

**ABSENCE MANAGEMENT GUIDANCE 2018**

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## **1. Introduction**

The information contained in this guidance pack is aimed at supporting managers with understanding the process, timescales and responsibilities associated with managing sickness absence. It has been designed to provide School Leaders and other senior managers with a range of practical guidelines that will support effective management of employment issues. It has been designed to be easy to use, and links to a range of policy documents and guidelines.

It provides details that will help you to understand and use the documentation, procedures and guidelines around managing sickness absence. It summarises the various processes in place, from the point at which an issue first arises, conducting a referral to Occupational Health, holding a hearing, through to handling an appeal against a decision. The pack contains standard templates and guidance documents as well as a section on Frequently Asked Questions (FAQs) for School Leaders and Managers.

## **2. Summary of Roles and Responsibilities**

### **2.1 School Leader Responsibilities**

In respect of any member of staff they manage, School Leaders have responsibility to:

- Establish acceptable attendance levels
- Be conversant with the Managing Sickness Absence policy and procedure
- Ensure members of staff have access to the Managing Sickness Absence policy and procedure
- Inform members of staff of their rights and responsibilities under the Managing Sickness Absence policy and procedure
- Ensure managers are aware of their responsibilities under the Managing Sickness Absence policy and procedure and actively undertake these responsibilities
- Apply the Managing Sickness Absence policy and procedure fairly
- Manage the implementation of the Sickness Absence procedure when it is necessary to take action
- Ensure that attendance issues are thoroughly investigated before taking action
- Determine whether it is necessary to medically suspend the member of staff
- Ensure that any action is appropriate and proportionate to the absence concerns
- Make notes of all meetings and agreed actions covered by this procedure, and retain all such notes in a confidential file for the required period of time
- Ensure that any records are held in a confidential manner and in accordance with the principles contained within the Data Protection Act 1998

### **2.2 Employee Responsibilities**

Members of staff are individually responsible for:

- Familiarising themselves with the Managing Sickness Absence policy and procedure and understanding their rights and obligations under it
- Achieving reasonable and acceptable attendance levels
- Co-operating with a referral to Occupational Health, including attending meetings and hearings when requested and obeying all lawful and reasonable directions of management
- Demonstrating the level of attendance required to improve, if improvement is required
- Attending all relevant counselling, support or formal meetings as required

### **3. Understanding Employment Rights**

#### **3.1 Principles of Natural Justice**

The Sickness Absence Policy and Procedure, and the employment legislation which underpins it, incorporate the Principles of Natural Justice. These common law principles concern procedural fairness and ensure a fair decision is reached by an objective decision maker(s). These are the principles that an employment tribunal would examine should a case proceed to a tribunal. To meet these principles, School Leaders and managers should ensure that individuals:

- Know the expected standards of attendance
- Know the alleged failure and the nature of the concerns
- Have been subject to a thorough investigation before a formal sanction is issued in response to the concerns
- Have been provided with the opportunity to offer an explanation regarding their poor attendance and for this explanation to be considered
- Have had the opportunity to be accompanied or represented at formal meetings (Stages 1-3 and appeal stages)
- Have had a fair and impartial hearing
- Have received a penalty that is appropriate to the concerns and which takes any mitigating factors into account
- Have had a reasonable opportunity and support to improve attendance
- Have had the opportunity to appeal to a higher authority or more senior manager against a formal warning issued

#### **4. Application of procedure**

This procedure applies to all teaching and support staff regardless of grade, position, hours worked per week or whether their contract is permanent or fixed term/temporary and who have two or more years' continuous service.

For employees with less than two years' service, School Leaders should use the shortened procedure contained in Appendix One of the main procedure of this pack.

Where there are concerns regarding the absence/attendance of the School Leader, the Chair of Governors should seek advice and guidance from HR.

### **5. Managing Sickness Absence – An Overview**

This section contains an overview of the key steps of the absence process. School Leaders/Senior Managers should read this section in conjunction with the Formal Procedure for Managing Sickness Absence.

<b>Step</b>	<b>Activity</b>	<b>Timeframes</b>
	<b>Return to Work Interviews</b>  Please see form at Annex 1	To be carried out after each absence
<b>1</b>	<b>Reviewing sickness absence levels of all staff</b>  The School Leader/Manager should regularly review the absence levels of all their staff. Managers should consider whether any action is required under the formal Sickness	Ongoing

	<p>Absence procedure in circumstances where the absence has reached an unacceptable level and is causing operational difficulties.</p> <p>This information can then be used to set meaningful target levels for attendance for staff.</p> <p>Please see Part 2 Paragraph 7 of the formal Sickness Absence Policy and Procedure</p>	
2	<p><b>Keeping in touch during sickness absence</b></p> <p>Employees should maintain regular contact with the school during periods of sickness absence.</p> <p>Line managers may also contact an employee who is absent if no contact has been received from the employee. Where required a designated contact will be agreed.</p> <p>Please see Part 2 Paragraph 5 of the formal Sickness Absence Policy and Procedure</p>	<p>The frequency and manner of this will be agreed between the manager and the employee and be subject to review, depending on the length of absence.</p>
3	<p><b>Instruction to leave work on health grounds and medical suspension</b></p> <p>School Leaders should take action when they consider an employee may have become medically incapable of performing their duties.</p> <p>Please see Paragraph 5.1 of this Guidance Pack.</p>	<p>School Leader should take action and seek advice from HR.</p>
4	<p><b>Consider any action required under the formal sickness absence procedure</b></p>	<p>Usually in line with the school's trigger points or impact the absence is having on the operational needs of the school</p>
5	<p><b>Referral to Occupational Health</b></p> <p>Advice can be sought from Occupational Health about the need for a referral, especially any medical conditions which may be connected to the workplace.</p> <p>Please see Part 2 Paragraph 8 of the formal Sickness Absence Policy and Procedure</p> <p>Please use model letter A in Annex 1 of this pack to request an Occupational Health referral and model letter B to invite employee to meeting to discuss Occupational Health recommendations.</p> <p><b>Sickness pay reduction</b></p> <p>Where the school has been notified of a sickness pay reduction, model letter C can be used to notify the member of staff, or built into other communications to the member of staff (e.g. built into letter A if in the process of</p>	<p>Normally undertaken no later than 28 days of consecutive absence or in accordance with the school's trigger points.</p>

	a referral).	
6	<p><b>Managerial support prior to action under the formal procedure</b></p> <p>Possible outcomes from this meeting may include:</p> <ul style="list-style-type: none"> <li>• The employee is provided with a clear explanation of why their current absence level is a cause for concern</li> <li>• The employee is provided with clear guidance about how their attendance needs to improve</li> <li>• Where applicable, a timescale is given for any required improvement to take place</li> <li>• An action plan is written that reflects the key outcomes from the meeting</li> <li>• An outline is given of any support or training that will be provided</li> <li>• A clear statement is made that a failure to improve may lead to formal action in line with the formal procedure detailed in Part 3 of the formal Sickness Absence Policy.</li> <li>• Reasonable adjustments are considered</li> </ul> <p>Please see Part 2 Paragraph 23 of the formal Sickness Absence Policy and Procedure and use the form to document the conversation with the member of staff.</p> <p>Use model letter D to invite to Managerial Support Meeting and model letter E in Annex 1 to confirm outcome.</p>	Give 5 working days' notice of the meeting.
7	<p><b>Invite to Stage 1 Formal Meeting</b></p> <p>Please see Part 3 Paragraph 2 of the formal Sickness Absence Policy and Procedure. Use model letter F in this pack.</p>	At least 7 working days' notice of the meeting.
8	<p><b>Advising of outcome of Stage 1 Formal Meeting</b></p> <p>Possible outcomes from this meeting may include:</p> <ul style="list-style-type: none"> <li>• A Stage 1 Formal Warning is issued</li> <li>• Referral to Occupational Health</li> <li>• No formal action required (but required improvement and/or alternative action is stated)</li> </ul> <p>Please see Part 3 Paragraph 2.5 of the formal Sickness Absence Policy and Procedure. Use model letter G in pack.</p>	Usually within 5 working days of meeting.
9	<p><b>Appeal received from employee</b></p> <p>Please see Part 3 Paragraph 7 of the formal Sickness Absence Policy and Procedure and section 7 of this guidance for more information on appeal hearings</p>	Within 10 working days of receiving outcome letter.
10	<p><b>Advising of outcome of appeal meeting</b></p> <p>Please see Part 3 Paragraph 7 of the formal Sickness Absence Policy and Procedure</p>	Usually within 5 working days of meeting.

11	<b>Invite to Stage 2 Final Meeting</b>  Please see Part 3 Paragraph 3 of the formal Sickness Absence Policy and Procedure. Use model letter H.	Give at least 7 working days' notice of meeting.
12	<b>Advising of outcome of Stage 2 Final Meeting</b>  Possible outcomes from this meeting may include: <ul style="list-style-type: none"> <li>• The Stage 1 formal warning remains in force for a further specified period</li> <li>• A further review period with a final warning being issued that without a significant improvement, a further meeting under Stage 2 will take place</li> <li>• A referral to a School Leader/Governors' Committee for a decision on the continued employment of the employee under Stage 3 of this procedure</li> </ul> Please see Part 3 Paragraph 3.6 of the formal Sickness Absence Policy and Procedure. Use model letter I in this pack to confirm the outcome.	Usually within 5 working days of meeting.
13	<b>Appeal received from employee</b>  Same process should be followed as in Step 9.	Within 10 working days of receiving outcome letter.
14	<b>Advising of outcome of appeal meeting</b>  Same process should be followed as in Step 10.	Usually within 5 working days of meeting.
15	<b>Invite to Stage 2 Final Review Meeting</b> A review meeting must take place to assess progress against expected attendance standards.  The School Leader/Line Manager will need to write to the employee to invite them to the meeting. The employee has the right to be accompanied at this meeting. Please refer to Letter J. Ensure all documents to be referred to at the meeting are provided to the employee with the letter.	Normally at the end of the review period, or sooner if the employee has failed to make progress during the review period.  Minimum of 7 working days' notice of a meeting.
16	<b>Conduct of Stage 2 Final Review Meeting</b> Refer to paragraph 3.7 of the formal Sickness Absence Policy and Procedure.	School Leaders and managers should set aside sufficient time to fully discuss the attendance concerns
17	<b>Advising of Outcome of Stage 2 Final Review meeting</b> The employee must be advised in writing of the outcome. Please use letter K this step. There are three possible outcomes at this stage: <ul style="list-style-type: none"> <li>• A referral to a School Leader/Governors' Committee for a decision on the continued employment of the employee under Stage 3 of the Sickness Absence procedure;</li> <li>• The Final Warning remains in place for a further specified time;</li> <li>• No further action, in which case the Formal Procedure for Managing Sickness Absence will cease in line with paragraph 4 of the Sickness</li> </ul>	Normally within 5 working days of meeting taking place



	Absence Policy and Procedure.	
18	<p><b>Invite to Stage 3 School Leader/Governor Committee</b></p> <p>Applicable to short-term/sporadic absences and long term sickness absence cases.</p> <p>Please see Part 3 Paragraph 6 of the formal Sickness Absence Policy and Procedure and section 6 of this pack for more information on a Stage 3 hearing.</p>	Give at least 7 working days' notice of the hearing.
19	<p><b>Advising of outcome of Stage 3 hearing.</b></p> <p>Please see Part 3 Paragraph 6 of the formal Sickness Absence Policy and Procedure.</p>	Usually within 5 working days of hearing.
20	<p><b>Appeal received from employee.</b></p> <p>Please see Part 3 Paragraph 7 of the formal Sickness Absence Policy and Procedure and section 7 of this pack for more information on an appeal hearing.</p>	Received within 10 working days of receiving outcome letter.
21	<b>Advising of outcome of appeal hearing.</b>	Usually within 5 working days of hearing.
22	<p><b>Letter to request termination of employment</b></p> <p>This letter is from the Chair of Governors in schools to request that the Trust formally provide notice of termination of employment to an employee. It is not necessary to wait until the right of appeal has expired.</p>	
23	<p><b>Issue notice of termination</b></p> <p><b>Letter to issue notice of termination of employment (where Governing Body is the employer)</b></p> <p>Where the Governing Body is the employer, the Chair of Governors must issue notice of termination on behalf of the Governing Body. A model letter can be obtained from HR.</p>	

## 5.1 Instruction to leave work on health grounds and medical suspension

A School Leader may instruct an employee to leave work on health grounds and should take action when they consider that an employee may have become medically incapable of performing their duties to the standard required if this may put at risk the health, education, safety or welfare of pupils.

