



# Trust Sickness Absence Management Policy & Procedure

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## **Introduction**

We encourage our employees to prioritise their health and wellbeing, however, very few people go through their working lives without losing some time through sickness absence. It is accepted that a certain level of absence is unavoidable, but the Trust still needs to have a procedure in place for managing sickness absence.

A clearly understood and well-communicated absence management policy is an important part of a positive, proactive approach to staff management. The aim of this policy is to assist in managing absence within the demands of the school.

## **The Policy**

1. The Trust is committed to providing best value services to the communities we serve and recognises that high levels of staff attendance at work together with the provision of a healthy and safe working environment are vital factors in achieving this.
2. The Sickness Absence Management Policy and Procedure provide guidance on the management of both long term and short term absence. They aim to provide a fair and consistent framework to support staff that are absent due to sickness, and for resolving concerns relating to attendance.
3. This policy aims to:
  - a) Provide a fair and consistent framework for investigating, supporting, and dealing with staff sickness absence, both long and short term.
  - b) Minimise the number of days lost through sickness absence and develop a healthy attendance culture.
  - c) Deal with instances of individual absence in a flexible and understanding manner, which is sensitive to particular circumstances.
  - d) Provide appropriate and reasonable support to employees who are ill and facilitate an early return to work where possible.
  - e) Ensure that all staff are clear about expected standards regarding levels of attendance

## **Scope**

4. The provisions of this policy will apply to all staff directly employed by the Trust. Agency staff must read and understand the policy in order to comply with the Trust's attendance expectations.

## **Equality**

5. In applying this policy, managers will take into consideration the Trust's Equality Scheme and will not unlawfully discriminate in respect of any of the protected characteristics as defined under the Equality Act 2010 and specified below:
  - Age
  - Disability
  - Gender reassignment
  - Marriage and civil partnership
  - Pregnancy and Maternity
  - Race
  - Religion or Belief
  - Sex
  - Sexual Orientation

6. Disability under the act covers physical and mental impairments that have a substantial and long-term adverse effect on an individual's ability to carry out normal day-to-day activities. If an employee is affected by a disability or any medical condition which affects their ability to undertake their work, they should discuss this with their Line Manager. Further information in relation to disability is provided later in the policy. If an employee's attendance issues are related to a disability, then managers should consider the position carefully and seek advice from HR and Occupational Health in order to determine the most appropriate action to be taken.
7. The provisions of this policy may be varied where this is reasonable in order to comply with the Equality Act 2010 and/or to avoid discrimination in respect of any of the protected characteristics specified above.

### **Background and Context**

8. Managers and supervisors need to manage sickness absence proactively to help the school deliver services effectively.
9. Employees will naturally have periods of genuine illness during the course of their employment that may result in some absence from work. However high levels of sickness absence can result in;
  - a) Negative impact on productivity, performance and the education of the children in our schools
  - b) Low morale
  - c) Financial costs to the Trust in occupational sick pay and additional staff cover
10. By taking a pro-active and early intervention approach, organisations can reduce absence levels and help employees get back to work sooner. Improving levels of sickness absence will;
  - a) Improve the Trust's capacity
  - b) Make the most effective use of our resources
  - c) Improve morale
  - d) Improve the outcomes for children
  - e) Save money

### **Responsibilities**

#### **Board of Trustees / CEO / Deputy CEO / Executive Head Teacher / Head Teacher / Head of School**

11. The Board of Trustees / CEO / Deputy CEO / Executive Head Teacher / Head Teacher / Head of School are responsible for ensuring that the policy and related procedures in this guidance are implemented effectively and that managing absence is given a high priority in their Trust.

#### **Managers/Supervisors**

12. Managers and Supervisors have primary responsibility for managing absence effectively in their teams. In particular, managers and supervisors should take a positive and proactive approach by;
  - a) Ensuring staff are informed of, and comply with, the Trust's Sickness Absence Reporting Policy and Procedure

- b) Providing relevant support to employees who are absent from work or need support whilst at work to avoid absence
- c) Conducting and recording Return to Work meetings
- d) Ensuring absence is accurately recorded and reported
- e) Monitoring sickness absence in their designated area and take appropriate action when trigger levels are reached i.e. conduct Absence Review Meetings
- f) Maintaining contact with employees who are absent due to long term sickness

### **Employees**

13. All employees are contractually obliged to attend work in a fit state to carry out their duties. When they are unable to do so, they must report their absence from work, the reasons for it, and the likely duration of their illness to their line manager in accordance with the Trust's Sickness Absence Reporting procedure as specified in this policy. In addition, all employees will:
- a) Attend work unless unfit to do so or unless leave has been authorised
  - b) Keep in contact with their manager/supervisor while absent in line with this policy and service requirements
  - c) Attend appointments with the Occupational Health Nurse or Doctor as required
  - d) Be responsible for their own health, safety and welfare
  - e) Inform their manager immediately if the sickness absence is work related (e.g. as a result of an incident or accident at work) and complete an Accident Report Form
  - f) Inform their manager if they become ill or injured whilst at work

### **Human Resources**

14. HR are responsible for:
- a) Advising managers on effective case management
  - b) Supporting schools in the application of the policy and procedures, including attendance at meetings if required.
  - c) Ensure the policy and procedures are updated in line with any changes in employment legislation.
  - d) Referral of individual cases to Occupational Health for advice as to their fitness
  - e) If it has become apparent that a return to work or a satisfactory level of attendance is not going to be achievable, consultation with all interested parties as to what appropriate courses of action can be taken. This could include providing advice on ill health retirement for the individual, advice on redeployment where appropriate and instigate termination of employment if this is deemed necessary
  - f) Provision of information regarding the Trust Employee Assistance Programme
  - g) In exceptional circumstances, if it is not appropriate for the Head teacher or line manager to meet with the employee, HR will arrange to meet with the employee for an initial meeting. Discussions at this meeting would be shared with the Head teacher/line manager.

