



# **THE MANAGEMENT OF EMPLOYEE ABSENCE AND ILL HEALTH CAPABILITY PROCEDURE (FOR ALL TEACHING AND SUPPORT STAFF)**

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**Schools' Personnel:  
get the chemistry right**

**THE MANAGEMENT OF EMPLOYEE ABSENCE AND  
ILL HEALTH CAPABILITY PROCEDURE**

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# **THE MANAGEMENT OF EMPLOYEE ABSENCE AND ILL HEALTH CAPABILITY PROCEDURE**

## **Policy and Procedure for Use by Maintained Schools, PRUs, Academies and Others**

### **SECTION A: POLICY AND GUIDANCE**

#### **IMPORTANT NOTE RELATING TO TERMINOLOGY USED IN THIS DOCUMENT**

This procedure may be adopted and used by maintained schools, PRUs, Academies and/or other schools. Therefore, where the words **'Headteacher', 'Governing Body', 'Governors', 'school', 'PRU Management Committee' or PRU** are used in this document, this should also be interpreted (and can be adapted) to mean, or read, **'Principal', Chief Executive, Head of School, 'Proprietor', Members, Directors, Board of Trustees, Local Governing Body, Governing Board, 'Academy' or 'Academy Trust'** etc., as relevant to type of school and structure in place.

#### **1. INTRODUCTION**

The Board of Trustees is responsible for ensuring that effective policies and procedures are in place to deal fairly and consistently with individual employees when addressing any matter relating to their employment. This includes absence from work.

An able and committed workforce is essential to the aim of providing the best possible education for the pupils. Good attendance at work is important to maximise efficiency and effectiveness. Keeping absence to a minimum is a key part of any manager's role. High levels of absenteeism not only reduce the total working hours available but also puts additional pressure on other employees whose own attendance, and performance, may then be affected. However, a certain amount of absence due to ill health, as well as other genuine reasons, is inevitable from time to time and it is important that employees are properly supported at these times and do not feel pressured into returning to work sooner than is appropriate. They also need to be clear about the steps they need to take when absent.

Good absence management information and procedures will seek to address these matters by:

- enabling the Headteacher and other managers to monitor and manage absence effectively, fairly and sensitively according to an agreed framework;
- ensuring that both employees and managers alike are clear about absence notification procedures in terms of the steps that need to be taken;
- ensuring that the perception of all employees is that unavoidable absences are dealt with in a fair, reasonable and consistent manner and that they will be supported during times of ill health and on return to work;
- ensuring that, where an employee is unable to discharge his/her duties due to ill health and all reasonable alternatives have been explored, any consideration given to terminating employment will be carried out in a fair and sensitive manner.

In addition, it should also be noted that Governing Bodies of Schools with delegated budgets are required, under the School Staffing Regulations 2009 and any subsequent amendments, to establish procedures for dealing with lack of capability on the part of staff at the school. This requirement also applies to PRU Management Committees who must adhere to relevant sections of the School Staffing Regulations. Academies and other types of Independent school are bound by any requirements set out in the Education (Independent School Standards) Regulations 2014, their Funding Agreements and Articles of Association.

In any event, all employers should have capability procedures in place as the law also requires all employers to act reasonably when dealing with capability issues. Employers are strongly advised to have regard to the ACAS (Advisory, Conciliation and Arbitration Service) Code of Practice on 'Disciplinary and Grievance Procedures' when handling capability matters in the workplace. The Code makes clear that it includes, under the heading of 'Disciplinary', situations relating to both misconduct and poor performance, or lack of capability. The latter may be due to ill health in some circumstances. In those circumstances, the procedure

would need to be suitably adapted. However, ACAS states that, where employers have a separate capability procedure they may prefer to address performance issues under that procedure. It is our view that performance issues – whether due to concerns about a lack of competence or ill health - should rightly be dealt with under separate, more appropriate procedures. Therefore, the school has a separate Capability Procedure for dealing with a lack of competence, or performance, whilst a Procedure for addressing a lack of capability due to ill health is included within this document on Absence Management.

This Trust is committed to ensuring that the Absence Management and Ill Health Capability Procedures contained within this document follow all the principles of natural justice, as highlighted in the ACAS Code and associated guidance, as well as the separate ACAS guidance and advice on managing staff absence.

The ACAS Code of Practice on 'Disciplinary and Grievance Procedures and associated guidance can be located at: <http://www.acas.org.uk/index.aspx?articleid=2174>. Separate ACAS guidance on Managing Staff Absence can be located at: <http://www.acas.org.uk/index.aspx?articleid=4199>

## **2. APPLICATION AND SCOPE**

This policy, guidance and procedure document is intended to apply to all employees, directly appointed by the Trust on established ('permanent') or fixed term/temporary contracts, whether full or part-time.

This document does **NOT** cover:

- **Casual Relief (Supply) Workers** who are engaged to work on an 'as and when required' basis only;
- **Agency Workers.** *(These workers are employees of the Agency and are, therefore, the Agency's responsibility. An Agency worker will follow his/her employer's own absence reporting procedures. Any issues relating to an Agency worker will be reported directly to the Agency);*
- **Employees provided by an external contractor**, including as part of a Private Finance Initiative. *(These employees are expected to follow their own employer's reporting procedures. Absences will be monitored and any issues addressed by the contractor who will work with the school/PRU to try to resolve any issues. Any resulting dismissal will be carried out by the employer).*

**In respect of the absence of the** Chief Executive Officer/Headteacher, the guidance, policy and procedure set out in this document will be managed by the Chair of Trustees/Chair of LGB, with advice from the Schools' Personnel Service (SPS), or HR provider, as applicable.