In circumstances where a School Leader believes that medical suspension is required, the School Leader/Manager should contact HR for further advice as a matter of urgency before taking action to medically suspend the employee. In some cases such as active pulmonary tuberculosis, epilepsy and psychiatric disorders, medical suspension may be necessary. Occupational Health should be informed and advice sought on the need for temporary suspension from duties while investigations are

proceeding and treatment is being established. Medical suspension decisions must be taken only on the basis of medical advice. Such suspensions can be lifted only by the full governing body.

A return to work should be made conditional upon appropriate medical clearance and regular checks of the employee's health for a period of time to be agreed between Occupational Health, the School Leader and the employee.

A teacher who has been absent from duty for a continuous period of more than three months arising from psychiatric disorder, including that arising from alcohol, drug or other substance misuse, should not be permitted to resume teaching until there is satisfactory evidence of his or her fitness to do so. The same will apply to a Teaching Assistant, or other member of staff coming in to close contact with children. The employee must see their GP as soon as possible. The School Leader should contact Occupational Health for urgent advice on the employee's fitness to work.

Please refer to Paragraph 20 of the Sickness Absence Policy.

## 5.2 Referral to Occupational Health

A referral will be accompanied by a referral form. Employees should be given a copy of the paperwork. Further information on the referral process can be found on the staff Health and Wellbeing intranet pages.

When making a referral, please avoid non-specific questions as these are likely to result in non-specific answers.

## 5.3 Refusal to comply with a referral to Occupational Health

On occasions an employee who is subject to a medical referral refuses to agree to the disclosure of medical records or to attend meetings with Occupational Health. A refusal to attend any meeting with Occupational Health does not mean that the medical referral cannot be completed. The School Leader/Manager will need to try to reassure the employee that it is beneficial to them to be able to meet with Occupational Health to discuss their health and for Occupational Health to have as much information from the GP/consultant, and encourage them to seek advice from their Professional Association or Trade Union representative.

If the School Leader or Manager is unable to persuade them otherwise, they should advise Occupational Health of the difficulties they are encountering. Occupational Health as part of their discussions with the employee will discuss consent and the referral process.

## Managing Attendance

### Formal Return to Work Interview

To be completed on first day an employee returns to work following sickness absence, or as soon as possible thereafter

**NB: The form entitled 'Note of discussion with employee as part of normal managerial support (ill health)' should be used prior to this formal return to work interview form**

Name of employee:	Job title:
Name of Manager:	Job title:
Date of Meeting:	
Date of 1 <sup>st</sup> day of absence:	Date of last day of absence:
Number of Days Absent:	Reason:
Absence(s) in last 12 months: (or attach payroll absence screen shot, or academic calendar highlighting absences)	Reason(s):
Further action required? (i.e. when you feel an action plan is required (managerial support) or you wish to explore whether you move to formal stages) YES/NO (if YES, please complete overleaf)	
Brief record of discussion:	



## 5.5 Grievance submitted during action being taken under the Managing Sickness Absence procedure

The employee will not normally be permitted to raise a grievance related to any action taken, or contemplated, under the Managing Sickness Absence procedure. Such grievances will normally be managed within the hearing and appeal process detailed below.

The grievance procedure cannot be used to circumvent the consideration of legitimate management action on matters of absence. In some cases, however it may be fair to continue with the Managing Sickness Absence procedure running alongside the grievance procedure where the absence process will not be affected.

There may, however, be grievances submitted that go beyond the scope of the managing absence process, which may have to be heard separately and normally before the managing absence process can be completed. An example of this is where the employee complains about the treatment received by the manager over an extended period. This may be where the issues are those that fundamentally affect the fair operation of the Managing Sickness Absence procedure e.g. bullying and harassment against the line manager or allegations of discrimination. In such instances the Sickness Absence procedure may be suspended until the issue is dealt with as quickly as possible.

## 5.6 Medical redeployment

If the employee is deemed unfit to continue in his/her job but Occupational Health recommends he/she is fit for alternative employment, the School Leader/Manager should consult the employee on this conclusion and discuss the viability of alternative employment within any constraints identified by Occupational Health. The employee should be informed of the implications if suitable alternative employment cannot be identified. Alternative employment should be considered having regard to both the medical advice and any parameters the employee has set. It is likely this will cover things such as:

- Details of skills and aptitudes
- Specific areas of interest in other occupations
- Any geographical limitations
- Physical limitations/disabilities
- Personal circumstances
- Possibility of retraining on a 'trial' period.

Initially, the manager and the School Leader should identify whether there is any suitable alternative employment available within the school. If suitable alternative employment is available, this should be offered to the employee. If the employee has a disability, they are entitled to additional rights in the redeployment process. If suitable alternative employment cannot be identified within the school, the manager should consult with HR. HR, in consultation with the employee, will consider whether there is any suitable alternative employment available elsewhere in the Trust. In the case of Academy schools, the employee does not have formal redeployee status outside of their employing school.

The process of seeking alternative employment should be conducted within an agreed timescale and will not normally extend beyond three months. Where suitable alternative employment cannot be identified within the agreed timescale, the School Leader/Manager may need to consider whether the employment can be sustained.

In some instances, it will be appropriate for dismissal to be considered before the search for alternative employment outside the school is complete. In such circumstances, consideration must have been given to suitable alternative employment within the school. It will be for the School Leader to determine, in consultation with the employee and HR, whether consideration of alternative employment beyond the school will occur before or in parallel with a referral for termination of employment at the school.

## 5.7 Long-term ill health and terminal illness

Where the employee, Occupational Health or the employee's GP/Consultant advises that the employee has a long-term ill health condition or a terminal illness, managers are encouraged to seek advice from HR in relation to what support to offer the employee and other appropriate action to take. Part 3 Paragraph 5 of the formal procedure details the formal process that School Leaders/Managers may follow in cases of long-term ill health.

Paragraph 16 of the Sickness Absence Guidance for Managers document provides managers with a list of factors to consider when assessing the school's ability to sustain an individual's absence. The focus in this assessment should be on retention of the individual versus the tensions of the impact that sustaining the absence has on pupils, other staff, budgets and efficiency within the school.

In cases of long-term sickness absence, where an individual is not able to return to work over an extended period, **there is no formal procedure of warnings and appeals that can be applied.** (i.e. Stages 1 and 2 would not apply in such cases). In managing such cases, the School Leader/Manager will ensure Occupational Health advice is sought before proceeding further. If an employee does not accept the Occupational Health recommendation, the employee must notify the School Leader/Manager within 7 working days from receipt of the recommendation. The employee will have a further 21 days to obtain further medical information and submit it to Occupational Health. Any costs incurred will be borne by the employee.

School Leader/Managers will review the Occupational Health advice and make a decision as to whether the employee's absence can be sustained operationally before making a decision to proceed to Stage 3, where a dismissal is to be considered. The School Leader/ Senior Manager should meet with the employee to discuss the Occupational Health advice and the possible options, including the need to proceed to Stage 3 where appropriate.

In such cases, an employment decision may be reached through one of three routes:

- The employee finds suitable alternative employment and resigns from their existing position
- Medical advice that supports a decision to grant ill health retirement. In such circumstances, the School Leader/Manager must agree an immediate date for retirement to take effect
- Medical advice does not support ill health retirement, and/or operational requirements lead to the matter being referred to a Stage 3 School Leader/Governors' Committee in order for a decision to be made about the employee's continued employment

Where ill health retirement has not been granted, an employee can appeal this decision in accordance with the detail provided in Part 3, paragraph 7.5 of the Procedure<sup>8</sup>

Where a Stage 3 School Leader/Governors Committee is being contemplated, the School Leader/Manager may meet with the employee to determine whether it might be possible to resolve the employment situation through mutual agreement.

A school may proceed to Stage 3, School Leader/Governors Committee hearing or a mutual agreement prior to the entitlement to Occupational Sick Pay being exhausted, where there is no reasonable prospect of the employee returning to work in the foreseeable future or within a reasonable timescale.

## **6. Conducting a formal meeting/hearing**

The purpose of this section is to provide some guidance on how to prepare for and conduct a formal meeting or hearing. Although the content is aimed primarily at School Leaders it is equally applicable where the case is being heard by a Governor's Committee.

Throughout such a process the School Leader/Manager presenting the case may access support from HR, including support to present a case at a meeting/hearing. The School Leader/Committee hearing the case, will also be entitled to HR representation where dismissal is being considered.

### **6.1 Preparing for a meeting/hearing**

Prior to a meeting/hearing, a full investigation of the absence concerns will have been conducted. HR is available to provide the School Leader /Manager with procedural advice throughout the process. With guidance from HR, the manager should compose the management case to be delivered to the School Leader/Governors Committee at the hearing.

If being heard by a Committee, that Committee should be made up of three governors (not including staff governors) who have had no other involvement with the case being considered. Governors may be called upon from other schools within the Trust.

The School Leader (or Clerk to the Governors in the case of a Governors' hearing) must write to the employee, giving 7 working days notice of the time and place for the hearing.

Letters and accompanying paperwork should be sent to the employee's home by first class mail or recorded delivery, or handed to them personally. The paperwork will include a copy of the Managing Sickness Absence Procedure along with relevant documentation (please see the example list of what to include in the bundle in this section).

The paperwork must also be copied to the manager presenting the management case and the School Leader/governors considering the case. If the employee submits documentation, the Clerk to the hearing must distribute this to all parties. Both sides are responsible for making arrangements for any witnesses to attend if applicable.

The hearing should be held as privately as possible, away from the normal work location if this is deemed appropriate, in a suitable room where there will be no interruptions. The hearing would usually take place during the employee's normal working hours.

### **6.2 Preparing the bundle of documents**

Documents form a key element of a case and must be collated into a 'bundle'. It should be prepared by the relevant manager in conjunction with the HR adviser who is supporting the presenting manager. The bundle of documents should only include documents that are relevant to the proceedings.

It is essential that the employee be invited to submit supporting documentary evidence prior to the hearing.

The bundle of documents should be constructed in the order in which the documents are to be referred to during the case (this will normally follow a chronological sequence with the management-side documents appearing in the first part of the bundle). The documents should be clearly numbered with simple sequential page numbers boldly marked in the bottom-right corner of each page.

A detailed schedule of documents and page numbers should be appended to the front of the bundle.

It will not normally be necessary to include a detailed outline of the case, as it should be possible to determine the key issues from documents appearing early in the bundle. Where it is considered necessary to include an outline of the case it is essential that it be limited to a summary of the facts (normally in chronological order). Care must be exercised to distinguish between facts which are agreed and those which are disputed and any proposed outline must be made available to the employee in sufficient time to enable a response to be prepared. Witness statements should only be included where it is not possible for evidence to be given in person.

Details of any 'live' warnings issued under the Managing Sickness Absence procedure should be included in the bundle. Details of any lapsed warnings previously issued under Stage 1 or Stage 2 of the procedure should not be included in the bundle.

Documents must be provided to the employee (two copies, including one for the employee's representative) in sufficient and reasonable time to enable preparation of a response. Documents must be provided to all other parties in sufficient time to enable familiarisation prior to the hearing.