### **Health and Wellbeing**

15. The Trust will promote the health, safety and well-being of its employees through the following:
- a) Health and Safety Policy and Procedure
  - b) Occupational Health provision
  - c) Employee Assistance Programme
  - d) Better Health at Work Scheme

- e) HR Policies such as Leave of Absence, Flexible Working, Anti-Bullying & Harassment Policies etc (copies of policies are available on the Trust electronic shared drive or from managers)

### **Managing Pressure in the Workplace**

16. It is important that school leaders recognise that employees may cope with pressure in different ways and this can impair an employee's ability to contribute fully to the needs of the school. School leaders should develop a positive and understanding approach towards the management of such pressures in the workplace.

Workplace pressures can be prevented through the correct recruitment and selection procedures, training of employees; not only on specific job related needs but also in Trust training and health and safety policies.

Our health and wellbeing practices aim to:

- Support a working environment which enables staff to carry out their duties effectively
- Recognise the key role of school leaders and their responsibilities by enabling access to guidance, training and support
- Encourage staff as individuals to accept responsibility for their own mental, physical and emotional well-being
- Comply with statutory requirements
- Develop and maintain a positive health and safety culture through communication and consultation with staff and their representatives on health and safety matters
- Develop an open culture in which mental, physical and emotional well-being is taken seriously and in which staff are encouraged to seek any help and support they need

School leaders can refer to HR for support on carrying out a Stress Risk Assessment

### **Absence Management**

This procedure is designed to provide guidance for managers on the management of both short and long term absence. When dealing with both, managers should take into account individual circumstances and tailor their approach accordingly, whilst at the same time ensuring consistency and fairness for all employees.

#### **Sickness Absence Reporting Procedure**

17. In order for service delivery to be maintained, it is essential for line managers to know when an employee is unable to attend work due to illness. The procedure outlined below must be followed at all times.
18. Employees must telephone their line manager/supervisor/designated contact point every day of any absence for the first seven days if a date of return has not been given, or unless otherwise agreed with their manager/supervisor, or until a doctor's note is produced. Employees must telephone before the time they are normally due to start work, to advise that they will not be attending work that day. In exceptional cases (e.g. the employee is receiving hospital treatment/admitted to hospital or physically unable to telephone personally) someone else may telephone on their behalf.

19. The following information should be provided:
  - a) The exact day that the illness began, including Saturdays, Sundays or holidays for Statutory Sick Pay (SSP) purposes. The first working day will be used for absence monitoring purposes
  - b) The nature of the illness/absence – unwell is not sufficient
  - c) The likely duration of the absence
  - d) The address at which they can be contacted during the absence if different from the normal home address and a contact telephone number
  - e) The details of any outstanding or urgent work that requires attention

### **Early Intervention**

When dealing with sickness absence, early intervention can be key to avoid the absence progressing to unsustainable levels. An employee's first instance of sickness absence is a chance to pick up any issues or concerns and address them, allowing the employee to remain at work with the support of their employer. This could mean implementing temporary adjustments to working arrangements or the utilisation of the Trust Employee Assistance Programme to support the staff member on a longer term basis. Early intervention can be conducted at the Return to Work meeting on the employee's first day back.

### **Sick Pay Scheme**

20. Occupational sick pay will be paid in accordance with the employee's contract of employment and conditions of service. The Trust does not extend the payment of Occupational Sick Pay beyond the standard contractual terms and conditions specified under the National Joint Council for Local Government Service Terms and Conditions of Service for Trust Teachers.
21. The Trust reserves the right to recommend terminating the employment of an employee before the expiry of Occupational Sick Pay in accordance with the procedure for dismissal on the grounds of capability (health) or some other substantial reason (SOSR) e.g. the level of sickness absence becomes unsustainable for the Trust.
22. Suspected abuse of the Sick Pay Scheme will be dealt with under the Trust's Disciplinary Policy as a conduct issue and may result in a disciplinary sanction and/or the suspension of occupational sick pay. The following non-exhaustive list contains some examples of what might be deemed to be abuse:
  - a) Failure to submit medical certificates to cover a period of absence without an adequate reason
  - b) Failure to follow the sickness reporting procedure without an adequate reason
  - c) Engaging in other employment whilst absent due to sickness (unless the nature of the illness prevents the employee from working in one employment contract but not in others)
  - d) Evidence that the employee is absent but not sick

### **Repayment of Sickness Payments in Cases of Accidents**

23. Where an employee is absent as a result of an accident there will be no automatic entitlement to sickness payment if damages may be recoverable from a third party.
24. It is not always possible at the commencement of such absence to determine whether damages will in fact be recoverable and the Trust will generally advance to the employee a

sum equivalent to the normal sick pay to which he/she may be entitled, subject to the employee undertaking in writing to repay the total amount of the advance (or a proportion thereof) represented in the amount of damages ultimately recovered.

25. In cases of the above nature, Xentrall will send the employee a form of undertaking which the employee must complete and return as soon as possible. If the employee refuses to do so, sick pay may be withheld. Employees will also be expected to reclaim associated medical expenses such as Occupational Health, Physiotherapy and Counselling from insurers.

