



Children's



Endeavour



Trust

# Sickness Absence Management Policy and Procedure

The Children's Endeavour Trust comprises:

Abbot's Hall Community Primary School  
 Bosmere Community Primary School  
 Broke Hall Community Primary School  
 Chilton Community Primary School  
 Combs Ford Primary School  
 Freeman Community Primary School  
 Springfield Junior School  
 Whitehouse Community Primary School

## Document Control

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# 1. Purpose

This Sickness Absence Management Policy and Procedure has been developed to assist the headteachers and governing bodies 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 Schools.

Everyone feels the impact of ill-health and absence. It can significantly affect how the schools performs and affects the service the school provides.

## 2. Scope, aims and principles

This procedure applies to all staff, except during any probationary period, when probation procedures will apply.

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.

This policy cover employees who are absent from work due to sickness.

The governing bodies 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

The school'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 and the Access to Medical Reports Act
- Open communication between managers and employees is greatly encouraged

## 3. Roles and responsibilities

The Governing Bodies are responsible for minimising the disruption to the school due to the absence of its employees. The purpose of this policy is to ensure that:

- the school exercises its duty of care and has proper regard to the health, safety and welfare of its employees;
- the Governing Body's and, where appropriate, the Trust's broader 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.

The **Trust** will monitor and review this policy from time to time; delegate to the Headteachers the necessary discretion to operate absence management procedures and arrangements; and ensure that fair and consistent standards are applied to the management of absence.

The **Headteachers** (with the assistance of senior staff) are 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 Headteachers are 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 (appendices 2 and 3) are completed and then passed to the Deputy Headteacher in a timely manner for recording and monitoring absence.

The **Deputy Headteachers** will ensure that the school 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.

**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 school's procedures, and to produce medical evidence including fit notes as required. Employees should keep their line managers informed regarding their absence. Employees are also expected to participate fully in any occupational health or other appropriate medical review process/provision offered by the school, or other agencies, in support of their health and attendance at work. Failure to do so may limit the support or information that the school is able to consider when making decisions under this procedure.

## 4. Disability

The Equality Act 2010 makes it unlawful for the school 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.

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

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

It is recognised that a pregnancy may result in various medical absences at different stages and the school will treat these supportively. No action under the provisions of this procedure will be taken against a female employee who is absent from work due to a pregnancy related illness.

However, absence levels will continue to be monitored and where the school has concerns 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**

Where poor attendance is related to alcohol or drug use, the Headteachers/line managers should refer to the alcohol and substance misuse policy and seek advice from their HR Caseworker.

## **7. Referral to Occupational Health**

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 school will consider accessing appropriate professional occupational health advice and support as necessary.

At the Trust Schools, the Headteachers make any referrals, although this responsibility can be delegated to another senior member of staff.

The employee will be advised that a referral is going to be made and, be encouraged to seek the support of the school'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 that a referral to occupational health is being made,

An employee will not be compelled to attend a meeting with occupational health but will need to be made aware that the school 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.

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 Headteachers 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.

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.

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

### **7.1 Factors to be Considered by Occupational Health**

Depending on the questions asked by the school as part of the referral, the occupational health service is likely to consider the following:

- Whether or not the employee is likely to attend work regularly and resume the full duties of the post in the foreseeable future
- Whether there is a disability; how any disability affects the employee; and whether any adjustments are required

- Any recommendations on convenient and effective ways in which duties or circumstances could be re-arranged, on either a temporary or permanent basis, taking into account the fitness and ability of the employee and recognising the individual circumstances of the school and its overriding need to provide a high quality education for its students
- If not, whether there are other kinds of work which would suit his/her abilities, or which, with further training, could be considered
- Whether ill-health retirement is an option
- Whether there is any other support the school, or other agencies, could reasonably consider offering.

Following an employee being assessed by Occupational Health, a report will be sent to the Headteacher. In the case of a Headteacher, this will be sent to the CEO who will liaise with the Chair of Governors.

Where Occupational Health advice is that the employee is fit for normal duties, they should return to work upon expiration of the current medical certificate. The report may recommend a phased return to work and/or light or limited duties for a limited period. Where an employee returns to work on a part-time basis following long term absence, it is expected the phased return to work should last between 6-8 weeks. The school will pay the employee their normal salary during a phased return to work period.

If the employee has exhausted the sick pay entitlement, and or require the phased return to be extended, the salary payment will be based on the number of hours worked during the phased return.

Where the employee has not exhausted the sick pay entitlement and a phased return is extended, the employee will be paid in accordance with the number of hours worked, or the occupational sick pay entitlement that would be payable if the employee remained absent due to sickness, whichever is the greater amount.

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.

