



Sickness Absence Management Policy [Staff]

Purpose

- 1.1 The Sickness Absence Management Policy and Procedure has been developed to assist Academy Heads, Line Managers and the Trust Board to manage sickness absence and to create a culture of attendance, underpinned by clear reporting procedures and active management and monitoring of absence throughout the Trust.
- 1.2 Everyone feels the impact of ill-health and absence. It can significantly affect how the Trust performs and affects the service the Trust provides.
- 1.3 It is essential that Academy Heads and Line Managers discuss issues of concern as soon as possible and seek professional advice from the Head of Service (People).

Scope, aims and principles

- 2.1 This procedure applies to all staff, except during any probationary period, when probation procedures will apply.
- 2.2 The use of the term 'manager' throughout this procedure refers to the person who has responsibility for managing attendance of an employee or group of employees.
- 2.3 The functions of governance aim to:
 - Maintain high levels of attendance;
 - Minimise disruption to the education of pupils;
 - Treat employees' absence in a consistent, fair and sensitive manner;
 - Provide a reasonable and safe working environment, appropriate welfare support, and advice on general health issues
 - Enhance employee relations
 - Ensure prompt action is taken
 - Recognise where relevant training is necessary
 - Create a positive culture which supports the health, safety and wellbeing of staff
- 2.4 The Trust's principles are:
 - Good attendance is recognised and valued
 - All absences are treated as genuine, unless there is reason to doubt this
 - The absence management procedure is designed to be proactive and support rather than punitive
 - Management of absence will be dealt with in a non-discriminatory way
 - Individuals and health-related information will be treated with respect and in confidence, in accordance with the requirements of the Data Protection Act 2018 General Data Protection Regulations and the Access to Medical Reports Act
 - Open communication between managers and employees is greatly encouraged



Roles and responsibilities

- 3.1 The Trust Board is responsible for minimising the disruption to the Trust due to the absence of its employees. The purpose of this policy is to ensure that:
- The Trust exercises its duty of care and has proper regard to the health, safety and welfare of its employees;
 - the Trust Board responsibility to promote a healthy workforce is acknowledged;
 - all members of staff understand that repeated or long term absence has a demotivating impact on other colleagues and impacts on the learning and achievement of pupils;
 - all members of staff understand that absence always has a cost, whether direct or indirect.
- 3.2 The **Trust Board** will monitor and review this policy from bi-annually; delegate to the CEO, Line Managers and Academy Heads the necessary discretion to operate absence management procedures and arrangements; and ensure that fair and consistent standards are applied to the management of absence.
- 3.3 The **Academy Head** (with the assistance of senior staff) or the Line Manager, for central staff is responsible overall for the day-to-day management of sickness absence. They will also ensure that all management employees have appropriate training/coaching on this policy and its guidelines to ensure consistency of its application. The Academy Head or Line Manager is also responsible for ensuring that all employees have a return to work meeting on their first day back from every absence, or as soon as reasonably practicable, regardless of its duration, and that the relevant forms are completed and then passed to the Office Manager in a timely manner for recording and monitoring absence. Completed return to work forms should be securely stored in the staff file within the MIS system.
- 3.4 In the case of Academy Heads and Directors, the return to work is conducted by the CEO or a person designated by the CEO.
- 3.5 In the case of the CEO, the return to work is conducted by the Head of Service (People) in consultation with the Chair of the Trust Board or designated Trustee.
- 3.6 The **Office Manager**, in the case of the Trust central staff **Head of Service (People)** will ensure that the establishment has suitable arrangements for enabling employees to notify absence; for communicating information about absence in a timely manner for payroll and other necessary purposes; and for following up absence in appropriate circumstances in line with HR guidance.
- 3.7 **Employees** have a duty to attend for work unless they are unable to do so through sickness or injury, or unless their absence has been otherwise approved. They have a responsibility to report their own absence through sickness or other emergency using the Trust's procedures, and to produce medical evidence as required. Employees are also expected to participate fully in any occupational health or other appropriate medical review process/provision offered by the Trust, or other agencies, in support of their health and attendance at work. Failure to do so may limit the support or information that the Trust is able to consider when making decisions under this procedure.