A table providing an outline structure of the bundle and listing the documents which should be included can be found on the following page.

### 6.3 The right to be accompanied

Employees are encouraged to be accompanied by a professional association or trade union representative or by a work colleague under any of the formal stages of the procedure and to seek advice at the earliest opportunity where they are subject to formal action. The companion is allowed to make representations on behalf of the employee, submit papers, ask questions and address a meeting on behalf of the employee but is not allowed to answer questions on behalf of the employee. It is the employee's responsibility to arrange their own companion and advise management of who this will be.

### 6.4 Dealing with delays

If the employee is genuinely unable to attend the hearing, e.g. because they are ill, the School Leader should offer them an alternative hearing at a reasonable date and time. If the accompanying person cannot attend the hearing, the employee must propose another date and time which is no more than five working days after the date originally proposed, beginning with the first working day after that day.

If the employee fails to attend the re-arranged hearing, then the Committee reserves the right to conduct the hearing in their absence and to make their decision on the day on the available information. The HR Adviser on behalf of, and in conjunction with the Committee will still write to the employee to confirm the Committee's decision and advise the employee of their right of appeal.



It should be noted that if the School Leader or a member of the committee cannot make the hearing, the employee must be offered a reasonable alternative date and time. It is important that the School Leader informs the employee as soon as possible of any delays.

### Governors Committee Hearing

**Name of School**  
**Date/Time**

**Name of employee**

<b>Document Number</b>	<b>Document</b>	<b>Page Number</b>
1.	Procedure for a School Leader or Governors' Committee Hearing	
2.	Any other policies related to the case	
3.	Job Description	
4.	Statement of Particulars of Employment – EMPLOYEE NAME	
5.	Application form/ References (if applicable)	
6.	Personal and Employment Details of Employee –EMPLOYEE NAME	
7.	Chronological Summary of Events (if required)	
8.	Letter to Employee from School Leader, dated, date,	
9.	Letter to Employee from School Leader, dated, date,	
10.	Occupational Health referral forms	
11.	Memos from Occupational Health	
12.	Minutes of any relevant meetings	
13.	Letters sent at any earlier stages of the procedure (e.g. Stage 1, Stage 2), including details of any 'live' warnings	
14.	Any other letters relevant –i.e. Holding letter	
15.	Any other evidence	
16.		
17.		
18.		
19.	Letter to Employee from School Leader/ Clerk to Governors dated, date, Invite to hearing	
20.	Letter to Governor/School Leader dated DATE invite to hearing	

### 6.5 Key points to consider

- All those involved should remember that the hearing is an opportunity for the employee to hear the absence concerns, put their case forward and to be treated under a fair process.
- Remember that the point of the hearing is to establish the facts, then decide on the steps that should be taken to remedy the situation.

- To act in good faith which means hear the case with “an open mind” and conduct the hearing in a completely “even-handed” manner - that is it is fair.
- Give the employee the opportunity to state their case and answer any concerns raised. They should be able to ask questions, present evidence and call witnesses. The accompanying person may also ask questions and should be able to confer privately with the employee. Listen carefully and be prepared to wait in silence for an answer as this can be a constructive way of encouraging the employee to be more forthcoming.
- It is possible that the hearing may not proceed smoothly – people may be upset or even angry. If the employee becomes upset or distressed allow time for them to regain composure before continuing. If the distress is too great to continue then adjourn and reconvene at a later date – however, the issues should not be avoided.
- During the meeting there may be some 'letting off steam'. However, abusive language or conduct should not be tolerated.

## 6.6 Structure of the hearing

Hearings do not always proceed in neat, orderly stages but the Procedure for a School Leader/Governors' Committee hearing should be followed. A typical structure for a hearing is as follows:

- The hearing will be chaired by either the School Leader or Chair of the Governors' Committee. Whoever is chairing the hearing should introduce all those present, explain the purpose of the hearing.
- The Chair should outline the process that will be followed and confirm that all parties have copies of the appropriate paperwork.
- The role of the accompanying person, if present, should be explained. If the employee is unaccompanied, they should be asked if they understand that they had the right to be accompanied, and confirm that they chose not to exercise this right.
- The management representative will present their findings, indicating the evidence gathered and referring to any documents previously circulated referencing these details as they arise in the bundle, in the management case.
- The management representative will call any witnesses named in the documents previously circulated.
- The employee and their representative may question the management representative and any witnesses on the evidence they presented.
- Supported by the HR representative, the School Leader/Governors' Committee may question the management representative and any witnesses on the evidence they presented. Witnesses may be released when all parties agree they are no longer required.
- The employee and/or their representative will then present their case to the hearing, indicating the basis of their defence, including any mitigating circumstances, and referring to any documents previously circulated.

- The employee and/or their representative will call any witnesses named in the documents previously circulated.
- The management representative will question the employee, their representative and any witnesses on the evidence they presented. The representative cannot answer questions on behalf of the employee.
- Supported by the HR adviser, the School Leader/Governors' Committee may question the employee, their representative and any witnesses on the evidence they presented. Witnesses may be released when all parties agree they are no longer required.
- Both sides are then given the opportunity to sum up their case and it may be necessary to adjourn at this point to allow time to prepare for this.
- It is good practice to ask the employee if they feel that they have had a fair hearing, and whether they have anything further to say. This should help to demonstrate to the employee that they have been treated reasonably.
- On completion of the presentation of the evidence, both sides should withdraw, leaving the School Leader/committee of governors to deliberate the case, supported by the HR adviser. If any points raised by either party require further clarification, both parties should be recalled even if only one of the parties is concerned with the point(s) giving rise to doubt.

Note: The employee may submit late evidence or evidence on the day. It is at the discretion of the Committee whether or not to choose to accept any late evidence. The Committee should take any mitigating circumstances into account.

## 6.7 Adjournments

A short break may be called at any time in the proceedings. If more than a short break is felt to be necessary then the hearing should be formally adjourned. If at any time those present become too upset to continue or the hearing is becoming heated, then an adjournment can allow people to compose themselves before continuing. If either side requests an adjournment, then their request should be considered sympathetically.

## 6.8 The Decision

In coming to a conclusion on the facts of the case, the Committee will need to decide on the 'balance of probabilities' whether or not the outcome of the original hearing was justified. This is not as stringent a test as in a criminal court of law where the test of 'beyond all reasonable doubt' applies, but it nevertheless requires the committee to come to a conclusion based on evidence rather than 'gut feeling'.

Having considered any mitigating circumstances, it is important to also consider the extent of the absence concerns and the impact this is having on the operational needs of the school. The HR adviser where present, will be able to provide the Committee with advice about any precedents to ensure consistent application as part of the decision-making process.

The HR adviser will also work with the Committee to compose the exact wording of the findings and any sanction applied so that a statement can be delivered to the employee. The Committee should also decide how long any warning should remain 'live' – usually a first written warning remains 'live' for a period of 12 months and a final written warning is 'live' for a period of 24 months. Where the

sanction imposed is less than dismissal the Committee should also consider any arrangements that may need to be put in place to assist the employee's attendance to improve and/or be monitored.

At this stage, it may be useful to run through the following checklist to ensure a fair decision has been reached:

#### 6.8.1 Test of reasonableness

- Has there been as much investigation as is reasonable in the circumstances?
- Have the requirements of the Managing Sickness Absence procedure been properly complied with up to this point, including advance notice to the employee of the matter(s) to be considered at this hearing?
- Is the absence concern sufficiently serious to justify the warning/decision being contemplated?
- Have all possible reasonable adjustments already been put in place or considered?
- Has there been regard paid to any explanation/mitigating circumstances put forward by, or on behalf of, the employee e.g. domestic issues, bereavement?
- Is the decision within the band of 'reasonable' responses of a 'reasonable' employer in the circumstances?

#### 6.9 The Sanction

Once the decision is made, the two parties will be recalled and advised of the decision by the Committee. The employee will be advised of their right to appeal against the decision and informed who that appeal should be lodged with and in what timescale (please refer to the Managing Sickness Absence Procedure).

The HR Adviser to the Committee will, on behalf of, and in conjunction with, the Committee, write to the employee to confirm the decision of the Committee and to advise the employee of their right to appeal.

### 7. Conducting an appeal hearing

An employee has the legal right to appeal against the decision made following a hearing. They must be notified of this right in the letter that notifies them of the outcome of the hearing. The deadline to appeal is ten working days from the date of the letter confirming the outcome of the hearing. If the employee does appeal, it is important to hold the appeal hearing without unnecessary delay.

Throughout such a process the School Leader/Manager may access support from an HR adviser. The Committee hearing the case, will also be entitled to an independent HR adviser.

The purpose of an appeal is to enable an impartial review to be carried out as to the 'reasonableness' of the previous decision. The appeal should not become a re-hearing but should focus on reviewing the process followed, and the reasonableness of the decision that was taken.

Whilst much of the information in this section is the same as the previous section – Conducting a formal meeting/hearing – there are some points which relate specifically to the appeals process, as follows:

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## 7.1 Preparing for the appeal hearing

The purpose of an appeal is to enable an independent review of the 'reasonableness' of the outcome of the hearing. It is important the appeal does not become another hearing but focuses on reviewing the process followed and the appropriateness of the decision.

The Appeals Committee should be made up of three governors (not including staff governors) who were not involved in the first hearing and who have had no other involvement with the case being considered. Governors can be called upon from other schools within the Trust if necessary.

The Appeals Committee should consider the following points:

- Has a thorough and sufficient investigation been conducted?
- Was the manager's or School Leader/governors' committee decision to take action reasonable based on the evidence relating to the case?
- Was the action decided upon reasonable, given the circumstances of the case?
- Is the treatment of the employee consistent with the general approach to similar cases within the school?
- Has the matter been handled fairly and appropriately and is it consistent with the Managing Sickness Absence Procedure?
- Has any new medical evidence come to light which, if known at the time, would have altered the decision?

## 7.2 The right to be accompanied

Employees are encouraged to be accompanied by a professional association or trade union representative or by a work colleague under any of the formal stages of the procedure and to seek advice at the earliest opportunity where they are subject to formal action. The companion is allowed to make representations on behalf of the employee, submit papers, ask questions and address a meeting on behalf of the employee but is not allowed to answer questions on behalf of the employee. It is the employee's responsibility to arrange their own companion and advise management of who this will be.

## 7.3 Dealing with delays

If the employee is genuinely unable to attend the appeal hearing, e.g. because they are ill, they should be offered an alternative appeal hearing at a reasonable date and time.

If the accompanying person cannot make the hearing, the employee must propose another date and time which is no more than five working days after the day originally proposed, beginning with the first working day after that day.

If the employee fails to attend the re-arranged hearing, the Committee reserves the right to conduct the hearing in their absence by making their decision on the day, on the available information. They will still need to be informed in writing of the decision, that the decision is final and that they have no further right of appeal.

## 7.4 Points to consider

- It is important to act in good faith and not be unduly influenced by what has gone before, or be committed to upholding the previous decision.

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- There must be opportunity to hear both sides of the case and to weigh up the evidence as objectively as possible.
  - The Committee should be satisfied that the procedure has been properly followed and if not use the appeal hearing to correct earlier procedural deficiencies.
  - All matters raised which are relevant to the decision, whether or not they were known to the manager at the time of taking the decision, should be considered.
  - The Committee should be satisfied that a thorough investigation has taken place and all reasonable efforts have been made to gather the relevant evidence.

#### 7.5 During the appeal hearing

The Chair of the Appeals Committee will chair the appeal hearing and should cover the following points at the outset:

- Introduce those present.
- Explain the purpose of the appeal hearing which is usually to determine whether the outcome from the original hearing was correct and whether the sanctions imposed at that hearing should be upheld, overturned or replaced with another sanction. Sanctions cannot be increased.
- Explain the procedure to be followed during the hearing and confirm that all parties have copies of the appropriate paperwork.
- Ask the parties present to introduce themselves and confirm their respective roles in the hearing.
- Explain that the hearing is being conducted as part of the appeals procedure and a written record of the meeting will be made. It should be stated if any witnesses have been asked to give evidence and if so who they are.