### **Sickness and Annual leave**

26. An employee will continue to accrue annual leave while absent due to sickness.
27. If an employee becomes ill whilst on annual leave, then the period covered can be treated as sick leave provided a medical certificate is obtained and completed at the time and place of being ill, confirming the dates they would not have been fit enough to carry out their normal duties. The annual leave will be re-credited and the time off recorded as sickness.
28. In the event that an employee falls sick immediately prior to pre-booked annual leave and does not return to work before the annual leave period starts, then the employee's continued absence will be recorded as annual leave, except on production of a medical certificate, confirming that the employee was not fit for work during the period in question.
29. Employees who return to work in a new leave year, or near the end of the leave year and have not been given the opportunity to take annual leave, may be entitled to carry over a maximum of 28 days unused leave (this includes Bank Holidays and is pro-rata for part time employees). Employees do not need to give notice that they wish to carry leave over. If these circumstances arise the situation should be discussed with HR.

### **Medical Certificates/'Fit Notes'**

30. Medical certificates/'fit notes' must be obtained to cover all periods of sickness in excess of 7 calendar days, without any gaps. All medical certificates/'fit notes' should be sent to the Line Manager.

Fit Notes allow the medical practitioner to advise that the patient is either:

- a) Not fit for work
- b) May be fit for work

A medical practitioner will give a 'may be fit for work' statement if they think that an employee's health conditions may allow them to work as long as they receive appropriate support. If the medical practitioner uses this option, they will give advice about the effects of the patient's health condition and, if appropriate, some suggestions about the type of adjustments or adaptations that should be considered to help the employee return to work.

Although the Trust does not have to act on the medical advice, every effort should be made to make any reasonable changes necessary to help the employee return to work

and reduce unnecessary sickness absence. Advice and guidance is also available from the Trust's Occupational Health service on the employee's medical fitness to be able to perform tasks/duties and help them get back to work.

If for any reason the line manager cannot make the changes necessary to support the employee's return to work then, for sick pay purposes, the manager should consider the statement as if the medical practitioner has advised that the employee is 'not fit for work'. The employee does not need to return to the medical practitioner for a new statement to confirm this.

Employees must not return to work if they are still covered by a Fit Note that states 'not fit for work' and the medical practitioner has stated they must be assessed before they return.

### **Return to Work**

31. Upon return to work following sickness absence the line manager should arrange to meet privately with the employee, ideally during the first day back or at least within 2 days of the return to work. The absence must be updated on MyHR in order for the employee to receive the correct sick pay.

These meetings are an essential part of the Absence Management Policy and are important to both the Manager and the employee. They are also needed for the sickness absence to be recorded properly through Xentrall. The purpose of the meeting is to:

- a) Welcome the employee back to work
- b) Ensure the employee is well enough to return, and identify any ongoing health issues
- c) Identify if any ongoing support is required
- d) Establish whether any work-related and/or personal issues may have contributed to the absence and provide support if necessary (early intervention)
- e) Bring the employee up to date on any issues relating to their work
- f) Discuss absence levels if appropriate i.e. if patterns of frequent, short term absence are emerging
- g) Consider if a referral to Occupational Health is necessary

Before the Return to Work Meeting the Manager should:

- a) Check the facts, such as the amount and periods of sickness absence the employee has had and the reasons for this.
- b) Check if the employee has hit any "triggers". More information on the Trust's trigger points is provided at paragraph 52.
- c) Consider the impact of the employee's absence on the service area and if there are any particular problems that need highlighting.

### **Conduct during Sickness Absence**

32. All employees who are absent from work due to sickness have a personal responsibility to do everything in their power to aid their return to full health and fitness and should not undertake any activity which may hinder this objective.

It is a requirement that employees co-operate fully with Managers regarding their absence, and that they make themselves available to attend all meetings or discussions arranged to facilitate an early recovery and return to work.



## **Distinguishing long term and frequent short-term absence and the management action required**

### **Definition of Sickness Absence**

#### **Short Term Sickness Absence**

This may be an absence of an occasional day or for a few days at a time, usually attributable to minor ailments which, in many cases, are unconnected. Often the employee will only be absent for a maximum of a week. They may be self-certificated or covered by a doctor's certificate.

The difficulty faced by the school is the frequency and often the unpredictability of such absences. This can be the most difficult type of absence for a school to deal with and the problem can really only be addressed effectively through close monitoring systems and effective management action

#### **Long Term Sickness Absence**

This is defined as absence of more than four calendar weeks with no immediate prospect of return. It can also include repeated shorter spells linked to one specific medical problem e.g. hospitalisation, an operation, ongoing therapy etc.

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

33. Frequent/short term sickness absence may consist of days off for different reasons, such as minor ailments, which may or may not be covered by a medical certificate. A pattern may also emerge of odd days off for the same reason i.e. headaches. Sometimes the pattern may be around certain times of the week/month i.e. before or after weekends, before or after annual leave or Trust closure periods.

Frequent absence may indicate general ill health and employees should be encouraged to seek proper medical advice to identify any underlying health problem. Advice can also be sought from the Occupational Health Service.

Employees who are not motivated, are feeling stressed and/or have difficult relationships with others at work may also have frequent, short term absence. Identifying such problems early will help managers to be aware of these issues and if possible address them. If an employee feels their absence will be noticed and discussed they may be less inclined to take unnecessary time off. Specific advice on dealing with work and non work related stress is available from HR.