3.8 Further information about monitoring is set out in section 11.

4. **Disability**

4.1 The Equality Act 2010 makes it unlawful for the Trust to unjustifiably treat a person with a 'protected characteristic', such as a disability, less favourably than a person who does not have a disability for any reason related to the person's disability. Disability should not be equated with poor health.

4.2 The Act also requires employers to consider all reasonable adjustments in the Trust which would enable an employee with a disability to continue to work. Therefore, the Trust will ensure that all reasonable adjustments are considered and, where possible, provided, in discussion with the employee.

4.3 The definition of disability, according to the Equality Act 2010 is "a physical or medical impairment which has a substantial and long-term negative effect on his or her ability to carry out normal daily activities". Long-term in this definition is taken to mean more than 12 months (i.e. where from the diagnosis, the illness is likely to last more than 12 months). This definition also includes long-term illness such as cancer; HIV; and mental health problems such as clinical depression.

5. **Pregnancy-related absence**

5.1 It is recognised that a pregnancy may result in various medical absences at different stages and the Trust will treat these supportively. No action under the provisions of this procedure will be taken against a female employee who is absent from work due to a pregnancy related illness. However, absence levels will continue to be monitored and where the Trust has concern about the reasons or lengths of absence, it reserves the right to formally investigate the nature and cause of the absences. Absences in the four weeks leading up to the expected week of childbirth may result in maternity leave starting early at the request of the employer. For further information, see separate Maternity guidance.

6. **Absence due to alcohol or substance misuse**

6.1 Where poor attendance is related to alcohol or drug use, the Academy Head/Line Manager should refer to the alcohol and substance misuse policy and seek advice from Head of Service (People)

7.0 **Referral to Occupational Health**

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



- 7.2 The Academy Head will normally request any school based referral. The CEO will normally make any Trust central team referral, all requests are to be submitted to the Head of Service (People).
- 7.3 The employee will be advised that a referral is going to be made by the Academy Head/ Line Manager and, be encouraged to seek the support of the Trust's wellbeing programme and the support of their professional association if they have not already done so. In some circumstances, it may be necessary to inform the employee in writing.
- 7.4 An employee will not be compelled to attend a meeting with Occupational Health, but will need to be made aware that the Trust may have to make a decision about his/her continued employment without the help of a medical opinion, which may be to the employee's disadvantage, if they choose not to participate in any review offered. Failure to engage with Occupational Health support may also affect the entitlement to occupational sick pay.
- 7.5 The support of Occupational Health can be sought at any stage and need not wait until the employee is absent due to ill health. Normally however, the Academy Head/CEO (or other nominated senior manager) will refer an employee when a return to work interview or a 'trigger point' (see section 13) suggests it may be appropriate, or where the employee continues to be absent after ten working days. In some circumstances, referral may not be necessary, for example, where the nature of the medical condition is clear, the prospect of return to work well-defined (e.g. a broken limb or routine surgery) and advice regarding appropriate support and/or adjustments in the workplace is readily available, for example, from the employee's GP or a consultant.
- 7.6 Where it is known at the outset of the absence that an employee will be absent for an extended period, particularly in the case of stress-related absence, an earlier referral will be actively considered.
- 7.7 There is no self-referral process for employees, although an employee may request to be referred by the Trust.
- 7(a) Factors to be considered by occupational health**
Depending on the questions asked by the Trust as part of the referral, the Occupational Health service is likely to consider the following:
- i. Whether or not the employee is likely to attend work regularly and resume the full duties of the post in the foreseeable future
 - ii. Whether there is a disability; how any disability affects the employee; and whether any adjustments are required
 - iii. Any recommendations on convenient and effective ways in which duties or circumstances could be re-arranged, on either a temporary or permanent basis, taking in account the fitness and ability of the employee and recognising the individual circumstances of the school/establishment and its over-riding need to provide a high quality education for its students
 - iv. If not, whether there are other kinds of work which would suit his/her abilities, or which, with further training, could be considered
 - v. Whether ill-health retirement is an option



- vi. Whether there is any other support the school/establishment, or other agencies, could reasonably consider offering.
- vii. Following an employee being assessed by Occupational Health, a report will be sent to the Head of Service (People). The report will be shared with the appropriate Academy Head/Line Manager.
- viii. Where Occupational Health advice is that the employee is fit for normal duties, they should return to work upon expiry of the current medical certificate. The report may recommend a phased return to work and/or light or limited duties for a limited period.