The Committee should explain the role of the employee's accompanying person or trade union representative if present. If the employee is unaccompanied, the Committee should seek confirmation that the employee understood that they had the right to be accompanied, but chose not to exercise that right.

The Appeals Committee should conduct a review of the case considered at the original meeting/hearing and consider the points raised by the employee in respect of the conclusion of that meeting/hearing. Where the original hearing heard evidence directly from witnesses, the Committee may decide to **either** consider the written record of their evidence (as provided by the minutes of the original meeting/hearing), **or** to recall them to give evidence directly to the Appeals Committee.

The School Leader or senior Manager who presented the case at the original hearing may also be called as a witness, as determined by the Appeals Committee.

The appellant will present their findings to the Committee, indicating the evidence gathered and referring to any documents previously circulated. They may call any witnesses named in the documents previously circulated.

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Supported by the HR adviser, the Committee may question the appellant and any witnesses on the evidence they presented. The original decision maker may also question the appellant and any witnesses. Witnesses may be released when all parties agree they are no longer required. Although the appellant may confer with their representative at any time during the hearing, the Chair of the Committee has the right to ask the appellant personally to answer any questions put to them.

The decision maker from the original hearing (School Leader or Chair of the Committee) will then outline how and why they came to decide the outcome of the original hearing, referring to the evidence on which those conclusions were based.

The appellant or their representative will be allowed full opportunity to question the original decision maker and to raise points about any information provided by witnesses either at the original meeting/hearing or at the appeal hearing.

Supported by the HR adviser, the Appeals Committee may question the decision maker from the original hearing.

The Committee will take into account any mitigating factors put forward by the employee when subsequently making a decision about whether or not to confirm the original outcome or impose a different one.

**Note:** The appellant may submit late evidence or evidence on the day. It is at the discretion of the Committee, with guidance from the HR adviser, as to whether or not they choose to accept any late evidence. Any mitigating circumstances should be taken into account.

## **7.6 Adjournment**

The Committee may call a short break at any time in the proceedings. If it is considered that more than a short break for deliberation is necessary then the Committee should formally adjourn the hearing.

If at any time those present become too upset to continue or the hearing is becoming heated, the Committee should arrange for an adjournment to allow people to compose themselves before continuing. If either side requests an adjournment, the Committee should consider the request sympathetically.

## **7.7 Making a decision**

### **7.7.1 The balance of probabilities**

In coming to a conclusion on the facts of the case, the Committee will need to decide on the 'balance of probabilities' whether or not the outcome of the original hearing was justified. This is not as stringent a test as in a criminal court of law where the test of 'beyond all reasonable doubt' applies, but it nevertheless requires the committee to come to a conclusion based on evidence rather than 'gut feeling'.

### **7.7.2 The decision**

Having considered all the points, it is important to also consider the seriousness of the absence concerns in the context of the employee's previous record and the circumstances of the case. The HR

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adviser will be able to advise the Committee on any precedents to ensure consistent application in the decision making process.

#### 7.7.3 Test of reasonableness

At this stage, it may be useful to run through the following checklist to ensure the Committee has reached a fair decision:

- Has there been as much investigation as is reasonable in the circumstances?
- Have the requirements of the appeals procedure been properly complied with up to this point, including advance notice to the employee of the matter(s) to be considered at this hearing?
- Was the absence sufficiently serious to justify the sanctions imposed?
- Has regard been paid to any mitigating circumstances put forward by, or on behalf of, the employee e.g. health, domestic, bereavement?

#### 7.7.4 The sanction

There are three decisions that can be reached:

- Not to uphold the appeal: The Committee must be able to justify that there is insufficient evidence to warrant an overturning of the decision of the original hearing.
- To uphold the appeal: This is likely to occur when new evidence has been presented, a review of the process has uncovered flaws in how the original hearing was conducted, or if mitigating circumstances have been uncovered which were not previously taken into account.
- Issue a lesser sanction: If the Appeals Committee decide the sanctions imposed at the original hearing were too severe and not in the band of reasonable action, they may replace the original decision with a lesser sanction. This may be as a result of new evidence being made available. The Committee may recommend other action is taken e.g. the provision of additional support to the employee in a particular area. However, the Appeals Committee cannot increase the original sanction.

If the Committee is not satisfied with the process or any aspect of what has gone before, it is for the Committee to submit the matter for further investigation and/or a new hearing.

The HR adviser supporting the Committee will, on behalf of, and in conjunction with, the Committee, produce a letter confirming the Committee's decision and the reason for it as soon as possible after the hearing (within five working days). If it is necessary to vary this timescale the employee should be notified at the conclusion of the meeting. It should be made clear that the decision is final and no further right of appeal is available.

Where the Governing Body is the employer, the Chair of Governors must issue notice of termination on behalf of the Governing Body.



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## 8. Frequently Asked Questions

### Q1. Can I contact my employee who is off sick?

Yes, you can contact your member of staff. Other than in exceptional medical circumstances, there should be regular contact. Contact HR if your member of staff is suggesting that they don't want contact directly so that we can support you to determine if their request is appropriate and if necessary identify an alternative communication mechanism.

Where there are concerns about contacting the employee because of the reason for their absence, e.g. where this is related to mental health, seek advice from Occupational Health on the most appropriate means of communication. Where work-related issues have contributed to the reason for absence, e.g. work-related stress, Occupational Health will advise on the employee's fitness to attend a meeting to try and address their concerns in facilitating a return to work.

### Q2. Can I ask my employee what is wrong with them?

Yes, you can ask what is wrong – the reason for absence needs to be recorded on the payroll system. Other reasons for knowing are to ensure health and safety requirements are observed and to put in place appropriate arrangements to support a return to work including reasonable adjustments, particularly where the reason may be disability related.

### Q3. How soon can I refer someone to Occupational Health?

This will depend on the reason for their absence and their absence record, but should normally be around 21-28 days of consecutive sickness or as they reach trigger points in the case of short term absences.

Where mental health, e.g. anxiety or depression, or Health and Safety concerns have arisen, then early referral is recommended.

### Q4. Do I have to refer a long term sick case to Occupational Health?

If the employee has been absent following recovery from a relatively routine operation (e.g. repair to a broken limb, hysterectomy etc.) and they have had both a relatively uncomplicated recovery and are in a low risk role, it may be sufficient to rely on advice provided through their Statement of Fitness for Work, where necessary supplemented with a conversation with Occupational Health. Where an absence has continued beyond normal recovery periods, or the individual has been absent due to an illness or operation which doesn't have a predictable recovery period (particularly mental health conditions), or the individual has a role which carries higher levels of risk, a referral should be undertaken as it is the only way to obtain medically-informed advice on fitness to return to work, whether adjustments are needed for the employee to be able to continue to undertake a role, whether employment should end, etc. If you are in any doubt about whether to make a referral, contact OCCUPATIONAL HEALTH for advice.

### Q5. How should I manage frequent short term absence as it has a big impact on the school?

- Publish the school's sickness absence policy and procedure.
- Publish the absence trigger points.
- Ensure the appropriate line manager carries out return to work interviews after every absence.
- Report to the Governing Body on a regular basis on sickness absence trends.
- Set targets to improve attendance.
- Arrange staff training or a staff meeting to ensure all are aware of the school's policy and procedure.

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- Follow through on the actions, ultimately using the formal Sickness Absence procedure if other avenues and managerial support prior to action under the formal procedure have been exhausted.

**Q6. What information should I provide with a referral to Occupational Health?**

Job description, specifically highlighting any levels of risk related to the role.  
Sickness absence record (screenshot from SIMS or Payroll).  
Any specific questions that you would like Occupational Health to answer.  
Outline of any concerns and/or information on the impact of the absence  
Details of the context of the school where relevant (e.g. if in an Ofsted category; a special school, have a new School Leader etc).  
Provide as much relevant information as possible (using an additional sheet if necessary) so that Occupational Health are able to take full account of the situation in their assessment.  
Call Occupational Health for advice if the situation is unusual

**Q7. What can I do if my employee refuses to go to Occupational Health?**

The employee must co-operate with a referral to Occupational Health; to do otherwise could compromise their right to be paid occupational sick pay and/or lead to disciplinary action for failing to follow a reasonable management instruction under their contract of employment. The only part of the process where the employee can choose whether or not to comply is in signing the OCCUPATIONAL HEALTH consent form for confidential medical records to be released, although it is important to make sure the employee is aware of the potential consequences of not signing the form (i.e. that a decision may then be taken based on advice provided without the benefit of being informed by medical information). If your member of staff fails or refuses to attend OCCUPATIONAL HEALTH appointments, please notify HR so we can support you further.

**Q8. How do I know if my employee is genuinely off sick and not on holiday?**

On the 8<sup>th</sup> calendar day of absence, the employee must provide a medical certificate. You have the right to maintain a reasonable level of contact with the employee, e.g. by telephone to their home number. If a member of staff is off sick and they have booked leave or they subsequently want to take leave whilst absent due to sickness, they should discuss this further with the School Leader who may wish to seek further advice from HR.

In some circumstances, taking a holiday could be considered to be beneficial to the employee's recovery and may be supported by the employee's GP. In the majority of situations it would be difficult for the school to take any formal action against the employee.

**Q9. How can I manage an absence which goes on through school holidays and is the employee still genuinely off sick?**

Agree a contact schedule with the employee – he or she should also continue to provide medical certificates for the full duration of the absence, including in school holiday periods.

**Q10. What can I do if my employee refuses to have any contact?**

Unless there are sound, exceptional medical reasons for not making contact, which you have already been advised about:

1. Contact HR - we will try and contact their representative if applicable.
2. Write to the employee to advise him or her of the need to keep in contact; state that the conditions for receiving sick pay have been breached and occupational sick pay could be withdrawn if there is a continuing lack of contact.

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3. If lack of contact continues, contact HR and we will support you to write to the employee to explain the consequences for their ongoing employment.

**Q11. Do I have to accommodate Occupational Health recommendations e.g. phased return, reasonable adjustments?**

No – the recommendation from Occupational Health is advisory. However if you decide not to follow the recommendation, you would need to be able to demonstrate clear reasons why this was not possible. For adjustments under the Equality Act 2010, there is a framework that an employment tribunal would use to assess reasonableness. This requires employers to consider the effectiveness of the adjustment in preventing the disadvantage; the practicality of the adjustment; the financial cost and other costs, including the disruption caused; the extent of the employer's financial and other resources, the availability of financial or other assistance to help to make the adjustment and the nature of the employer's activities and size of its undertaking. It is important to be aware, that in considering the size and financial resources of the employer, where the Trust is the employer, the judgement will be made considering the resources available within the whole Trust despite there not being a specific budget to support reasonable adjustments.

If you believe that you are unable to implement the advice of Occupational Health, particularly in adjustments related to a disability, contact HR so we can advise you of the risks of proceeding or support you to clarify the advice with Occupational Health as appropriate.

**Q12. Can I have some input into a phased return plan?**

Yes – it is important to keep in touch with Occupational Health to ensure that any recommendation about a return to work is appropriate to the circumstances of the school and the individual's role and can be accommodated by the school – for example this could depend on the employee's role in the school, working pattern, etc.

**Q13. My employee has been deemed medically fit for work but is not coping with their return – how should I manage this?**

Refer the case back to Occupational Health who should be able to re-open the case with the original paperwork if this is within a short time of their initial recommendation. Discuss the problems with the employee and consider whether to send him or her home (with the recommendation that they consult their GP) pending further consideration by Occupational Health. (Note that in this situation, if the employee is not signed off sick, the school will need to pay their normal pay and sick pay will not apply unless a medical certificate is subsequently provided.)

