy of the leaver form that the Pensions provider receives.

The employee will be entitled to their notice under their contract, and to receive payment for any holiday entitlement which they have accrued but not taken in the normal way.

## **Ill Health Retirement Following Termination**

An ex-employee can apply for consideration for early release of deferred pension benefits on ill health grounds following their dismissal, but only if their medical condition changes, or they are diagnosed with a further illness. (Unless for any reason a determination has not already been made in accordance with this procedure). In this case the ex-employee would need to write to the Pension Manager detailing the changes their medical condition and providing evidence as applicable.

## ***Teaching Staff only***

The Teachers' Pension Scheme is a national scheme administered by Teachers' Pension's (TP). In order to receive an infirmity pension, the teacher must make an application to TP using forms provided by the payroll provider.

HR will provide Occupational Health support through illness, which will include considering the options for different working patterns or discussing the possibility of appropriate redeployment opportunities.

Where an application for ill health benefits is submitted, then medical evidence will be gathered from the Teacher's General Practitioner and Consultant as well as the Occupational Health Adviser.

Additional information can also be found at **[www.teacherspensions.co.uk](http://www.teacherspensions.co.uk)**

Teachers are advised to consult with their professional association when considering an application for ill health retirement.

The decision to grant Ill Health Retirement is taken by the Teachers' Pensions Scheme medical advisors. If an application is unsuccessful, the employee will be informed of the appropriate mechanism for appeal by Teachers Pensions.