In situations where Occupational Health recommends a therapeutic or a phased return to work, every reasonable assistance will be provided to the employee to facilitate this. All returns to work should be agreed within a specific timescale and the employee's progress reviewed by the line manager at regular intervals throughout the period.

7(b) Possible Outcomes of Occupational Health Assessment:

- i. **Fit for work with no adjustments:** the employee is fit to return to work with no adjustments to his/her working pattern. It is vital that the Academy Head or nominated person arranges a Return to Work Meeting to discuss the employee's return to work.
- ii. **Continue to monitor:** it may be that no immediate action is necessary other than to continue to monitor the situation and to organise temporary cover. This approach will be appropriate where a full recovery is likely within a timescale that will not cause unacceptable operational difficulties.
- iii. **Reasonable Adjustments:** Occupational Health may suggest reasonable adjustments to the employee's working environment or role in order to facilitate his/her return to work. It is for the Trust to decide what adjustments are reasonable having considered the suggestions made in the report.
- iv. **Therapeutic visits or Phased Return to Work:** there may be certain cases where following a long term illness, Occupational Health recommends that it would be beneficial for an employee to return to work on a reduced hours basis, until his/her health has fully recovered. It is expected that a phased return to work should last no more than 4 to 6 weeks. The Trust will be required to pay the employee his or her normal full salary during the duration of the phased return but for no longer than 4 to 6 weeks. Where a therapeutic return is recommended, it will usually consist of a series of short visits to the school or establishment site without the expectation that the employee will perform their normal contractual duties and will normally precede a phased return. During such therapeutic visits, the employee is still absent due to ill health and in receipt of appropriate sick pay benefits.
- v. **Change of Role:** Occupational Health may suggest that the employee would benefit from a change in role or change of duties sufficient for it to be considered a new role. In some cases, it may not be possible to accommodate this suggestion in the same school/establishment. In these circumstances, the Trust will seek advice on any options for supporting the employee to find suitable alternative employment.



8. Sickness absence reporting procedure

- 8.1 On the **first day of absence** the employee must personally notify the school/establishment of his/her absence due to ill health as early as possible in the circumstances, and no later than 7.45am. The reason for the absence and an indication of its likely duration should also be given. Unless otherwise agreed or if the employee has provided a definite length of absence, the employee should endeavour to contact the relevant office on each subsequent day of absence before 4.00pm each afternoon so that the school/setting can plan cover effectively.
- 8.2 School based staff, must follow the local absence reporting arrangements, usually to report to the Academy Head.
- 8.3 Central team staff, must report to their Line Manager and enter the absence details onto the MIS system.
- 8.4 Unless the employee is seriously ill or incapacitated, the employee should contact the school/establishment, rather than asking a friend or relative call on their behalf. Only in the most serious of cases, will it be acceptable for a text message or e-mail to be sent instead of making personal contact.
- 8.5 If the employee has been unable to speak to the Line Manager / another member of staff, at the time of reporting the absence, they may expect further contact from the Trust to clarify the nature of the absence, its likely duration, any immediate work commitments that will need to be covered or re-arranged, and to discuss any support the Trust may offer, as necessary.

(Each school/establishment will have its own local sickness absence reporting arrangements, which should be well known to its employees. Failure to follow the local reporting arrangements could result in the absence being recorded as unauthorised. Failure to comply with the reporting and certification procedures may result in loss of sick pay; persistent failure to comply may result in disciplinary action.)

- 8.6 If the absence is due to an accident or injury sustained during the course of work duties (Industrial Accident), this information and the name of the person to whom the incident was reported must be made known. This is to ensure that the Trust's management has properly recorded the incident and, where necessary, taken appropriate remedial action. Incident/accident reports must be sent to the Head of Service (Facilities and Compliance).