**Q14. With regards to long-term absence, at what point can I consider ending their employment?**

There is no laid down specific time period, as it depends when the absence becomes unsustainable for the school. Each case is judged on the individual circumstances, taking into account Occupational Health advice about the employee's health and expectations with regard to a return to work.)

**Q15. What do I need to be aware of in making a referral to OCCUPATIONAL HEALTH?**

It is critical that when making a referral to Occupational Health, the individual is made aware that a referral is taking place and the reason for it. Additionally, individuals need to be asked to complete a consent form for release of medical information and made aware that only Occupational Health will receive any medical information requested, and not the school. Occupational Health will only request such information where they determine that there is a clinical need to do so, and any costs of such reports will need to be borne by the school. Schools cannot request medical reports locally, as this is against the requirements of the Access to Medical Reports Act 1988. Individuals do have rights to see, amend and ultimately withhold any information produced by their GP and/or specialist, but in

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doing so need to be aware that Occupational Health will then be limited in the information and advice that they can provide back to the school, and therefore the individual may wish to discuss this with either Occupational Health or their trade union/professional association representative.
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## **9. Top Tips:**

- Be familiar with the policy, procedure and guidance in the Manual of Personnel Practice to support you to manage absence
- Ensure that all staff are aware of the school's absence policy and procedure and the trigger points set by the school
- Use return to work interviews for all employees on every occasion as this can help to change the attendance culture in the school
- Keep in regular contact with all absent employees
- Set attendance targets where appropriate and deal with cases across the school in a fair and consistent manner
- Do not wait too long before seeking advice from HR and/or OCCUPATIONAL HEALTH as appropriate
- Ask Occupational Health clear questions in the referral
- Think carefully about the impact of absence on school, and collect impact detail related to individual situations as this may be needed if formal procedures need to be applied
- Keep clear notes of meetings and confirm outcomes of meetings in writing to the employee
- Keep a record of any adjustments made to the role or working environment
- Ensure that you notify staff as early as possible where pay is reduced to half or nil pay
- Carefully consider your actions at each stage of the process and seek advice from HR when considering whether you can continue to sustain the absence

## Annex 1: Model letters

This Annex contains model letters for each stage of the managing sickness absence process. The documents are listed in the order that they are likely to be needed during the process.

Title	Page
Return to Work Interview Form (as part of normal managerial support)	
Model letter A: Requesting an Occupational Health referral	
Model letter B: Invite to meeting to discuss Occupational Health recommendations following referral	
Model letter C: Notification of sickness pay reduction	
Model letter D: Invite to managerial support meeting	
Formal Return to Work Interview Form	
Model letter E: Confirm outcome of managerial support meeting	
Model letter F: Invite to Stage 1 Formal Meeting	
Model letter G: Confirm outcome of Stage 1 Formal Meeting	
Model letter H: Invite to Stage 2 Final Stage Meeting	
Model letter I: Confirm outcome of Stage 2 Final Stage Meeting	
Model letter J: Invitation to Stage 2 Final Review Meeting	
Model letter K: Outcome of Stage 2 Final Review Meeting	

## Part 1

- This form must be completed on return to work following **any** period of sickness absence and a return to work discussion arranged.
- A doctor's certificate must be provided for all sickness absences of 7 calendar days.

## RETURN TO WORK DISCUSSION

- Confirm the reason for and the length of absence
- Check that the employee is fit to return and has the appropriate medical certificate(s)
- Consider whether any changes or support is necessary, e.g. review health & safety risk assessment.
- Update on work issues, team meetings etc. - especially important following long-term absence.

**Part 2: Return to Work Discussion** (to be completed by School Leader or line manager)

<b>Are any specific support measures required?</b> Yes/No	<b>Do any changes to work practices or work environment need to be considered?</b> Yes/No
<b>If Yes to either of the above, describe below:</b>	
<b>Reason for Discussion (define/clarify where attendance is below attendance standards expected):</b>	
<b>Areas of Concern (e.g. length of absences, frequency of absences, impact on the education of pupils etc.):</b>	
<b>Employees explanation of events/comments (any mitigating factors):</b>	
<b>What action has been agreed: (e.g. what improvements the employee must make and support or help offered and timescales, and what evidence will be considered):</b>	

**Date of return to work meeting** .....

**Signed (employee)** .....

**Signed (School Leader/line manager or name of person conducting return to work interview):**

.....

Cc: Personnel File  
Employee

### **Purpose of the Form for use by School Leader or Line Manager**

This provides a note of a discussion as part of normal managerial support (ill health). There is no right of representation at this stage.

The discussion should be held on a 1:1 basis.

The formal stages of the procedure may be invoked if improvement is not forthcoming and it must therefore be clearly explained to the employee exactly where the attendance is falling below an acceptable level and what he/she needs to do to reach the required attendance level.

### **Points on Conducting the Meeting**

1. Complete Section 1 of the form.
2. Prepare information for background understanding under Section 2, 3 and 4 referring to other sources of information as appropriate, e.g. sickness absence records.
3. Conduct the meeting in confidence with the employee and listen to their viewpoint. If the employee becomes distressed, use an adjournment to allow time for them to compose themselves. This should normally mean the discussion can continue after a short break.
4. Take into account any mitigating circumstances.
5. If the employee needs time to prepare a response, e.g. if the employee needs to gather information, allow them time for this and continue the meeting as soon as possible afterwards.
6. Advise the employee that you will be making a note which will be placed on their personal file. Make sure the employee understands that, if no improvement is forthcoming or there is any reason to take further action, the formal stages of the procedure are likely to be applied.
7. Clearly explain what improvements are required and/or what action is to be taken and in what timescale.
8. Complete the reverse of this form immediately the interview is over, where possible with the employee.
9. Arrange any necessary training and/or any help or support you have agreed to put in place.
10. Diary to review the actions taken and/or monitor the employee's attendance (e.g., weekly, fortnightly, monthly) as discussed with the employee.



## **Model letter A: Requesting an Occupational Health referral**

Personal and Confidential

DATE

Dear

**To request a referral after telephone conversation/meeting use the following two paragraphs:**

I write further to our telephone conversation/meeting (delete as appropriate) on DATE where I learnt that you are currently unwell and, as a consequence, absent from your POST TITLE post at this school since DATE.

As discussed with you on DATE, given that it is unclear when you may be fit to return to work, it is now appropriate to arrange for a referral to Occupational Health. I have enclosed the Request for Occupational Health Referral form that I have completed for you to see. This will enable me to refer your case to Occupational Health. Please feel free to discuss this matter with your professional association/trade union representative or a work colleague. In any case, could you please confirm in writing/email that you have seen the content of the referral and consent to an Occupational Health appointment.

**If requesting referral by post, use these paragraphs:**

I am sorry to learn that you are currently unwell and as a consequence absent from your POST TITLE post at this school since DATE.

As your sickness absence appears to be on-going, I have enclosed the Request for Occupational Health Referral form that I have completed for you to see. This will enable me to refer your case to Occupational Health. If you wish, please feel free to discuss this matter with your professional association/trade union representative or a work colleague. In any case, could you please confirm in writing/email that you have seen the content of the referral and consent to an Occupational Health appointment.

**If requesting a meeting to discuss referral, use these paragraphs:**

I am sorry to learn that you are currently unwell and as a consequence absent from your POST TITLE post at this school since DATE.

I would like to arrange to meet with you on DATE at TIME at your home or a mutually agreeable venue, if this is a suitable time for you. The purpose of this is to talk about your health and any related problems that may be of concern to you. When we meet, I would like to take the opportunity to talk to you about a referral to Occupational Health.

I have enclosed the Request for Occupational Health Referral form that I have completed for you to see, which will enable me to refer your case to Occupational Health. We can discuss the contents during our meeting. If you wish, please feel free to discuss this matter with your professional association/trade union representative or work colleague.

**Please use the following paragraphs in all instances:**

I would want to reassure you that it is usual practice for the medical referral process to begin with Occupational Health when an employee has been absent for approximately 28 days and/or it is unclear when a return to work may be possible. Occupational Health provide a fundamental support mechanism for employees who are absent due to ill health, and also aids the school in managing and facilitating a return to work at a time deemed appropriate.

Occupational Health will ask you to complete the Access to Medical Information Consent Form if they require medical information from your own doctor or specialist to be made available to Occupational Health. The form gives you the right, under the Access to Medical Reports Act 1988, to see the report from your doctor before it is forwarded to Occupational Health, if you so wish.

The advice I receive from Occupational Health will take into account the information that your doctor has provided. I would reassure you that myself/the school will not have sight of the medical report itself as this is confidential under the Access to Medical Reports Act 1988. I will, however, receive advice from Occupational Health about the situation on a regular basis and any recommendations that may be of consequence. This may include advice about your level of fitness, if a return to work may be possible in the foreseeable future and whether there are any reasonable adjustments and/or recommendations that the school may need to consider in order to assist you to return to work successfully.

Hamwic Education Trust HR may also receive a copy of Occupational Health's advice to me but again, they will not see any medical report produced by your doctor.

I would wish to remain in touch with you during this period and would want you to feel that if you wish to talk about your health and any related problems that may be of concern to you, that you can do so at anytime. If you have any queries or would like me and/or a member of staff from HR to come out and see you in relation to this matter, please let me know.

For your information, the Trust operates a free, confidential counselling service, Personal Counselling. If they may be of help to you, the contact number is 0800 030 5182.

Finally, I have enclosed a copy of this letter for you to pass onto your Professional Association/Trade Union representative or work colleague if you wish.

Yours sincerely

School Leader/Manager

Enc:

Request for Occupational Health Referral Form

Copy of letter

cc      Name, Hamwic Education Trust HR

**Model letter B: Invite to meeting to discuss Occupational Health recommendations following referral**

Personal and Confidential

DATE

Dear NAME,

I am sorry to learn that you remain unwell and absent from your post as POST TITLE since DATE. As you are aware, the school have involved Occupational Health due to the on-going nature of your sickness absence.

I write following your appointment with the Occupational Health/Occupational Physician on DATE and would now like to arrange to meet with you in order that we can discuss the most recent advice regarding your health and your continuing absence from work, which is normal practice in these circumstances.

The meeting will be an opportunity for us to discuss your current health and absence from work since DATE and the Occupational Health assessment that you are INCLUDE REASON FOR ABSENCE AS DETAILED BY OCCUPATIONAL HEALTH. The meeting will also be an opportunity for us to discuss anything else that you have concerns about or wish to raise.

I would, therefore, like to arrange to meet with you, PLACE, on DATE at TIME. If you would prefer to meet at an alternative venue, please let me know and I will be happy to make alternative arrangements. I would be grateful if you would contact me on the above telephone number to confirm whether or not this date is convenient for you.

I would also like to bring with me to this meeting, NAME and ROLE from the Hamwic Education Trust, HR.

You are entitled to be accompanied by a Professional Association/Trade Union Representative or work colleague when we meet and I would ask that you make the necessary arrangements should you wish to do so.

As is normal procedure, I have enclosed a copy of this letter for you to pass to your Professional Association/Trade Union Representative or work colleague as appropriate.

Please do not hesitate to contact me if you have any queries in relation to this.

Yours sincerely

School Leader/Manager

Enc  
Copy of letter

cc: Hamwic Education Trust HR (where involved in case)

## **Model letter C: Notification of sickness pay reduction**

Personal and Confidential

DATE

Dear NAME

### **Occupational sick pay**

I am sorry to hear that you are currently unwell and have been absent from work since DATE.

I am writing to tell you that, in line with your Conditions of Service, your entitlement to occupational full/half pay (delete as appropriate) will soon be exhausted and your salary will be adjusted to half/nil pay (delete as appropriate) with effect from DATE.

The reduced amount will be paid in accordance with your Conditions of Services and I enclose a copy of the Sickness Pay Scheme for your information.

### **DELETE AS APPROPRIATE:**

During your period of nil pay you will be unable to continue to participate in the Childcare Voucher Scheme.