## 7.2 Possible Outcomes of Occupational Health Assessment

**Fit for work with no adjustments:** the employee is fit to return to work with no adjustments to his/her working pattern. It is vital that the Headteacher or nominated person arranges a Return to Work Meeting to discuss the employee's return to work.

**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.

**Reasonable Adjustments:** Occupational Health may suggest reasonable adjustments to the employee's working environment or role in order to facilitate his/her return to work. It is for the school to decide what adjustments are reasonable having considered the suggestions made in the report.

**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 school will be required to pay the employee his or her normal full salary during the duration of the phased return but for no longer than 4 to 6 weeks. Where a therapeutic return is recommended, it will usually consist of a series of short visits to the school without the expectation that the employee will perform their

normal contractual duties and will normally precede a phased return. During such therapeutic visits, the employee is still absent due to ill health and in receipt of appropriate sick pay benefits.

**Change of Role:** Occupational Health may suggest that the employee would benefit from a change in role or change of duties sufficient for it to be considered a new role. In some cases, it may not be possible to accommodate this suggestion in the same school. In these circumstances, the school will seek advice on any options for supporting the employee to find suitable alternative employment.

## **8. Sickness Absence Reporting Procedure**

On the **first day of absence** the employee must personally notify the school of his/her absence due to ill health as early as possible in the circumstances, and no later than his/her normal start time. The reason for the absence and an indication of its likely duration should also be given. **Unless otherwise agreed, the employee should contact the school on each subsequent day of absence.**

Unless the employee is seriously ill or incapacitated, the employee should contact the school, rather than asking a friend or relative call on their behalf. **Only in the most serious of cases, will it be acceptable for a text message or e-mail to be sent instead of making personal contact.**

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 school to clarify the nature of the absence, its likely duration, any immediate work commitments that will need to be covered or re-arranged, and to discuss any support the school may offer, as necessary.

*Failure to follow the schools' 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.*

If the absence is due to an accident or injury sustained during the course of work duties, this information and the name of the person to whom the incident was reported must be made known. This is to ensure that the school's management has properly recorded the incident and, where necessary, taken appropriate remedial action.

## **9. Certification**

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

The employee must keep the school informed of progress. The school will seek to agree a regular pattern of contact, usually weekly, with the absent employee. Headteachers/line managers should keep a record of their contact with the employee. Other than in the most exceptional circumstances, it is not acceptable for there to be no contact between the school and its employees.

## **10. Sick Pay**

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.

For support staff, full details of sick pay entitlement is given in the Green Book. A summary of the allowances is shown below:

Length of Continuous Service	Full Pay	Half Pay
Up to 4 months	1 month	None
4 – 12 months	1 month	2 months
1 – 2 years	2 months	2 months
2 – 3 years	4 months	4 months
3 – 5 years	5 months	5 months
Over 5 years	6 months	6 months

For teachers, full details of entitlements to sickness payments are set out in the Burgundy Book. A brief summary of those entitlements is set out below:

Length of Service	Full Pay	Half Pay
Up to 4 months	25 working days	Nil
4 – 12 months	25 working days	50 working days
1 – 2 years	50 working days	50 working days
2 – 3 years	75 working days	75 working days
More than 3 years	100 working days	100 workings days

The amounts of full and half pay will be reduced by the number of days of paid sick leave taken during the preceding twelve-month period.

In exceptional circumstances, the governing body 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 school's budget. In the case of teachers absent due to accident, injury or assault attested by an approved medical practitioner to have arisen out of and in the course of the teacher's employment, the period of full sickness pay is automatically extended up to the date of recovery, but not exceeding six calendar months.

Regular sickness absence procedures and pay will apply in the following circumstances:

- a. gender re-assignment.
- a. elective/cosmetic surgery supported by medical information demonstrating the pre-surgery position is negatively impacting health.
- a. semi-elective surgery that is performed to preserve life (or health) but does not need to be performed immediately.
- a. fertility investigations or treatment.

Please refer to the Leave of Absence policy and / or the specific policy for further information.

## 11. Monitoring Absence

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.

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

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

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

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 School's Disciplinary Procedures.

## 13. Trigger Points

To enable managers to monitor absence levels trigger points have been agreed. The School's senior leadership teams 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.

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

- **Three occasions, or ten working days or more, absence in a rolling three months' period;**
- **All long term absences (10 or more working days)**
- **Unacceptable patterns of absence (e.g. regular Friday and/or Monday absences or school closure periods)**

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 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.

It should be noted that the above trigger points do not prevent earlier intervention if appropriate. Any employee, who the school finds to be abusing the school's sickness absence management arrangements, will be subject to disciplinary procedures, which may lead to dismissal.