9. Certification

- 9.1 All employees must complete a self-certification form on their return to work for all absences up to and including seven consecutive calendar days. For all absences of eight consecutive calendar days or longer, the employee must provide a doctor's certificate ("Fit Note"). The requirement for sickness absence to be certificated includes Trust closure periods.



9.2 The employee must keep the Trust informed of progress. For longer term absence, the Trust will seek to agree a regular pattern of contact, usually weekly, with the absent employee. Contact during this period may be through a mutually agreed intermediary such as a Union representative. Academy Head's/Line Managers should keep a record of their contact with the employee. Other than in the most exceptional circumstances, it is not acceptable for there to be no contact between the school/establishment and its employee.

9.3 Staff may request and the Trust will consider an early return to work before the end of the certification period. This will be mutually agreed where appropriate. The Trust reserves the right to refuse an early return to work where this is deemed to be detrimental to the employees' health and well-being.

10. Sick Pay

10.1 Employees have an entitlement to receive sickness pay during any period of sickness. This consists of Statutory Sickness Pay and an Occupational Sickness Pay entitlement.

10.2 In this Trust, in exceptional circumstances, the Trust Board may consider using its discretion to extend an employee's entitlement to occupational sick pay, in the knowledge that any costs of doing so will fall to the Trust's budget. In the case of teachers absent due to accident, injury or assault attested by an approved medical practitioner to have arisen out of and in the course of the teacher's employment, the period of full sickness pay is automatically extended up to the date of recovery.

11. Monitoring absence

11.1 To ensure that any action taken against an employee for unacceptable levels and/or pattern of absence is appropriate, it is important that an accurate and consistent method of monitoring has taken place.

11.2 Effective monitoring of absence is dependent on effective recording of absence. As part of induction, new employees will be made aware of the Trust absence reporting arrangements and the expectations that the Trust has of good attendance. All employees will be made aware that the Trust will address concerns about absence levels.

11.3 It is the responsibility of the Academy Head/CEO to determine whether formal action is taken. The decision will be based on the cause, amount and frequency of the absence.

11.4 It should be noted that none of the definitions set out as part of this procedure prevents earlier intervention if appropriate, nor is it necessary to wait until sick pay has expired before further action is taken.

12. Unauthorised absence

12.1 It is the employee's responsibility to adhere to the absence reporting procedures as set out above. However, if an employee fails to report to work, without informing their line manager, it is important that the situation is investigated and the employee given an opportunity to explain. If, after all reasonable efforts have been made to contact the



employee, they remain absent without leave; it may be treated as an unauthorised absence without pay and may warrant an investigation under the Trust's Disciplinary procedures.

13. Trigger points

13.1 To enable managers to monitor absence levels trigger points have been agreed. The Trust will continuously monitor these levels, and will investigate with the employee any levels or patterns of absence which cause concern and decide whether any action (informal or otherwise) is required.

13.2 In any event, absence that reaches any of the following trigger points will be investigated in every instance:

1. **Three occasions, or ten working days' or more, absence in a rolling three month period, not including school closure periods;**
2. **All long term absences (10 or more working days)**
3. **Unacceptable patterns of absence (e.g. regular absences either side of weekends or school closure periods)**

13.3 Due regard must be taken of the Equality Act in relation to disability and pregnancy so as to ensure employees are not placed at a disadvantage as a result of these protected characteristics. Therefore absence relating to rehabilitation, assessment and treatment of a disability and pregnancy related absence, should be excluded from the triggers (see the sections 4 and 5 above). Due support and regard should also be given to employees who may be experiencing the effects of, for example, drug or alcohol misuse or domestic abuse.

13.4 It should be noted that other concerns about absence do not prevent earlier intervention if appropriate. Any employee, who the Trust finds to be abusing the Trust's sickness absence management arrangements, will be subject to disciplinary procedures, which may lead to dismissal.