Patterns of absence can also be due to other factors outside of work such as domestic issues around child care/care for relatives etc or personal issues. If such issues are identified, the managers should discuss other HR policies and procedures which may be of benefit. Some flexibility around start/finish times may also be considered on a short term, temporary basis. Such arrangements should always be confirmed in writing, be for a specified time and be monitored.

Alongside the wellbeing of the employee, where there are high levels of frequent / short term absence which are causing concern the focus will be on the level of attendance at

work and the impact that this is having on service delivery. Where concern arises the matter should be discussed with the individual at the earliest opportunity with a view to resolving the issues in an informal manner in the first instance.

### **Trigger Points**

34. Trigger Points are a useful way of indicating to employees and managers when sickness absence levels are becoming a cause for concern and where further action may be necessary. The Trust has specific "trigger points" which if hit will prompt a manager to hold an Absence Review Meeting. The triggers used by the Trust are:
- a) Patterns of absence that cause concern i.e. Monday's, Friday's, before/after weekends/annual leave/Trust closure etc.
  - b) Two absences of any duration in any three-month period
  - c) Seven working days in a rolling year (this may require a pro rata adjustment for part time employees)

### **Absence Review Meetings**

35. While some flexibility may be required dependent on individual circumstances, managers should ensure that they have an Absence Review Meeting with the employee once the absence reaches one of the 'trigger points' as specified above. These meetings are in addition to Return to Work Meetings.
36. The purpose of the meeting is to:
- a) Fully understand the reasons for absence
  - b) Identify any appropriate support that could be put in place which could improve attendance
  - c) Set agreed targets for improvement through an Absence Improvement Plan (AIP), if required.

### **Arranging an Absence Review Meeting**

37. The manager must confirm the arrangements of the meeting in writing or via e-mail to the employee giving 7 calendar days' notice of the meeting. The employee has the right to be accompanied by their trade union representative, workplace colleague or friend who does not have a conflict of interest. A copy of the letter should be held on the employee's personal file for the duration of their employment.
38. The manager should ensure they have the details of the employee's absence record and the triggers they have hit and discuss these at the meeting together with any specific work related issues. Any medical reports obtained from the Trust's Occupational Health Service should also be discussed if this has not been done so already.
39. Employees are encouraged to be as open as possible about the reasons for absence and any personal/work issues that may be contributing to this. Managers should be aware that this may be difficult and sensitive. However, it is important so that an Absence Improvement Plan can include any relevant support.
40. An **Absence Improvement Plan (AIP)** may include one or more of the following actions:
- a) A monitoring period during which an improvement in absence levels is specified.
  - b) A stress risk assessment is carried out if it is apparent that there are work related stress issues.

- c) A referral is made to the Occupational Health Service for advice on the employee's health if this has not already been done.
  - d) The employee is sign posted to the Trust's Employee Assistance Programme.
  - e) Reasonable adaptations to working practices/procedures are considered and implemented if the employee is disabled and covered by the Equality Act.
  - f) Different working hours/arrangements on a short term, temporary basis are considered and implemented if appropriate i.e. later start/finish times. Such arrangements should not normally last for more than 4 weeks.
  - g) HR policies such as Leave of Absence and/or unpaid leave arrangements are considered and used where appropriate.
41. Any one, or a combination of the above, may be appropriate depending on each case. The outcome of the meeting must be confirmed in writing by the manager and should include details of the AIP including:
- a) The situation to date including the number and frequency of absences
  - b) The improvements that are required and the timescales involved (employees must know what is expected of them and how this will be monitored)
  - c) Details of any support or temporary arrangements which have been put in place
  - d) That failure to improve and sustain attendance to the required level could lead to more formal action such as a Case Review Hearing and that the employees continued employment could be at risk
42. A copy of the letter should be held on the employee's personal file.

### **2nd Absence Review Meeting**

43. If there is insufficient improvement in the employee's attendance or the improvement is not sustained, a 2nd Absence Review Meeting can be held. The Manager should write or email the employee again giving 7 calendar days' notice of the meeting and that they have the right to be accompanied.
44. This meeting will re-consider the issues previously discussed as well as any additional, relevant information such as the most recent medical advice and explore if there are any further options and/or support which could be put in place which would improve attendance. An amended Absence Improvement Plan may be put in place.
45. The outcome of the 2nd absence review meeting must again be confirmed in writing/e-mail, including the level of improvement required and any support which is to be put in place. The letter should specify that if no improvement is achieved more formal action such as a Case Review Hearing could be considered and that the employee's continued employment could be at risk.

### **Short Term Absence - Case Review Hearing**

46. Although not an exhaustive list, an employee can be expected to be invited to a case review hearing where:
- a) There are continuing concerns regarding absence and the employee has not achieved and/or sustained the required level of improvement despite the implementation of an Attendance Improvement Plan(s) and relevant support.
  - b) Occupational Health advice confirms that an employee is able to return to work and the employee remains absent.

c) The employee fails to adhere to the Attendance Management Policy and Procedures.

A case review hearing may be deemed appropriate where an employee is suffering from health issues, but they are not absent from work and/or the level of adjustment that is required has become unreasonable or unsustainable. Such cases may have already been dealt with under the Trust's Capability Policy but it may be deemed necessary to a move to a formal hearing. Advice should have been sought from HR and the Occupational Health Service before a Case Review Hearing is arranged.