Statutory Sick Pay (SSP) will be paid in line with HM Revenue and Customs regulations.

I understand that this may be a difficult time for you and for additional support you may wish to contact the Employee Assistance Programme offered by Health Assured which is a free, confidential counselling service available to all employees. They may be contacted via their helpline on 0800 023 4742. Support is also available from your professional association or trade union representative.

If you have any queries regarding this letter, or require any assistance during your period of illness, please do not hesitate to contact me.

Yours sincerely

School Leader/Manager

## **Model letter D: Invite to Managerial Support Meeting**

Personal and Confidential

DATE

Dear

With regard to your sickness absence record (which we briefly discussed at the Return to Work meeting on DATE), I request that you attend a meeting at TIME on DATE.

This letter provides you with 5 working days' notice of the meeting as laid down in the Sickness Absence Policy, which is enclosed for your information.

The purpose of this meeting is to discuss the concerns that I have regarding your attendance (include trigger points that have been reached, if appropriate). It will also provide an opportunity for you to explain the reasons for your absence(s) from work and any underlying causes, together with the opportunity to identify any appropriate support, training or reasonable adjustments that may be of help.

Please find enclosed a copy of this letter to share with your Trade Union / Professional Association representative as appropriate. Please note however, that this is a normal managerial meeting and therefore there is no formal right to representation.

Yours sincerely

School Leader/Manager

Enc

Copy of letter

### Formal Return to Work Interview

**NB: The form entitled 'Note of discussion with employee as part of normal managerial support (ill health)' should be used prior to this formal return to work interview form**

Name of employee:	Job title:
Name of Manager:	Job title:
Date of Meeting:	
Date of 1 <sup>st</sup> day of absence:	Date of last day of absence:
Number of Days Absent:	Reason:
Absence(s) in last 12 months: (or attach payroll absence screen shot, or academic calendar highlighting absences)	Reason(s):
Further action required? (i.e. when you feel an action plan is required (managerial support) or you wish to explore whether you move to formal stages) YES/NO (if YES, please complete overleaf)	
Brief record of discussion:	



## Model letter E: Confirm outcome of Managerial Support Meeting

Date

Dear

Thank you for attending the Managerial Support meeting with me on DATE.

I explained the purpose of the meeting and set out clearly my concerns regarding your sickness absence record. *Provide details of trigger points reached (if appropriate) and/or details of his/her sick absence record i.e. number of days/occasions over 12 months or more.*

You explained the reason(s) for your absence(s) and the underlying cause *(if appropriate)*. *Provide relevant details.*

*Include any details of the following:*

- *how the employee's attendance needs to improve*
- *any timescales given for any required improvement to take place*
- *action plan that reflects the key outcomes from the meeting*
- *any support/training that will be provided*

As discussed at our meeting, a failure to improve may lead to formal action in line with the Sickness Absence Procedure already provided to you.

As is normal practice, please find enclosed a copy of this letter for you to share with your Trade Union/Professional Association representative if required.

I trust the above is clear. If you have any queries about the contents of this letter, please speak to me as soon as possible.

Yours sincerely

School Leader/Manager

Enc  
Copy letter

cc: Hamwic Education Trust HR



## Model letter F: Invite to Stage 1 Formal Meeting

Date

Dear

I am writing following the meeting on DATE in which we discussed your ongoing level of absence which is currently ? working days this term. There has been little or no improvement in your attendance since our last meeting therefore I am now considering moving to the formal procedure. I will, therefore, need to meet with yourself, and your professional association representative/trade union representative or work colleague if you wish, at TIME on DATE at PLACE.

### **Insert where appropriate:**

I will have with me NAME from Hamwic Education Trust, HR. Please could you confirm to me as soon as possible whether you (and your representative if applicable) can attend on that date and time.

The reason for the meeting will be to discuss your ongoing unacceptable level of absence. I am supplying with this letter all the documentation that I shall refer to at the meeting. In accordance with the procedure please supply to me, by DATE, any further documentation that you may wish to refer to in the meeting.

Further to this, the meeting may include discussions that include the following issues, *explanations of which should therefore be included in this letter:*

- *The nature of the attendance concerns*
- *The measures put in place during any previous period of managerial support*
- *An explanation as to why progression to the next stage of the procedure may be required*
- *Refer to any documents or evidence (for example, evidence of support given, reasonable adjustments, etc) and clarify the attendance standards required*
- *Outline how attendance standards have been set*
- *Ask the employee to account for their continued unacceptable attendance including any mitigation the employee feels is relevant*
- *The impact of the absence on the school.*

From this meeting the possible outcomes may include one or more of the following:

- A Stage 1 Formal Warning is issued which will be in place for at least 12 months
- A referral to Occupational Health;
- No formal action required (required improvement and/or alternative action(s) is/are clearly stated with timescales).

Should you have any queries about the contents of this letter, please do not hesitate to contact me. I have enclosed a copy for your representative if appropriate.

Yours sincerely  
School Leader

cc: Hamwic Education Trust HR

## **Model letter G: Confirm outcome of Stage 1 Formal meeting**

Date

Dear

Thank you for attending the meeting with myself [INSERT AS APPROPRIATE: and NAME, from Hamwic Education Trust HR], and your Professional Association representative/Trade Union representative/work colleague NAME on DATE at NAME School.

The meeting started with me clarifying the purpose of the meeting, that being to hold a Formal Stage 1 meeting under the School's Sickness Absence Procedure. You had previously been given a copy of the procedure.

I referred to the following concerns regarding your attendance:

- *Your level of absence in TIME PERIOD*
- *Reasons for absence*
- *Impact of absence*
- *Documentation referred to*
- *Measures put in place*
- *Ongoing concerns*

Your response was that:

- *Any mitigating circumstances/reasons quoted.*

We then discussed setting the level of attendance for TIME PERIOD. We took into consideration:

- *Your current health issues*
- *The documentation from Occupational Health which states...*
- *The attendance level for support staff/teaching staff in TIME PERIOD*

We agreed to hold a review meeting on DATE.

After adjourning to consider all the evidence and information discussed to date the decision was that: [INSERT AS APPROPRIATE]

- A Stage 1 Formal Warning is to be issued
- A referral to be made to Occupational Health
- No formal action required (but required improvement and/or alternative action is stated)

### **Insert one of the following paragraphs as appropriate:**

The Stage 1 Formal warning will be in place for 12 months. I need to inform you that failure to improve within TIME PERIOD, and to sustain this improvement for at least 12 months may result in Stage 2 of the procedure being invoked.

I have enclosed the Request for Occupational Health Referral form and Consent Form that was completed during our meeting and that has now been sent to Occupational Health. As I indicated at

our meeting, the Access to Medical Information Consent Form will enable medical information from your own doctor or specialist to be made available to Occupational Health.

I determined that a Stage 1 formal warning will not be issued and nor is an Occupational Health referral required. The reason for my decision are INSERT REASONS. I therefore require INSERT DETAILS OF REQUIRED IMPROVEMENT OR ACTIONS NECESSARY.

For your information, the Trust operates a free, confidential counselling service, an Employee Assistance Programme through Health Assured. If they may be of help to you, the contact number is 0800 023 4742.

**Insert in all letters:**

You have a right to appeal this decision. If you wish to do so you will need to write to me within 10 working days of receipt of this letter, stating clearly the grounds of your appeal.

**Insert in all letters:**

I hope that you find this a fair reflection of the meeting. Please do come and talk to me if you have queries. I have enclosed a copy of this letter for you to pass on to your professional association/ trade union representative or work colleague if you wish.

Yours sincerely

School Leader/Manager

Enc  
Copy letter

cc: Hamwic Education Trust HR

## Model letter H: Invite to Stage 2 – Final Stage meeting

Date

Dear

I am writing further to our meeting on DATE at Stage 1 of the Formal Procedure in which we set targets for your attendance and discussed in detail OUTLINE DISCUSSIONS. This was confirmed to you in a letter dated DATE.

*As yet the TARGET OF ?? in TIME PERIOD has not been met/the improvement made has not been sustained as required/you have not been successfully redeployed, and/or/a reasonable offer of alternative work has been refused.*

I now need to invite you to a Stage 2 Final Meeting on DATE/TIME/PLACE giving you the required 7 working days' notice. You may of course be accompanied by your professional association/trade union representative or a work colleague. [INSERT WHERE APPROPRIATE: I will have with me NAME from Hamwic Education Trust HR. Please could you confirm to me as soon as possible whether you (and your representative if applicable) can attend on that date and time.

The reason for the meeting will be to discuss your ongoing unacceptable level of absence. I am supplying with this letter all the documentation that I shall refer to at the meeting. In accordance with the procedure please supply to me, by DATE, any further documentation that you may wish to refer to in the meeting.

The meeting may include discussions that include the following issues, *explanations of which should therefore be included in this letter:*

- *The nature of the attendance concerns;*
- *Measures put in place during any previous stage of the procedure and explain why progression to the next stage of the procedure may be required;*
- *Refer to any documents or evidence (for example, evidence of support given, reasonable adjustments, etc) and clarify the attendance standards required;*
- *Ask the employee to account for their continued unacceptable attendance including any mitigation the employee feels is relevant;*
- *Consider options for redeployment if recommended by Occupational Health;*

The outcome of the meeting may include one or more of the following:

- A further review period with a final warning that without a significant improvement, a further meeting under Stage 2 will take place;
- A referral to a School Leader/Governors' Committee for a decision on your continued employment under Stage 3 of this procedure.

Should you have any queries about the contents of this letter please do not hesitate to contact me. I have enclosed a letter for your Professional Association/Trade Union representative if appropriate.

Yours sincerely

School Leader/Manager

Enc

Copy of letter

cc: HR Hamwic

## Model letter I: Confirm outcome of Stage 2 Final Meeting

Date

Dear

Thank you for attending the meeting with myself [INSERT AS APPROPRIATE: and NAME, from Hamwic Education Trust HR] and your Professional Association representative/Trade Union representative/work colleague NAME on DATE at NAME School.

The meeting started with me clarifying the purpose of the meeting, that being to hold a Formal Stage 2 meeting under the School's Sickness Absence Procedure. You had previously been given a copy of the procedure.

I raised the following concerns regarding your attendance:

- *Your level of absence in TIME PERIOD*
- *Reasons for absence*
- *Impact of absence*
- *Documentation referred to*
- *Measures put in place during any previous stage of the procedure*
- *Ongoing concerns*

Your response was that:

- *Any mitigating circumstances/reasons quoted*

We then discussed setting the level of attendance for TIME PERIOD, We took into consideration:

- *Your current health issues*
- *The documentation from Occupational Health which states...*
- *The attendance level for support staff/teaching staff in TIME PERIOD*

After adjourning to consider all the evidence and information discussed to date the decision was that:

- *The Stage 1 formal warning remains in force for a further specified period*
- *A further review period with a Stage 2 final warning being issued that without a significant improvement, a further meeting under Stage 2 will take place;*
- *A referral to a School Leader/Governors' Committee for a decision on your continued employment under Stage 3 of this procedure [NB If the School Leader is managing this case themselves then referral will need to be to a Governors' Committee]*

### **Insert one of the following paragraphs as appropriate:**

The Stage 2 Formal warning will be in place for INSERT MONTHS. I need to make you aware that failure to improve within TIME PERIOD may result in a referral to a School Leader/Governors' committee for their consideration as to your continued employment at this School.

The warning issued to you under Stage 1 will continue to be in place for a further INSERT PERIOD. I need to make you aware that failure to improve within TIME PERIOD may result in either a Stage 2

warning or a referral to a School Leader/Governors' committee for their consideration as to your continued employment at this School.

I have determined that your case should be referred to a School Leader/Governors' Committee for consideration regarding your continued employment at this School. [NB School Leaders will not be able to hear the case if they have been managing this case themselves or had involvement at previous stages].