14. Short-term and long-term absence definitions

14.1 For the purpose of this procedure, short-term absence has been defined as including any of the following scenarios:

1. **Occasional short-term absence, or**
2. **Recurrent short-term absence where the causes differ and appear to be unrelated, or**
3. **Recurrent short-term absence with an underlying medical condition, or**
4. **Unacceptable patterns of absence (.g. regular absences either side of weekends or school closure periods)**

14.2 For the purposes of this procedure, long-term absence is defined as follows:

1. **Continuous absence for a period exceeding 10 or more working days, or**
2. **Where the actual and anticipated future health of the employee makes a return to their current role very unlikely, at least in the immediate future, or**
3. **Recurrent long-term absence with an underlying medical cause.**



- 14.3 The Trust recognises that an employee facing a substantial period of absence from work due to ill health may feel anxious and vulnerable. Trust managers will be sensitive to these feelings and provide support and reassurance wherever possible. It is important to maintain contact during the absence; the nature and frequency of which is best defined as early as possible between the manager or through a mutually agreed intermediary such as a Union representative and the employee.

On occasion it may be appropriate to meet at a neutral venue, virtually via a digital platform, or to make a home visit (although this should only occur with the express permission of the employee). Employees should also be asked if they would like to receive news, information or briefings available to other colleagues. It should be noted that some information is automatically circulated to all staff, i.e. Edupay and staff benefit updates, these cannot be 'turned off' for individual employees. If an employee requests that there should be no contact at all during sickness, the reason for this should be explored with him/her (or a nominated representative) – the assistance of the Head of Service (People) should be sought if necessary.

- 14.4 As with short-term absence, there is a need to follow a consistent procedure. At all stages, the Academy Head / Line Manager should advise the employee of their rights.

15. Informal stages: Return-to-work meeting / informal meeting

- 15.1 Wherever possible, the employee should inform the Trust no later than the day before the anticipated date of return.
- 15.2 The school/establishment will conduct return-to-work meeting where a Trade Union/Professional Association Representation or work colleague accompanying the member will be encouraged, for all absences, irrespective of length. The meeting should take place on the first day of the employee's return to work wherever possible. The aim of the meeting is to:
- Ensure the employee is fit to return to work
 - Ensure, as appropriate, the employee has taken / is taking all reasonable steps to manage their health and attendance, including accessing medical support as necessary
 - Help to identify the cause(s) of the absence and any underlying problems that the employee may be experiencing
 - Ensure the employee feels valued and knows that their absence was noticed and that they were missed
 - Update the employee on anything that they need to know and, as necessary, assist with re-prioritising their workload following their absence
 - Signal to the employee that attendance (and therefore absence) is a high priority for the trust
 - Ensure that the absence is recorded and the relevant documentation completed
 - Make the employee aware if s/he is approaching a trigger point (see section 13), discuss what other support / action might be needed to reduce the employee's level of absence and advise the employee that unless attendance improves, the school will be left with little choice but to adopt a formal approach (see section 16).



- 15.3 A record of the return-to-work meeting will be made, a copy given to the employee and kept on the employee's personal file.
- 15.4 The Trust reserves the right to not allow the employee to return to work, should there be ongoing significant concerns about their health, well-being or ability to safely fulfil their role.
- 15.5 The employee should be informed in writing and invited to a meeting to discuss the evidence in more detail before action is taken under the formal stages of this procedure.
- 15.6 In many circumstances, significant evidence will have already been gathered as part of the return-to-work process, which the school will simply collate and summarise as evidence.

16. Formal stages: Ill health capability review procedure

- 16.1 Once the level of absence has been identified as a concern, and having taken into consideration the points in earlier sections of this procedure, the Academy Head/Line Manager should consider taking action as outlined in this ill health capability review procedure.
- 16.2 The Academy Head/Line Manager should decide whether he/she or another senior colleague should conduct the meetings at each stage. If the Academy Head is the subject of concern it is normally the CEO who would be responsible for such a case.
- 16.3 The First and Final Health Review Meetings of this procedure are designed to deal with persistent short-term ill-health cases.
- 16.4 When long-term ill-health, in the opinion of the Occupational Health physician, makes it impossible for the individual employee to discharge efficiently the duties of the post at some reasonable time in the future then consideration of early retirement on grounds of ill-health may be considered, where the employee is a member of the pension scheme. If retirement is not considered an option but there is little likelihood of the person returning to work within a reasonable period, it is quite possible to start the procedure at the Ill-Health Capability Hearing stage.
- 16.5 Return to work meetings will continue to be conducted for absences that arise between any formal meetings.