47. A Case Review Hearing is a formal hearing where all issues and information relating to an individual's absence record are considered in an objective, fair and consistent manner. The Case Review Hearing will be chaired by the CEO/Deputy CEO/Executive Head Teacher/Head Teacher/Head of School/Trustees (Hearing Officer/s) and who has (have) not previously been involved in the case. HR may also attend to advise the Hearing Officer.
48. A hearing will consider whether there are any further actions that the Trust can take to assist the employee in continuing their employment and/or improve their attendance at work. In cases where it is felt that an employee may be able to improve their attendance level formal action in the form of a caution may be issued at a Case Review Hearing. Cautions are not intended to act as a punishment but rather to give the employee a clear idea of what is considered an acceptable level of attendance, reasonable time to achieve and maintain the required level and provide any relevant support to help them achieve this. Employee's have the right to appeal against any caution.
49. When taking formal action under the Absence Management Policy and Procedure the underlying premise is that the absence is genuine but unfortunately higher than the level that can be reasonably sustained by the Trust. Conduct issues such as abuse of the sick pay scheme, or failure to notify sickness correctly without an adequate reason will be dealt with under the Disciplinary Procedure..

#### **Level and duration of formal action**

50. The following time limits for cautions are shown in Appendix 1. The level of Hearing Officer to impose cautions within the Trust will depend on the decisions made under the delegated powers for staffing matters.

#### **Arranging a Case Review Hearing**

51. The employee should be informed in writing, of the details of the hearing, giving a minimum of 7 calendar days' written notice to attend. The employee has the right to be accompanied by their Trade Union representative, workplace colleague or friend who does not have a conflict of interest. The letter will include:
  - a) The names of the people who will be present at the meeting i.e. manager presenting the case and any Human Resource Officer supporting them, the Hearing Officer/s and any Human Resources Adviser supporting the Hearing Officer/s
  - b) The purpose of the hearing
  - c) Details of how to submit any evidence the employee wishes to be considered at the hearing.

- d) Two copies of the evidence pack containing all documents to be used at the hearing. (The second copy is for the employee's representative and it is the employee's responsibility to arrange for this to be forwarded to them)

52. The employee is expected to:

- a) Confirm their attendance and who, if applicable, will be accompanying them.
- b) Provide any evidence to be presented at the hearing to the Hearing Officer/s at least 2 working days prior to the hearing.

The format for conducting a Case Review Hearing can be found in the Manager's Supporting Documentation.

### **Non attendance at the hearing**

53. Where an employee is unable to attend for an acceptable reason, the hearing may be adjourned to a later date. Where an employee is able to attend but chooses not to, the hearing may proceed in their absence. If the reason for non-attendance is a medical issue, the employee will generally be expected to provide medical evidence that they are unfit to attend the hearing or advice will be sought from the Occupational Health Service. In any case, the hearing may proceed where there have been previous requests for adjournments and/or it seems unlikely that the employee will be able to attend within a reasonable period of time.

### **Possible action following a Short Term Absence - Case Review Hearing**

#### **A Final Absence Improvement Plan is implemented**

54. The details of this will be confirmed in writing and a copy will be retained in the employee's personal file and can be referred to in the future if any further concern arises regarding their attendance at work. The employee will also be informed of the consequences of any future attendance issues, which could be a written/final caution and that their employment could be at risk. **There is no right of appeal against a final absence improvement plan.**

#### **1st Written Caution and a continuation of monitoring.**

55. Where it is considered that a written caution is appropriate, the employee will be made aware of the Trust's expectations for their future attendance. The written caution will be retained on the personal file but disregarded after **12 months** from the date of the hearing, subject to achieving and sustaining satisfactory attendance. The employee will also be informed of their right of appeal and the consequences of any future attendance issues, which could be a final caution or dismissal.

#### **Final Written Caution and continuation of monitoring**

56. Where there is a failure to improve attendance at work following a written caution or where the employee's absence record is considered to justify a final written caution in its own right, the employee will be made aware of the Trust's expectations for their future attendance. The written caution will be retained on the personal file but disregarded after **24 months** from the date of the Hearing, subject to achieving and sustaining satisfactory attendance. The employee will also be informed of their right of appeal and the consequences of any future attendance issues, which could result in their dismissal.

### **Dismissal with notice**

57. Where there is a failure to improve attendance at work following a final written caution or where the circumstances are considered to justify dismissal, the employee's employment will be terminated with appropriate statutory notice. The employee will be informed of their right of appeal.

### **Alternatives to Dismissal**

58. Depending on the individual circumstances in any case, it may (subject to the availability of a post, the nature of the position and the employee's ability to properly undertake it) be reasonable to offer the employee redeployment. Alternatively, reasonable adjustments to the employees existing role may also be considered where the person has a disability covered under the Equality Act.

### **Managing long-term absence**

59. Long-term sickness absence is classed as continuous absence of over 20 working days. When an employee is absent from work due to long term absence it is important that reasonable and agreed contact is maintained between the manager and employee. This is to ensure that the employee does not feel isolated, vulnerable or out of touch and ensure that the manager is able to make arrangements to ensure continued service delivery.
60. Where an absence is going to continue beyond 20 days, the manager should arrange to meet with the employee at a suitable venue. The details of the meeting should be confirmed in writing or via e-mail. The purpose of the meeting is to;
- a) Obtain up-to-date information with regards to the reason for absence and any medication that has been prescribed and/or treatment received.
  - b) Discuss relevant support - e.g. Physiotherapy, Counselling etc.
  - c) Update the employee on any changes at work that have occurred whilst the employee has been absent.
  - d) Discuss a timescale for a return to work.
  - e) Agree how contact will be maintained and the frequency of the contact. In general, it is advised that the manager meets with the employee on a regular basis and **at least every four weeks** while they remain on long term absence. However, flexibility may be needed depending on the individual circumstances including length of sick note, nature of illness and likely return to work date.
61. There may be times where a meeting is impracticable or not appropriate due to the nature of the employee's illness, however the Manager should still maintain contact with the employee and agree how contact will be maintained e.g. frequency, place etc. Face to face meetings are always recommended as they enable both the employee and the manager time to fully discuss relevant issues in an informal and supportive way.
62. Once an employee has been absent **continually for 4 weeks** the Manager should make a referral to the Occupational Health Service as outlined at paragraph 114, if they have not already done so. There may be circumstances where the referral may not be appropriate at that stage such as the nature of illness or medical treatment which is underway but **Managers should not delay the referral unnecessarily.**