**Insert in all letters:**

You have a right to appeal this decision. If you wish to do so you will need to write to me within 10 working days of receipt of this letter, stating clearly the grounds of your appeal.

**Insert in all letters:**

I hope that you find this a fair reflection of the meeting. Please do come and talk to me if you have any queries. I have enclosed a copy of this letter for you to pass to your professional association/trade union representative or work colleague if you wish.

Yours sincerely

School Leader/Manager

Enc

Copy of letter

cc: Hamwic HR

## Model letter J: Invitation to Stage 2 Final Review Meeting

Date

Dear

As you are aware, there have been concerns regarding your attendance as a *JOB TITLE* and, as a result, you were issued with a Final Warning under the School's Sickness Absence Procedure on *DATE*. This was confirmed in my letter DATED, a copy of which is enclosed.

You were also advised in the letter details of the following success criteria and evidence that would be used to assess whether or not the necessary improvements in your attendance have been achieved:

*(PLEASE ADD IN HERE BULLET POINTS OF SUCCESS CRITERIA)*

You were also advised of the consequences of further poor attendance or failure to improve within the set review period.

I now need to hold a Stage 2 Final Review Meeting with you in accordance with the School's Sickness Absence Procedure on *DATE* at *TIME* at *LOCATION*. This date allows for due notice of the meeting as contained in the procedure. The meeting will be chaired by myself in the capacity of *JOB TITLE* and will also be attended by *Hamwic Education Trust ADVISER NAME*. You have the right to be accompanied at the meeting by your Trade Union/Professional Association Representative or a work colleague.

Enclosed with this letter are the management documents that will be referred to during the meeting. If you wish to submit any documentation please can you send it to *NAME* via the school by *DATE* (at least 3 working days before the hearing).

Please confirm your attendance at this meeting by *DATE* to *NAME* on *INSERT CONTACT DETAILS* (at least 3 working days before the hearing). If you have a genuine reason why you cannot make this date, please advise me immediately. If you require special support or assistance during the meeting, please notify *NAME* in advance of the meeting.

At the meeting, you will have the opportunity to make representations prior to a decision being taken; the potential outcomes of this meeting include:

- No formal action required, in which case the Sickness Absence Procedure will cease;
- The Final Warning remains in place for a further specified period of time;
- A decision to move to Stage 3 of the Sickness Absence Procedure and to refer the matter to a School Leader/Governors' Committee Hearing.

I appreciate that this is a difficult time for you and I wish to remind you that for additional support you can contact the Trust's Employee Assistance Programme through Health Assured. The Helpline number is 0800 023 4742. Support is also available from your professional association or trade union representative.

If you have any queries, please do not hesitate to talk to me directly.



Finally, I am enclosing a copy of this letter and an additional copy of the enclosures for you to pass on to your Trade Union/Professional Association or other representative.

Yours sincerely

Name

Position

CC: Copy for Trade Union/Professional Association or other representative  
(name) Hamwic Education Trust HR

## **Model letter K: Outcome of Stage 2 Final Review Meeting**

Date

Dear

I write further to the Stage 2 Final Review meeting on DATE, which was convened under the School's Sickness Absence Procedure.

You were present together with your Trade Union/Professional Association Representative NAME, from NAME. NAME from Hamwic Education Trust HR and myself were also present.

I began the meeting by outlining the concerns about your attendance as a JOB TITLE.

*PLEASE INSERT BULLET POINTS OUTLINING THE CONCERNS*

You were issued with a Final Warning on DATE. Review meetings have since been held on INSERT DATES. At these meetings we discussed strategies and ways in which your attendance could be improved.

*PLEASE LIST WHAT WAS DISCUSSED AND AGREED*

The support package that was put in place, in consultation with you, included:

*PLEASE LIST WHAT WAS INCLUDED IN THE PACKAGE*

In addition, training was arranged to assist you in the following areas:

*PLEASE LIST WHAT TRAINING, IF ANY, ARRANGED AND IMPLEMENTED*

The expectations that I have with regard to your standards of attendance were outlined and they are as follows:

*PLEASE OUTLINE THEM HERE*

We reviewed your attendance against the standards set and the findings are as follows:

*PLEASE OUTLINE THE FINDINGS HERE - WHAT WAS ACHIEVED, WHAT WASN'T AND WHY*

I then gave you the opportunity to respond to my comments and give me your views on the matters I had raised. You said that .....

*IF THERE ARE ANY MITIGATING CIRCUMSTANCES RAISED, INCLUDE THEM AND WHAT WAS AGREED AS A RESULT.*

Having checked that there was nothing further you wished to add, I adjourned the meeting in order to consider the way forward. When the meeting re-commenced, I advised you that I had considered all the evidence available to me, including your responses.

**Insert one of the following three paragraphs as appropriate:**

I advised that significant improvement in your attendance had been made and therefore the Formal Procedure for Managing Sickness Absence will cease. However, the warning will remain in place for INSERT MONTHS. If your attendance declines during this period of time, the procedure may be re-commenced at the appropriate stage.

Whilst there have been some improvements made in your attendance levels, the improvement has not been to the required level, therefore Stage 2 will continue for (INSERT PERIOD OF TIME).

I explained that I had concluded that insufficient improvement had been made in your attendance and I believe that it is now appropriate to move to Stage 3 of the Sickness Absence Procedure and to refer the matter to a School Leader/Governors' Committee Hearing. A letter will be sent to you shortly confirming the arrangements for the Hearing. You will of course have the right to be accompanied at the Hearing by your Professional Association/Trade Union Representative or a work colleague.

I appreciate that this is a difficult time for you and I wish to remind you that for additional support you can contact the Employee Assistance Programme through Health Assured on 0800 023 4742. Support is also available from your professional association or trade union representative.

If you have any queries, please do not hesitate to talk to me directly. Finally, I am enclosing a copy of this letter and an additional copy of the enclosures for you to pass on to your Trade Union/Professional Association or other representative.

Yours sincerely

Name  
Position

CC: Trade Union/Professional Association or other representative.

Name , Hamwic Education Trust HR

## **Appendix 1 - Employees with less than two years of continuous service**

This procedure applies to employees with less than two years of continuous service working within a school/school managed provision or establishment.

This procedure may be used for handling absence issues concerning staff employed in schools where attendance is considered unsatisfactory in line with Part 2, section 7 of the Sickness Absence Policy and Procedure. In the case of long-term ill-health absence, where an individual is not able to return to work over an extended period, there is no formal procedure of warnings and appeals that can be applied. The principles as set out in Part 3 Section 1 of the formal procedure may be used, however, a shorter period of absence may trigger dismissal for an employee in their first or second year of employment. It is expected that all new employees, during and after their induction, will have informal discussions with their line manager and any concerns over the employee's attendance will be raised as early as possible.

### **Formal Meeting**

The manager will adopt the same approach set out in Stage 2 (see Part 3, section 3) of the formal procedure, where improvement has not been achieved. There is only one formal meeting for employees under this procedure. Outcomes from this can include:

- A formal warning is issued giving the opportunity for improvement and clearly setting out the requirements of the employee in writing
- where an employee has been issued with a formal warning and demonstrates consistent improvement, but the required attendance has not yet been achieved, the formal warning could be extended following a review meeting
- the matter is referred to a School Leader/Governors' Committee Hearing in order to consider whether the employee should be dismissed

The time period for the review period for employees in their second year of service will be shorter and will not result in the employment being extended beyond two years prior to a final decision being taken.

If improvement is not achieved or sustained following the formal warning being issued, the matter will need to be referred to a School Leader or Governors' Committee hearing (see Stage 3 of the formal procedure) to consider dismissal.

If the decision is to refer the matter to a School Leader/Governors' Committee Hearing, the letter will confirm the arrangements for this in accordance with the Procedure for School Leader and Governors' Committee Hearings. The letter will confirm that a possible outcome of this hearing is that the employee could be dismissed on the grounds of capability due to ill health.

### **Right of Appeal against Dismissal**

Under this procedure, an employee only has the right to appeal against a dismissal decision; there is no right of appeal against a warning. The employee must lodge an appeal as set out in Part 3 Section 6 of the formal procedure. All appeals and appeal meetings will be in accordance with Part 3, section 7.

## Annex 2: Sickness Absence - Guidance for Managers

1. Introduction
2. School Leader/Senior Manager responsibility: recording sickness absence
3. Statement of fitness for work
4. Retention of statement of fitness to work
5. Keeping in touch during absence
6. Planning for an employee's return to work
7. Reviewing sickness absence levels
8. Referral to Occupational Health
9. Phased return to work
10. Absence due to accidents at work
11. Health appointments during work time
12. Pregnancy related absence
13. Disability related absence
14. Stress related absence
15. Long-term ill health and terminal illness
16. Hospital admissions
17. Planned operations
18. Instruction to leave work on health grounds
19. Sick pay
20. False claims of sickness or working whilst off sick
21. Support
22. Managerial support prior to action under the formal procedure
23. Formal Procedure for Managing Sickness Absence

Appendix 1 - Note of discussion with employee as part of normal managerial support (Ill Health)

## **1. Introduction**

- 1.1 This guidance is not part of the formal procedure and should be read in conjunction with the Sickness Absence Policy and Procedure, which contains the core information. This guidance should not be read in isolation as it is not intended to replace the procedure but to provide additional information to support School Leaders/Senior Managers when applying it.

## **2. School Leader/Senior Manager Responsibility: Recording sickness absence**

- 2.1 The correct reason for absence should be used and must tally with the reason provided by the employee or for absences over 8 days, that on the medical certificate. The absence record should be updated throughout the employee's absence. The return to work date should be completed on the School's Payroll system as soon as possible following the employee's return to work.
- 2.2 Where the employee's normal working days include Saturdays, Sundays and public holidays, these will be included in the period of sickness absence unless the employee has reported to their School Leader/Senior Manager that they are fit to return to work.
- 2.3 School Leaders/Senior Managers should conduct a return to work interview after every period of absence as described in Section 6 of this guidance.

## **3. Statement of fitness for work**

- 3.1 The statement of fitness for work allows doctors to state that a patient is not fit for work or that they are fit for work subject to one of the following criteria:
- Phased return;
  - Altered hours;
  - Amended duties and/or;
  - Workplace adaptations.
- 3.2 The doctor may state an Occupational Health assessment is required beside the comment 'may be fit for work'.
- 3.3 Doctors can also provide further details and advice on the effects of the employee's health condition on their performance.
- 3.4 Doctors are no longer expected to provide a statement that someone is fit to return to work. They can, however, indicate whether they need to see an employee again when the employee's current statement expires.
- 3.5 The maximum length of time that a doctor can sign an employee off work is 3 months within the first 6 months of that person's condition. Longer statements of fitness for work of up to 6 months will be allowed subsequently if the employee's condition warrants it.

- 3.6 For further advice and guidance please contact Hamwic HR or Occupational Health. Managers should also encourage employees to speak to their professional association or trade union representative.
- 4. Retention of statement of fitness for work**
- 4.1 The Statement of fitness for work will be copied by the School Leader/Senior Manager and the copy retained on the employee's local personnel file. **The original statement will be returned to the employee for their own records as they will be needed if they need to claim Incapacity Benefit in the future.**
- 5. Keeping in touch during sickness absence**
- 5.1 Employees are expected to maintain regular contact with the School Leader/Senior Manager during periods of sickness absence. The frequency and manner of this (i.e. who will be the contact, when contact will be made and how contact will be made such as by phone, email etc.) will be agreed and be subject to review, depending on the length of the absence.
- 5.2 School Leaders/Senior Managers must agree a home visit (or a meeting at a neutral venue) with the employee and, if the employee consents to a visit, to allow for the employee to have a trade union/ professional association representative or work colleague present.
- 6. Planning for an employee's return to work**
- 6.1 School Leaders/Senior Managers may need to take steps prior to the employee's return to work for health and safety reasons (such as workplace assessments, restricted duties or reasonable adjustments).
- 6.2 Where the School Leader/Senior Manager considers advice is required from Occupational Health before the return takes place this should be arranged as soon as possible and the employee advised of the school's intention to seek Occupational Health advice.
- 6.3 It may be appropriate in some cases, particularly following longer absences, for the School Leader/Senior Manager to agree an appropriate time of return on the first day back to work (e.g. at a time when the School Leader/Senior Manager has time to meet with the employee as soon as they arrive).
- 6.4 Return to work interviews
- 6.4.1 In some instances employees may require additional support following their return to work. It may be necessary to meet with them again to discuss and review temporary work adjustments or reasonable adjustments in relation to a disability. The employee may request to be accompanied at such meetings by a professional association/trade union representative or a work colleague for the purposes of additional support/advice and schools are strongly encouraged to allow such representation.
- 6.4.2 In the case of a School Leader returning to work the return to work interview should be conducted by the Chair of Governors with support from HR as required.