16(a) First Health Review Meeting

If an employee's sickness absence levels have not improved despite being addressed in their Return to Work Meetings, and the employee has reached any of the trigger points (see section 13), the Academy Head/Line Manager will invite the employee to a First Health Review Meeting.

The invitation will be in writing, giving the employee at least 5 working days' notice and setting out the date and place of the meeting, the reason for the meeting, and stating that they may be accompanied by a trades union/professional association representative or work



colleague. As necessary, the Trust's Head of Service (People) and a note-taker may also be present at the request of the school.

The Academy Head/Line Manager will prepare for the meeting by ensuring that they have clearly identified the employee's sickness absence levels and the support that has been provided.

At the First Health Review Meeting the Academy Head/Line Manager will:

- Explain the concern about the absence level and reasons for that concern, such as operational difficulties caused
- Listen to reasons and respond appropriately
- Consider whether to refer the employee to Occupational Health, if not already done
- State that sustained improvement in attendance is expected and set an appropriate monitoring period and targets for improvement, and the next meeting date, typically 4-6 weeks.
- Identify any support required
- If appropriate, give the employee a first written warning and explain that continued failure to improve attendance to the specified level may lead to further action under the school's sickness absence management procedure, which could lead to his/her employment being put at risk
- Following the meeting, the Academy Head/Line Manager will write to the employee confirming all the details of this meeting, including a response to any specific points raised by the employee / the representative, any conclusions reached / attendance targets for the monitoring period / points of disagreement and the date of the next (final) review (see 16.2). A copy will be held securely in the staff file.

If there is a further, significant deterioration in attendance, the Academy Head/Line Manager may bring forward the date of the next meeting, provided that 5 days' written notice is given or the senior manager leading the case, where it is not being led by the Academy Head.

16(b) Final Health Review Meeting

At the end of the agreed monitoring period, the employee's attendance, health and well-being will be reviewed at a final health review meeting, at which the employee will have the right to be accompanied by a Trades Union/Professional Association representative or work colleague. At the Final Health Review Meeting the Academy Head/Line Manager will advise the employee of one of the following outcomes:

- 1. The required standard of attendance has been met and sustained**
 - The employee's attendance will be managed under normal absence management arrangements and the written warning, if applicable will remain active for six months from the date of the Final Health Review Meeting;
- 2. The required standard of attendance has not been met or significant progress has not been made towards meeting the required attendance level, in which case the Academy Head/Line Manager will:**



- Explain the concern about the continued absence level and reasons for that concern, such as operational difficulties caused;
- Listen to reasons and respond appropriately;
- Consider whether any (further) Occupational Health advice should be sought;
- State that sustained improvement in attendance is expected and set an appropriate monitoring period and targets for improvement, and the next meeting date, typically 4-6 weeks;
- Identify any support required;
- If appropriate, give the employee a final written warning and explain that continued failure to improve attendance to the specified level will lead to an Ill-Health Capability Hearing (see section 16.C) which could result in dismissal

Following the meeting, the Academy Head/Line Manager will write to the employee confirming all the details of this meeting, including a response to any specific points raised by the employee / the representative, any conclusions reached / targets set for the final monitoring period / points of disagreement and the date of review.

16(C) Ill health capability review hearing

Where the long-term absence of an employee continues due to the nature of the illness, or, for short-term absence cases, where there has been no, or insufficient, improvement in attendance, or where any improvement has not been sustained, the case will be presented for full review. This will be heard by the Trust's Hearings' Committee.

The meeting will be set at the earliest possible date, but normally by no later than fifteen working days following the decision to move to an ill health capability review hearing. For cases relating to long-term absence, it is anticipated that the school will have maintained appropriate, regular contact with the employee. Contact during this period may be through a mutually agreed intermediary such as a Trade Union/Professional Association Representative.

The employee will be advised in writing that a possible outcome of the meeting could be that the Hearings' Committee determines that they should be dismissed and will state that they may be accompanied by a Trade Union/Professional Association Representative or work colleague.

Details of the case and notification of any witnesses to be called will be circulated to all parties at least ten working days before the hearing. The employee will be invited to submit documentation and details of all witnesses, as appropriate. This must be provided at least five working days before the hearing.