63. Once a medical report has been received the Manager should make arrangements to meet with the employee and discuss it. Under the Access to Medical Reports Act the employees have the right to see the report before it is sent to their manager, Occupational Health will advise the employee of this and issue the necessary form.
64. Where long term absence is ongoing and there is no indication of a return to work date a Case Review Hearing should be arranged and conducted in accordance with the advice specified in this policy.

### **Long Term Absence – Case Review Hearing**

65. Although not an exhaustive list, an employee can be expected to be invited to a long-term absence case review hearing where:
  - a) A long-term period of absence is continuing, there is no indication of a return to work date and the level of absence is such that it appears that it cannot reasonably be sustained.
  - b) It is recognised early in the absence that the employee will not be able to return to work in the future.
66. A Case Review Hearing (where relevant and depending on the employee's health) should also be held to confirm that Occupational Health has issued a certificate of Permanent Ill Health. (Support Staff).
67. The access to Ill Health Retirement for teachers can only be granted through Teachers Pensions. Where teachers have been granted Ill Health Benefits through Teachers Pensions, then arrangements should be made to agree a mutual termination date. A Case Review Hearing would not be required where Ill Health Benefits have been granted and a mutual termination date agreed.

The format for conducting a long-term absence Case Review Hearing can be found in the Manager's Supporting Documentation.

### **Possible action following a Long Term Absence - Case Review Hearing**

#### **No further action or further review**

The Head Teacher may choose to continue support mechanisms in the employee's long term absence on a case by case basis.

#### **Dismissal with notice**

The Head Teacher may reach a decision to take steps to dismiss an employee should any of the following circumstances arise (although this list is not exhaustive)-:

- When the advice received from Occupational Health is that a member of staff is permanently unfit to continue working or there is no clear indication of a return to work in the foreseeable future or within an acceptable timescale.
- An application for early retirement on the grounds of ill health by a member of staff, either teaching or support be refused by the relevant body and the medical advice received is that the member of staff is not likely to be fit again for a considerable length of time.
- Where frequent absences continue despite medical advice that there is no underlying medical condition, which would account for them.

## **Alternatives to Dismissal**

68. Depending on the individual circumstances in any case, it may (subject to the availability of a post, the nature of the position and the employee's ability to properly undertake it) be reasonable to offer the employee redeployment. Alternatively, reasonable adjustments to the employees existing role may also be considered where the person has a disability covered under the Equality Act.
69. **When the decision is made to dismiss the reason will either be on the grounds of medical capability where the employee is currently not medically capable of performing the duties of their post and is unlikely to be able to do so (or that of another suitable alternative post in the Trust) or for 'Some Other Substantial Reason' (SOSR).**
70. SOSR may be relevant where the reason for dismissal is not related to the employee's incapability on health grounds but the primary reason for dismissal is on the grounds that the employee's absence levels are higher than that can be reasonably sustained by the Trust despite being given the support and/or reasonable adjustments to resume work. This would then fall under SOSR.
71. Decisions to dismiss are managerial, not medical decisions, although they should be informed by medical advice. The Trust needs to be very clear about the reason for absence and the consequent reason for dismissal. As in all cases of dismissal the Trust needs to ensure that the decision to dismiss is fair and non discriminatory.
72. The Trust must consider alternatives to dismissal, such as reasonable adjustments/and or redeployment before making a final decision to dismiss. It is very important that managers/supervisors follow the Trust's procedure and ensure that there has been adequate consultation with the employee and their representative.
73. When determining whether a dismissal is fair and non discriminatory the following points need to have been considered by the Trust:
- a) The nature of the illness
  - b) The likelihood of it recurring or some other illness arising
  - c) The length of the absences and the periods of good health between them
  - d) The Trust's need for someone to undertake the work
  - e) The impact of the absence on other workers
  - f) The adoption and implementation of the Trust's policy and procedure
  - g) An assessment of the individual case, on its own merits
  - h) The extent to which the employee is aware of how serious the Trust views the absence and what the potential implications are for the Trust should their absence continue
  - i) Relevant employment legislation

## **Right of appeal against cautions and dismissal**

74. An employee has the right to appeal against a caution issued at a Case Review Hearing and against dismissal. Employees must advise that they wish to appeal in writing, clearly stating the grounds for their appeal, within 7 calendar days of receipt of the letter giving



the decision of the caution issued. Appeals should be submitted to the Hearing Officer/Chair of the hearing panel.

75. The employee will be given preferably at least 7 calendar days' notice of the date of the appeal hearing in writing. They have the right to be accompanied to the hearing as specified previously. The basic principles in terms of the format of the appeal hearing are the same as for the Case Review Hearing. The appeal Hearing Officers will impartially review the sanction imposed at the hearing. The outcome of the appeal will replace the record of the original decision on the personal file of the employee.
76. The officers with authority for hearing appeals are specified in Appendix 1.
77. The employee will normally be informed in writing of the results of the Appeal Hearing within 7 calendar days of the hearing.