## **7. Reviewing sickness absence levels**

- 7.1 Authorised absences other than sickness absence should not be considered when reviewing attendance levels. Such absences would include compassionate leave, paternity leave, etc.
- 7.2 When reviewing sickness absence levels the following factors should be considered:
- Patterns of absence – for example, regular days being taken off (Mondays, Fridays, etc.) or days taken before or after Bank Holidays;
  - Unacceptable yearly patterns – for example, the same week each year or at busy times;
  - Absences that may be due to a personal or family problem;
  - Absences that may be work-related;
  - Where the notification procedure for reporting sickness has not been followed;
  - Long-term absences (on a case-by-case basis);
  - School Leaders/Senior Manager’s discretion – for example in the case of planned operations, accidents or other absences;
  - Managerial instruction for an employee to remain at home due to the nature of their illness and that their return to work may be harmful to others;
  - Where the levels of absence are causing operational difficulties.
- 7.3 The trigger points referred to in Part 2, paragraph 7.3 of the Sickness Absence Policy and Procedure reflect the trigger points in place for all schools within the Trust.
- 7.4 To calculate an employee’s sickness, managers should work back 12 months from the first day of the employee’s current period of sickness.
- 7.5 It is important that trigger points are used consistently and applied fairly. It should be noted that whilst a meeting will be initiated to discuss and review absences if trigger points are reached, a number of factors including those listed in paragraph 7.2 will need to be considered and it is not automatic that the formal procedure will commence.
- 7.6 The School Leader should review the totality of sickness absences across the school and pro-actively manage absence within their establishment and/or address any particular issues the school may have.

## **8. Referral to Occupational Health**

- 8.1 The timing of a referral may depend on the reason for absence, but should normally be within 28 days of consecutive sickness. Stress, depression and some musculoskeletal injuries may benefit from earlier intervention. Advice can be sought from Occupational Health about the need for a referral especially any medical conditions that may be attributable to the workplace.
- 8.2 A medical referral may not always be necessary and should not be regarded as an automatic action for all employees who are absent from work.
- 8.3 Referral to the Occupational Health department will be accompanied by a referral form. Employees are entitled to a copy of the referral paperwork, which will be either given to the employee if they are in attendance at work or sent to the employee’s home address by the School Leader/Senior Manager, prior to the Occupational Health appointment, if they are absent from work.



## **9. Phased return to work**

- 9.1 If Occupational Health advises that certain shifts/working hours should be restricted, this should only be agreed for the period of the phased return to work. Phased returns will normally last for a maximum period of 4-6 weeks and not begin at less than 50% of the employee's working time. During this time normal full contractual pay arrangements will apply. In exceptional circumstances, phased returns may be extended for more than 4-6 weeks. Schools are encouraged to seek advice from HR in such circumstances. Extensions should be reviewed on a case by case basis.

## **10. Absence due to an accident/injury at work**

- 10.1 Further guidance can be found on the Hamwic Education Trust's Health and Safety pages.

## **11. Health appointments during work time**

- 11.1 Pregnant women do have the right to paid time off to attend ante-natal appointments. Please refer to the maternity guidance in the Manual of Personnel Practice for further information.
- 11.2 The Trust's procedure with regard to time off for medical appointments states that where possible these should be arranged in the employee's own time. Where this is not possible, reasonable time off may be granted. Although there is no right to paid time off to attend planned doctor, dentist or hospital appointments, School Leaders have the discretion to grant paid time off in exceptional circumstances. Appointments lasting three hours or more during paid working time should be recorded as sickness absence.

## **12. Pregnancy-related absence**

- 12.1 Please refer to the maternity guidance in the Manual of Personnel Practice for further information.

## **13. Disability-related absence**

- 13.1 Advice should be sought from HR when assessing reasonableness, particularly where it is likely to be necessary to reject the adjustments proposed and the employee has a condition which is likely to be recognised under the Equality Act 2010.

## **14. Stress-related absence**

- 14.1 Following advice from Occupational Health, the line manager should regularly monitor and review the employee's situation in line with the medical advice and agree how communication will be maintained with the employee during their absence (please see paragraph 5 of this guidance "Keeping in touch during sickness absence"). School Leader/Senior Managers should also make the employee aware of the Employee Assistance Programme through Health Assured to enable access to confidential counselling on 0800 023 4742.

## **15. Long-term ill health and terminal illness**

15.1 The following provides managers with a list of factors to consider when assessing the school's ability to sustain an individual's absence. The focus in this assessment should be on retention of the individual versus the tensions of the impact that sustaining the absence has on pupils, other staff, budgets and efficiency within the school.

15.2 This is guidance only and schools need to take particular care in dealing with cases where there are legal responsibilities (e.g. cases involving disability and the duty to make reasonable adjustments).

### **15.3 Employee-specific factors**

- Prognosis from Occupational Health regarding likelihood of successful recovery and return to work, involving adjustments as necessary.
- Assessment from Occupational Health of likelihood of employee's continued ability to undertake their role with adjustments if necessary.
- Assessment of school's ability to make reasonable adjustments, in line with medical advice, to enable a return to work (critical in cases involving a potential disability).
- Length of service.
- Historical pattern of absence.
- Whether ill health retirement is a possible outcome.
- Mitigating factors (whether the employee is subject to capability or disciplinary procedures etc.).

### **15.4 Impact on pupils, their progress and teaching and learning**

- Nature of the position that the teacher is employed (e.g. whether they occupy a critical post).
- Detrimental effect on pupils (learning, progress and behaviour).
- Loss of knowledge and skill should an experienced member of staff not return to work.
- Number of supply teachers engaged to manage the absence to date.
- Adverse impact of engaging supply teachers on continuity of teaching and learning.
- Adverse impact on behaviour management.
- Detrimental effect on planning, preparation and assessment of lessons.
- Any important events or landmarks missed by the absent employee (parents' evening etc.).

### **15.5 Effect on colleagues**

- Additional workload placed upon staff covering for absent colleague.
- Additional responsibility placed upon staff in department due to absence.
- Time and commitment required to mentor and support supply teachers/temporary staff.
- Adverse effect of absence on departmental/staff morale.
- Lack of continuity/support for any person reporting to the absent employee (classroom based support staff, more junior staff etc.).

### **15.6 Direct and indirect costs associated with sustaining the absence**

- Cost of absence already incurred by school (supply/temporary cover and associated costs).
- Anticipated costs to school should absence continue.

- Cost of allocating additional responsibility to other staff (TLRs).
- Increased cost to school's insurance.
- Cost of appointing somebody on a fixed term basis should the absence continue.
- Cost/viability and reasonableness of making adjustments to the workplace to retain the individual.
- Time already incurred in managing absence.
- Anticipated time commitment should the absence continue.

#### **15.7 Direct and indirect costs associated with ending employment**

- Cost of recruiting and appointing a permanent replacement for the post (possibly consider this against waiting for the individual to be fit to return).
- Time and cost of inducting a new member of staff should a permanent appointment be made.
- Time required to appoint and induct somebody on a fixed term basis should absence continue.
- Cost of reaching mutual/compromise agreement.
- Time required to appoint somebody to the permanent post.
- Likelihood of a suitable appointment being made in a reasonable timeframe.

#### **16. Hospital admissions**

- 16.1 Where an employee has been admitted to hospital School Leaders/Senior Managers will seek, where possible, to maintain contact with relatives, friends or the employee's trade union representative. Where this is not possible, School Leaders/Senior Managers should exercise their discretion in deciding whether visiting is appropriate, and seek permission from the employee or relative(s) prior to the visit.

#### **17. Planned operations and procedures**

- 17.1 Employees are responsible for sharing as much information as possible with their School Leader/Senior Manager where a period of absence is scheduled for a planned operation. This information will allow the School Leader/Senior Manager to plan for the absence and to explore any adjustments that may be required following the employee's return from sickness absence.
- 17.2 Where an employee is undergoing fertility treatment the employee may be entitled to sick leave and pay depending on the stage of their treatment. Recent case law provides some guidance for employers in terms of the legal position. If a female employee is signed off sick while at an advanced stage of treatment, particularly if implantation has occurred, it would follow that she should receive sick pay and this absence should not be counted when looking at her absence levels. If the treatment is at an earlier stage, it is not protected under the Equality Act 2010 and any absence she has at this point could be treated as sickness absence in the normal way and could be counted for the purposes of assessing her attendance record.
- 17.3 Managers may wish to use their discretion in cases where employees are absent as a result of being in the early stages of treatment, even though these employees are not in a protected category. However, there is a need to ensure some consistency when dealing with these cases. Managers will want to consider all the circumstances of the case and deal with

these instances in a sympathetic and supportive manner, possibly going further than what is legally required.

- 17.4 The Trust's procedure with regard to time off for medical appointments states that where possible these should be arranged in the employee's own time. Where this is not possible, reasonable time off may be granted. Although there is no right to paid time off to attend planned doctor, dentist or hospital appointments, School Leaders have the discretion to grant paid time off in exceptional circumstances. Appointments lasting three hours or more during paid working time should be recorded as sickness absence.

## **18. Instruction to leave work on health grounds**

- 18.1 A School Leader may instruct an employee to leave work on health grounds. In such instances, advice should be sought from HR. The employee must see their doctor as soon as possible. The School Leader may also contact Occupational Health for urgent advice on the employee's fitness for work.
- 18.2 The employee will be paid full pay for the duration of the instruction to remain at home, unless there is a statement of fitness for work covering the absence, in which case occupational or statutory sick pay will apply dependant on the employee's terms and conditions of employment.

## **19. Sick pay**

- 19.1 Full details of sickness pay are available from the Manual of Personnel Practice.

## **20. False claims of sickness or working whilst off sick**

- 20.1 If a School Leader/Senior Manager suspects any wrong doing they must contact Hamwic HR for advice prior to commencing an investigation.

## **21. Support**

- 21.1 Employee Assistance Programme through Health Assured is a confidential counselling and support service provided by trained, experienced counsellors, providing counselling for employees in the Trust. They can be contacted on 0800 023 4742.
- 21.2 Employees can also seek advice and support from their professional association or trade union.
- 21.3 In addition, employees may be referred to Day 1 Stress Intervention as part of our Employee Assistance Programme. This is an intervention tool for when an employee informs the school of an absence stating stress or if they submit a fit note for stress. This is not a replacement for Occupational Health - it is to complement it in the very early stages.

## **22. Managerial support prior to action under the formal procedure**

- 22.1 A record of this discussion including the possibility of moving to the stages of the formal procedure detailed in Part 3 of the Sickness Absence Policy and Procedure may be made by the School Leader/Senior Manager, and where made will include the agreed actions (see

example discussion form) at Appendix 1. A copy of this record should be given to the employee and a copy kept by the School Leader/Senior Manager.

- 22.2 The School Leader/Senior Manager should also make the employee aware of the confidential counselling services available as outlined in Part 2, section 23 of the Sickness Absence Policy and Procedure.