At the hearing, the Academy Head/Line Manager presenting the case, with the support of the Head of Service (People) will detail the level of absence, and its impact, that has given cause for concern and refer to any documentation that has been circulated prior to the meeting, including any medical reports.

The employee (or representative) will have the opportunity to present evidence explaining why their level of absence is at its current level (a level of formal concern) and what action they have taken / will take to reduce it to an acceptable level. In deciding what type of action to take, Hearings' Committee will review:



- The record and pattern of absence
- The support provided to the employee to date
- Whether there is an underlying illness or any other issues raised by the Occupational Health Service
- The likelihood of an improvement in attendance
- The attitude and response of the employee in recognising and addressing the impact of their absence
- The problems caused by the employee's absence
- Whether all appropriate options, for example, Ill Health Retirement procedures, have been properly explored
- The needs of the school and the best interests of the employee concerned

Possible Outcomes of the Ill Health Capability Review Hearing

The Hearings' Committee, as appropriate, will confirm one of the following outcomes:

- 1. The required standard of attendance has been met and sustained**
 - The employee's attendance will be managed under normal absence management arrangements and the final written warning, where applicable will remain active for twelve months from the date of the Ill Health Capability Review Meeting;
- 2. The required standard of attendance has not been met and / or has not been sustained**
 - The employee will be dismissed with appropriate notice, as laid out in the Trust's employee Terms and Conditions. If the decision is dismissal, wherever practicable, the employee will be informed immediately and advised of the right of appeal. The decision of Hearings' Committee, the reasons for it and the appeal arrangements will be confirmed in writing to the employee normally within five working days.

17. Appeals

- 17.1 All employees have the right to appeal against any formal actions, i.e. warnings or dismissal, taken against them under the Trust's Sickness Absence Management Policy.
- 17.2 **Warnings:** any appeal arising as result of a warning, must be made in writing within fourteen calendar days of the receipt of the decision and include full details of the grounds for appeal and any relevant supporting information. If the warning is given by the Academy Head/Line Manager, the appeal will be to the Chair of Trustees.
- 17.3 **Dismissal:** Any appeal arising as a result of a dismissal must be made in writing within fourteen calendar days of the receipt of the decision. The appeal will be to a panel of the Trust's Appeals Committee and must not include any Trustees who have been previously involved in the case.
- 17.4 At any appeal any sanction or penalty imposed will be reviewed, but cannot be increased.



- 17.5 The employee has the right to be accompanied by a Trade Union /Professional Association Representative or work colleague. The Academy Head/Line Manager is likely to present the Trust's case at the appeal hearing.
- 17.6 If the Academy Head is the subject of formal action, the CEO will assume this role, with the Chief Executive Officer retaining the power of intervention as laid down in the Scheme of Delegation.
- 17.7 Where appropriate the Trust will be represented at appeal hearings by a designated representative member i.e the Head of Service (People).
- 17.8 If the recommendation for dismissal is not upheld, the Appeals Panel may decide to issue a further warning or, in appropriate cases, to demote the employee rather than dismiss. Demotion involves a change in the employee's contract that requires his/her consent to the new arrangement.
- 17.9 Wherever possible, the employee will be informed immediately at the conclusion of the appeal hearing and in any case, in writing normally within five working days, giving the reason for the decision.
- 17.10 There will be no further right of appeal for the employee following the decision of the Appeals' Panel of the Trustees. The employee will not be able to re-open matters that have been considered by looking to invoke a different procedure, such as the Grievance Procedure.

Medical Redeployment or Retirement

- 18.1 Any employee who is deemed to be permanently unfit for work, will leave the Trust's service in a managed and supported way, with any pension benefits to which they are entitled.
- 18.2 In managing medical redeployment or retirement, all staff will be treated equally and consistently. Medical redeployment and retirement will not be applied as a punitive or disciplinary measure.
- 18.3 The Trust will always endeavour to:
 - > Monitor and support staff on long-term sickness absence.
 - > Promote and liaise with the Occupational Health Service, keeping staff advised of the process.
 - > Make reasonable adjustments to existing jobs and workplaces to achieve a return to work wherever possible.