### **Suspension on Medical Grounds**

78. The Trust may suspend an employee on health grounds. This allows the Trust to remove the employee from any health and safety risk where there is concern about the employee's health and their ability to carry out their duties. Advice should be sought from the Occupational Health on the ability of the employee to carry out their normal contracted duties and the employee may need to be absent until the medical advice is received.
79. The Chair of Trustees/ CEO / Deputy CEO, with support from HR, is responsible for taking any such decision and while the suspension can be verbal it must be confirmed to the employee in writing. Suspensions will be on full pay and will not normally last more than 28 calendar days.

### **Disciplinary Issues**

80. Some cases may be appropriate to be dealt with under the Trust's **Disciplinary Policy**. These are where the issue is around the employees conduct as opposed to their health.
81. Some examples are given below; these are not exhaustive:
  - a) Failure to follow the sickness reporting procedure without an adequate reason
  - b) Failure to attend absence review meetings/case review hearing without an adequate reason
  - c) Engaging in other employment whilst absent due to sickness (unless the nature of the illness prevents them from working in one employment contract but not in others)
  - d) Abuse of the sick pay scheme i.e. evidence that the employee is absent but not sick
82. Advice should be sought from HR before moving to the Disciplinary Procedure.

### **Phased Return to work**

83. In order to facilitate an employee, return to work a "phased return" may be appropriate. This enables employees to return to work initially on reduced hours and/or restricted duties to ease the transition and facilitate an early return. Medical advice on the suitability of a phased return can be obtained from Occupational Health. Any advice outlined by the GP on the Fit Note should also be taken into account. Consideration should also be given to the possibility of working in another area of the Trust for a short time if restricted

duties are not available in their own area of work. The phased return should not usually exceed four weeks, however, in exceptional circumstances this can be extended beyond four weeks if this is supported by Occupational Health.

84. Once on a phased return the employee is signed off the sick and therefore they should be well enough to be able to perform the duties they will be undertaking to a reasonable level and for a reasonable amount of time per day i.e. 50% of their contracted hours. This should be increased during the phased return period until they are working their full contracted hours.
85. There may be some exceptions to this and each case will be looked at on an individual basis. Managers will need to consider reasonable adjustments within a phased return for an employee who has a disability covered by the Equality Act. The amount of time and/or level of work that a disabled employee can undertake on a phased return may need to be less than that specified above.
86. In some cases, a phased return may not yet be appropriate but the employee would benefit from some time in the working environment to help them re-adjust and prepare for coming back to work either on a phased return or full time. This may be appropriate if employee has had a long period of illness or is particularly anxious or concerned about returning to work. In such cases the employee could spend some time visiting the work place for very short period's i.e. a maximum of 1 hour a day but would not be required to undertake any work as they are still covered by a medical certificate. They can attend team meetings, spend time talking to colleagues about work related subjects or read work related information.
87. The Health and Safety team should be notified of cases where a phased return to work is implemented after an accident at work.

#### **Pay during a phased return**

88. Employees will not receive less pay than they would have if they had remained absent from work due to sickness.
89. For example, if an employee is on half pay and absent due to sickness and they return to work on a phased return they will be paid half pay as a minimum (providing the required number of hours are worked) but will also receive pay for any additional hours they work above this. If an employee is on nil pay and absent due to sickness and they return to work on a phased return they will be paid for the actual hours worked.

### **Management Interventions**

#### **Occupational Health Referrals**

90. The Occupational Health Services provides up-to-date, professional medical advice to managers to help them make informed decisions about an employee's health in relation to their work. Referrals can be made for both employees who are absent due to short and long term absence. Managers do not need to wait until an employee is absent from work or has reached a trigger point before they make a referral to Occupational Health if there are concerns about an employee's health. An employee can also ask for a referral to be

made for them. Any such request will be considered by their Manager, or alternatively can be arranged through your HR contact in the Trust.

91. Occupational Health can:
  - a) Advise on how best to manage the case from a medical perspective
  - b) Give an indication of a likely return to work date
  - c) Advise whether the employee has a disability under the Equality Act and recommend reasonable adjustments as appropriate
  - d) Advise whether the employee would benefit from a referral to Physiotherapy services or Counselling
  - e) Advise whether a phased return to work, temporary alternative work, reduced duties or adjustments would be appropriate
  - f) Ask the employee for permission to access information from their doctor or specialist and for permission to disclose relevant information to appropriate management
  
92. There are medical confidentiality issues which mean that the employee has to give their consent to any specific details relating to a current or previous medical condition being released to their employer. However Occupational Health will provide a medical opinion on the case in as much detail as they can. Management should then consider this information along with any other relevant information such as the nature of the illness, length of absence, ability to provide service delivery while absence continues etc in order to consider any appropriate action.
  
93. Managers/Supervisors should arrange Occupational Health appointments through their Trust HR Adviser. They must then complete the referral form and send this to Occupational Health at least 24 hours prior to the appointment with an up to date job description.

### **Reasonable Adjustments**

94. The duty to make reasonable adjustments under the Equality Act arises where a practice by the Trust places a disabled person at a substantial disadvantage compared with people who are not disabled.
  
95. The following are examples of reasonable steps an employer may have to take:
  - a) Making physical adjustments to the workplace, or adjustments to the employee's duties/workload
  - b) Transferring the disabled employee to another vacant post, with or without reasonable adjustments being made
  - c) Altering the disabled employee's working hours through, for example, part-time working, job sharing or other flexible hours arrangements
  - d) Providing special equipment to help a disabled employee to perform his or her tasks and giving training on how to use the equipment.
  