## 14. Short-term and Long-term Absence Definitions

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

- Occasional short-term absence, or
- Recurrent short-term absence where the causes differ and appear to be unrelated, or
- Recurrent short-term absence with an underlying medical condition, or
- Unacceptable patterns of absence (.g. regular absences either side of weekends or school closure periods)
- For the purposes of this procedure, long-term absence is defined as follows:
- Continuous absence for a period exceeding 10 or more working days, or
- Where the actual and anticipated future health of the employee makes a return to their current role very unlikely, at least in the immediate future, or
- Recurrent long-term absence with an underlying medical cause.
- The school recognises that an employee facing a substantial period of absence from work due to ill health may feel anxious and vulnerable. School 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 and the employee. On occasion it may be appropriate to meet at a neutral venue, or in exceptional cases, to make a home visit (although this should only occur with the express permission of the employee). Employees should also be asked if they would like to receive news, information or briefings available to other colleagues. If an employee requests that there should be no contact at all during sickness, the reason for this should be explored with him/her (or a nominated representative) – the assistance of the HR Caseworker should be sought if necessary.

As with short-term absence, there is a need to follow a consistent procedure. At all stages, the headteacher / manager should advise the employee of their rights.

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

Wherever possible, the employee should inform the school no later than the day before the anticipated date of return.

The school will conduct return-to-work meetings for all absences, irrespective of length. The meeting should take place on the first day of the employee's return to work wherever possible. The aim of the meeting is to:

- Ensure 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 school
- 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).

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.

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.

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

## **16. Formal Stages: Long term or persistent absence procedure leading to the ill health capability review procedure**

Long term absence is identified as: -

- Continuous absence for a period exceeding 20 or more working days, or
- Where the actual and anticipated future health of the employee makes a return to their current role very unlikely, at least in the immediate future, or
- Recurrent long-term absence with an underlying medical cause.

For long term absence, the school will seek to agree a regular pattern of contact, usually weekly, with the absent employee. Headteachers/line managers should keep a record of their contact with the employee.

Once the level of absence has been identified as a concern the Headteacher/line manager should consider taking occupational health advice and meeting with the employee to discuss their absence, advice may also be sought from HR.

The Headteacher should decide whether they or another senior colleague should conduct the meetings at each stage. If the Headteacher is the subject of concern it is normally the Chair of Governors who would be responsible for such a case.

Once the level of absence has reached a point where all foreseeable and reasonable options have been explored, action should be taken as outlined in the ill health capability review procedure. The First and Final Health Review Meetings of this procedure are designed to deal with persistent short-term ill-health cases.

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 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. Redeployment to an alternative role should be given consideration and the advice of the Occupational Health Physician sought.

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

### **16.1 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 Headteacher 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 trade union/professional association representative or work colleague. As necessary, the school's HR Case Worker and a note-taker may also be present at the request of the school.

The Headteacher \*\* 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 Headteacher \*\* 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
- 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 Headteacher \*\* will write to the employee confirming all the details of this meeting, including a response to any specific points raised by the employee / representative, any conclusions reached / attendance targets for the monitoring period / points of disagreement and the date of the next (final) review (see 16.2).

If there is a further, significant deterioration in attendance, the Headteacher 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 Headteacher.

## **16.2 Final Health Review Meeting**

At the end of the agreed monitoring period, the employee's attendance will be reviewed at a final health review meeting, at which the employee will have the right to be accompanied by a trade union/professional association representative or work colleague.

At the Final Health Review Meeting the Headteacher \*\* 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 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 Headteacher \*\* 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
- 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 16.3) which could result in dismissal

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

\*\* or the senior manager leading the case, where it is not being led by the Headteacher

### **16.3 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 may be to the Headteacher, if he/she has not been the decision-maker at earlier stages of the procedure and has delegated authority to consider dismissal, or to a panel of governors on the 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.

The employee will be advised in writing that a possible outcome of the meeting could be that the Headteacher / panel of governors determines that they should be dismissed.

Details of the case and notification of any witnesses to be called will be circulated to all parties at least ten 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 days before the hearing.

At the hearing, the manager presenting the case 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, the Headteacher / panel of governors 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, redeployment and Ill Health Retirement procedures, have been properly explored
- The needs of the school and the best interests of the employee concerned

## **16.4 Possible Outcomes of the Ill Health Capability Review Hearing**

The Headteacher / panel of governors, 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 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. If the decision is dismissal, wherever practicable, the employee will be informed immediately and advised of the right of appeal. The decision of the Headteacher/ panel of governors, the reasons for it and the appeal arrangements will be confirmed in writing to the employee normally within five working days.

Where appropriate, for a community or voluntary controlled school (whose staff are employed by the County Council), a copy of the letter will be sent to the Director for Children and Young People within fourteen calendar days. The Director for Children and Young People will then formally confirm dismissal by letter to the employee.