Appendix 1

Procedure for a Hearing

Hearings (that may be held in person or virtually via a digital platform) will be held in as informal a manner as possible and the employee will be afforded every reasonable assistance to put his/her case. The conduct of the hearing is at the discretion of the Chair of the committee hearing the case, but s/he will allow the parties every reasonable opportunity to present their case.

In the case of an appeal the order of presentation set out below would normally be reversed, with the employee as appellant presenting his/her case first. However, by prior agreement or where the appeal constitutes a re-hearing of the full case, the case against the employee may be presented first as at the initial hearing. Chairs of appeal committees or managers hearing appeals should ensure that all parties have a common understanding and agreement on the order of presentation.

The Trust will appoint a sufficiently experienced or trained clerk to supporting the Hearing, including pre and post administration.

Introduction

The Chair of the committee hearing the case will ensure that those present are introduced to each other and that they are aware of the procedure to be followed.

Confidentiality

Proceedings will be confidential between the parties and a breach of confidence would be considered as a disciplinary matter. Where proceedings are held digitally, no recordings may be made.

Presentation of the Case

The person presenting the case against the employee may make an opening statement outlining the case. The committee hearing the case, and the employee responding to it, may ask questions. S/he will then call any witnesses and ask them to give their evidence. The employee or his/her representative may then ask questions of each witness. The committee hearing the case may also ask questions of any witness. The person presenting the case may then re-examine the witness. Where evidence is presented in the form of documents, the person presenting the case or an appropriate witness will explain the nature and significance of the documents.

The Employee's Case

The employee or his/her representative may make an opening statement. The committee hearing the case and the person presenting the case against the employee may ask questions. S/he may call any further witnesses and invite them to give their evidence. The person presenting the case against the employee may ask questions of each witness after s/he has given his/her evidence. The committee hearing the case may then ask questions. The employee or his/her representative may re-examine the witness. Where there is any documentary evidence, the employee or any witness on his/her behalf will explain its significance.



Re-examination

Both parties will be asked if they wish to re-examine any evidence. The committee hearing the case may also do so at its discretion.

Final Statements

The person presenting the case against the employee may make a final statement. The employee or his/her representative may then also make a final statement.

Adjournment

Either party or a panel member, may ask for an adjournment at any stage. The decision to adjourn is at the discretion of the Chair, who will consider a request in the light of the reason given for it.

Consideration of the Case

All parties will withdraw. The committee will deliberate. Where relevant, the Chief Executive Officer, or their representative, may be present at these deliberations to advise on legal and procedural matters. If it is necessary to recall either party or any witnesses, to resolve a point of uncertainty, both parties will be invited to be present, whether or not the point of doubt concerns one party or both.

Decision

If possible, the decision will be communicated orally to the employee after the hearing. The decision will be confirmed in writing to the parties involved usually within five working days or as soon as possible after the hearing.



Document Control

Changes History

Version	Date	Amended By	Details of Change
V2	11/10/18	Principal/CEO	To update references to include the General Data Protection Regulations. To clarify the connection between the Trust and the individual school.
V3	25/09/2020	EFS	Scheduled review. Updating of LC references, Panel of Trustees.
V4	02/06/2021	Principal/CEO	Updating leadership and governance references in line with the Scheme of Delegation. Clarifying the use of digital meetings. Clarifying typical time lines. Clarifying how the CEO/Senior Staff and Academy Heads are dealt with under the policy. Updating the position around communications. Insertion of new clauses; 1.3; 3.4; 3.5; 8.2; 8.3; 9.3; 15.4 and subsequent renumbering.
V5	20/04/2023	Head of Service People	Clarification of reporting times for absence reporting. Minor changes to use of MIS system

Approval

Name	Job Title	Signed	Date
Andrew Aalders-Dunthorne	Principal/CEO	Electronic signature	22/12/2016
Dawn Carman-Jones	On behalf of the Trust Board	Electronic signature	22/12/2016
Andrew Aalders-Dunthorne	Principal/CEO	Electronic signature	29/06/2023
Dawn Carman-Jones	On behalf of the Trust Board	Electronic signature	29/06/2023

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