96. In determining whether it is reasonable for an employer to have to take a particular step in order to comply, regard shall be had to:
  - a) The extent to which taking the step would prevent the effect in question
  - b) The extent to which it is practicable for the employer to take the step
  - c) The financial and other costs which would be incurred by the employer in taking the step and the extent to which taking it would disrupt activities

- d) The extent of the employer's financial and other resources
  - e) The availability to the employer of financial or other assistance with respect to taking the step
97. Any adjustments need to be implemented as soon as possible and should be agreed with the employee before they are made. It is important that managers/supervisors record and review any adjustments.

### **Support Available**

98. Employees who are ill will some times need help and support both while they are absent from work and when they return. The Trust is committed to taking all reasonable steps to ensure that staff are offered support when they need it, this approach will not only help employees who are sick get back to work but will also help to prevent some staff going off sick in the first place. Dealing with any absence concerns early on in a sensitive manner should ensure that situations are dealt with informally and do not escalate into more serious issues.
99. The Trust provides a number of employee assistance services which are outlined below.

### **Employee Assistance Programme**

100. The Trust provides an Employee Assistance Programme. This includes an external, free, confidential service offering support for a variety of issues such as:
- a) Work related concerns – including work load, relationships with colleagues and managers, change in role etc.
  - b) Financial difficulties
  - c) Legal concerns
  - d) Medical issues
  - e) Personal difficulties – including anxiety, bereavement, relationship problems, alcohol/drug misuse etc.
101. The service also includes a counselling provision which includes 6 sessions per issue, per year for employees. The requirement for this will be assessed by the service provider and may be face to face or provided via the telephone.
102. The service is entirely confidential. The employee does not need to let anybody at work know that they are utilising this service. Staff should be able to make appointments in their own time, however reasonable time off with pay will be provided for employees to attend sessions if it is required.

### **Other Absence**

#### **IVF Treatment**

103. Undertaking IVF treatment may be a stressful and difficult time and Managers should be sensitive to this. The treatment is not deemed incapacity for Statutory Sick Pay purposes, however some employees may feel ill as a result of the treatment and if they are unable to attend work they will be regarded as sick in line with this policy, subject to the usual sickness absence reporting procedure. There is no statutory right for an employee to receive time off, with or without pay, during normal hours to undertake a course of IVF treatment.

104. When they have been notified that an employee will be undertaking IVF treatment managers should discuss the implications of what will be involved in terms of time off required for the treatment. Managers can approve requests for reasonable unpaid leave subject to confirmation of appointments etc (letter from GP/hospital appointment card etc) and/or annual leave/flexi time can be approved. Requests for paid leave should be approved by the Executive Head Teacher/Head Teacher /Head of School again subject to confirmation as previously mentioned. Arrangements should be discussed and agreed before the start of the course of treatment where possible.

### **Pregnancy**

105. A risk assessment should be carried out by the Manager as soon as they become aware that an employee is pregnant. A new risk assessment be conducted at the start of every trimester in an employee's pregnancy. Pregnancy related illness should be treated separately from other kinds of illness and should not count towards an employee's total sickness record; however, employees absent due to a pregnancy-related sickness will be counted towards Occupational Sick Pay. Absence relating to pregnancy should also not be taken into account when making decisions regarding redundancy or dismissal.

### **Elective Surgery/Dentistry**

106. Elective surgery or dentistry treatment is not considered to be medically necessary unless this has been recommended for medical reasons by the employee's doctor/specialist. Where an employee chooses to have elective surgery or dentistry within normal working hours, they should seek authority for annual leave, flexi-leave or authorised unpaid leave.

### **Gender Reassignment**

107. Under the Equality Act transgender people who are absent from work because they propose to undergo, are undergoing or have undergone gender reassignment should not be treated less favourably than they would be for absence because they are ill or injured.

### **Policy Control**

#### **Confidentiality**

108. Details of action taken under this policy should be retained on the employee's personal file. Managers/supervisors must treat personal information relating to an employee's absence as sensitive, personal information in accordance with the GDPR and other legislative provisions.

#### **Monitoring and Review**

109. The Trust will keep this policy and the related procedure under review to make sure they are relevant and effective. The Trust's recognised Trade Unions will be consulted before new or additional rules are introduced across the workforce.

**Review Date:** Autumn 2025

**Appendix 1**

<b>Level of Caution</b>		<b>Duration/Live</b>	<b>Level of Hearing Officer</b>	<b>Appeal to</b>
1st Written Caution	Leadership posts (Head Teacher and above)	12 months	Deputy CEO/CEO	Appointed Trustees sitting as Committee B. Not previously involved in the case
	Other Teaching & Support Staff		The hearing officer must be a manager in a more senior position to the employee.	A manager in a more senior position to the original Hearing Officer.
Final Written Caution	Leadership Posts (Head Teacher and above)	24 months	CEO/Panel of Trustees	Appointed Trustees sitting as Committee B. Not previously involved in the case
	Other Teaching & Support Staff		The hearing officer must be a manager in a more senior position to the employee.	A manager in a more senior position to the original Hearing Officer.
Dismissal	Leaderships posts (Head Teacher and above)		Panel of Trustees	Appointed Trustees sitting as Committee B. Not previously involved in the case
	Other Teaching & Support Staff		CEO/Deputy CEO	CEO/Trustees sitting as Committee B. Not previously involved in the case