## **17. Appeals**

All employees have the right to appeal against any formal actions, i.e. warnings or dismissal, taken against them under the school's Sickness Absence Management Policy.

**Warnings:** any appeal arising as a 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 a line manager, the appeal will be to the Headteacher. If the warning was given by the Headteacher, the appeal is to the Chair of Governors. If the Headteacher is the subject of the formal action, the appeal will be to an appropriated constituted panel of governors.

**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 Governing Body's Appeals Committee and must not include any governors who have been previously involved in the case.

At any appeal any sanction or penalty imposed will be reviewed but cannot be increased. The employee has the right to be accompanied by a trade union /professional association representative or work colleague. The Headteacher is likely to present the school's case at the appeal hearing. If the Headteacher is the subject of formal action, the Chair of Governors will assume this role. HR will advise the Headteacher/panel on policy and procedure

All parties will withdraw. The Headteacher or the panel will deliberate, and a representative from HR may be present at these deliberations to advise on legal and procedural matters.

In any case where dismissal is proposed, a HR representative will advise the Headteacher or panel as to the potential risks associated with the Headteacher's or panel's decision.

If the recommendation for dismissal is not upheld, the Appeals Panel may decide to issue a further warning.

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.

There will be no further right of appeal for the employee following the decision of the Appeals' Panel of the Governing Body. 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.

## **18. Medical Redeployment or Retirement**

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

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. The school 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 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 Headteacher, Chair of the committee or manager 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.

## 1. Introduction

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

## 2. Presentation of the Case

The person presenting the case against the employee may make an opening statement outlining the case. The person or 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 person or 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.

## 3. The Employee's Case

The employee or his/her representative may make an opening statement. The person or 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 person or 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.

## 4. Re-examination

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

## **5. 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.

## **6. Adjournment**

Either party 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.

## **7. Consideration of the Case**

All parties will withdraw. The Headteacher or the committee will deliberate. Where relevant, the Director of Children and Young People's Services, 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.

## **8. 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.

## Appendix 2

# Return-to-Work

This form should be completed for all absences of 1 day or more.

### Part 1 – Self Certification

<b>This Section to be completed by the employer:</b>			
Name		Job title	Employee No.
Department		School	School No.
Reported directly by EE (Y/N)	Reported in line with guidelines of policy? (Y/N)	Date of Interview	Interviewed by
<b>This section to be complete by the employee</b>			
Day/Date/Time of first day of absence		...../...../.....	
Day/Date/Time of last day of absence		...../...../.....	
Was GP visited? Y/N			
Give brief details of the reason for the absence (It is not sufficient to state 'unwell' or 'sick').			
If your absence was due to an injury at work, please give details and state whether or not you recorded in the Incident book, and the date it happened.			

I confirm I was absent from work for the period stated above, for the reasons given above. I give consent to the School using the information in the form in connection with normal employment purposes, for example, for the monitoring of absence or to obtain medical opinion or to consider rehabilitation measures.

Signed (e'ee)		Dated	
Printed			
Signed (mgr)		Dated	
Printed			

## Appendix 3

### Part 2 Return- to-Work Meeting

The purpose of the return-to-work meeting is to:

- See how the employee is;
- Establish the cause of absence;
- Where appropriate, discuss what further action is needed; and tell them news they may have missed

Explain to the employee that you will be making notes, but the information will be treated sensitively. Ask open questions!

Questions to Ask (some may not be appropriate)	Record of employees response		
How are you feeling now?			
Are you fully better? If not, what do you need in order to get yourself fully well?			
Did you see your GP? If so, when and what did he say was wrong?			
Are you receiving any treatment?			
How does the condition and/or treatment affect you and your ability, if at all, to carry out normal duties?			
Do you have any follow-up appointments?			
Have you been referred for any investigations or to a specialist?			
Were there any other reasons for the absence?			
Do you or your GP think this is something you may suffer from again?			
Is there anything the School can do to help?			
Why didn't you notify the school of your absence as per the absence policy?			
You are aware of the need to keep in touch with your manager/the school as detailed in the sickness absence policy, why didn't you?			
Do you feel the reason for your absence is connected with work? If so, how?			
Is there anything else you wish to discuss?			
Discuss, if necessary, patterns of absence which may be occurring			
Discuss anything else which may be relevant e.g. allocation of work, any action plan such as a referral to Occupational Health, improvements required. Or, if you have not carried out a meeting, why.			
Signed (Employee)			Dated
Printed			
Signed (Manager)			Dated
Printed			

Please tick when done:

Copy to employee

Copy for personnel records

Log absence on spr