**In addition, it should be noted that centrally appointed Local Authority (LA) employees** based at the school/PRU are expected to follow the school's reporting procedures, with absences monitored and addressed by school management, while based at their establishment. Where the Trustees ultimately find it necessary to seek to remove an individual from the school, having followed the relevant procedures, it will be for the LA, as employer, to remove or dismiss the employee, as appropriate. The ill health capability procedures that will apply are those applicable to all staff employed centrally by the London Borough of Enfield.

**NB. This document does NOT seek to address absence for reasons other than personal sickness.** Absences for other reasons are addressed through separate policy and procedure documents.

## **3. ROLES AND RESPONSIBILITIES**

### **a) Employees**

Each employee must:

- Have regard to his/her own health and well-being and attend work when able to do so.
- Comply with the school's sickness absence notification procedures.

- Ensure that medical advice and treatment, where appropriate, is received as quickly as possible and cooperate with any support mechanisms suggested, in order to facilitate a return to work and/or normal duties.
- Ensure that appropriate and timely medical statements are provided to cover illness or injury, as required, and as set out in this procedure.
- Keep the Headteacher, designated member of staff (DMS), Line manager (as required by the procedures in place), or CEO and Chair of the LGB in the case of the Headteacher, informed of the situation.
- Attend a 'Return to Work' discussion and/or any follow up review(s) relating to absence, illness and/or injury.
- Inform the Headteacher/DMS/manager if s/he is taking a prescribed course of medication which may potentially affect his/her work performance.
- Co-operate with the Headteacher/DMS/manager, or CEO/Chair of LGB in the case of the Headteacher, to identify and implement ways of improving attendance, where appropriate.

#### **b) The Headteacher**

The overall role and responsibilities of the Headteacher are to manage the attendance of all employees, in particular by:

- Ensuring that the Trust's absence procedures and other special leave arrangements are implemented fairly and consistently.
- Ensuring that all new employees are made aware of the rules and procedures relating to absence and follow these as required.
- Ensuring that all employees know who to contact regarding unavoidable absence and how much information they need to give, ensuring also that they are aware that information provided will be treated in confidence.
- Ensuring that accurate records are maintained and absence returns are completed, both for monitoring and pay purposes.
- Reviewing each employee's sickness and absence record in accordance with the procedures in place.
- Ensuring that, where appropriate and justifiable, quick and decisive action is taken in respect of employees who do not comply with the sickness absence notification procedure or arrangements relating to special leave.
- Ensuring that any actions taken in relation to an employee's absence are fair, reasonable and consistent, free from discrimination and in accordance with the law.
- Using the school's absence records to develop and implement policies and strategies which will seek to reduce health risks to employees.
- Seeking appropriate and practical means to minimise absence levels in the best interests of the education and further development of all pupils.
- Seeking specialist advice, for example, from the Schools' Personnel Service (or other HR provider, as appropriate) the Occupational Health Service (OHS) and/or the Schools' Health and Safety Team (as appropriate) particularly in relation to dealing with an employee whose absence record may be a cause for concern.

*N.B. All or some of the above responsibilities may be delegated by the Headteacher to a DMS or Line Manager who is fully conversant with the relevant policies and procedures and competent in handling absence matters.*

#### **c) The Trustee Board**

The role and responsibilities of the Trustee Board are to ensure that:

- There is a procedure in place for managing employee absence that complies with legal requirements and good employment practice.
- The Headteacher carries out his/her duties in implementing the school's procedure in a fair, reasonable and consistent manner, free from discrimination and in accordance with the law.
- It monitors the absence of the Headteacher and applies the appropriate procedures.
- It seeks advice from the Schools' Personnel Service (or HR provider, as appropriate) where the absence record of the Headteacher may be a cause for concern.

- It seeks to put in place policies, procedures and/or strategies designed to reduce health risks to employees and generally that appropriate measures are sought to minimise absence levels in the best interests of the education and further development of all pupils.

In addition, **the Schools' Personnel Service** (or HR provider, as appropriate) will provide advice on individual cases, including, as appropriate, assisting with Occupational Health Service (OHS) or Fit for Work referrals, so that an employee's medical position can be established and/or a return to work plan put in place, provision of guidance on relevant legislation and work-related health and safety matters, as well as supporting the Trust in dealing with informal and formal capability cases..

**Occupational Health** is the branch of healthcare concerned with the relationship between the health of individuals and their work. **The Occupational Health Service (OHS)** will assist the employer in meeting workplace healthcare legislation, assist managers in the effective control of sickness absence by, as appropriate, undertaking individual health assessments and providing advice to managers, identify cases involving disability, as defined by the Equality Act 2010, and identifying reasonable adjustments to an employee's workplace or duties and determine whether or not ill-health retirement is appropriate.

#### **4. RELEVANT LEGISLATION**

##### **Health and Safety at Work**

**The Health and Safety at Work Act etc. 1974** is the primary piece of legislation covering occupational health and safety in Great Britain. The Health and Safety Executive (HSE), with local authorities (and other enforcing authorities) is responsible for enforcing the Act and a number of other Acts and Statutory Instruments relevant to the working environment. The Act sets out general duties that employers have towards their employees (and for others) and that employees have towards themselves and each other. It places a particular duty on employers "to ensure, so far as is reasonably practicable, the **health, safety** and welfare at **work**" of all their employees.

Among other provisions, the Act also requires:

- safe operation and maintenance of the working environment, plant and systems
- maintenance of safe access and egress to the workplace
- safe use, handling and storage of dangerous substances
- adequate training of staff to ensure health and safety
- adequate welfare provisions for staff at work.

Employers must also keep and revise a written record of health and safety policy and consult with employees or their representatives on such policies.

**The Management of Health and Safety at Work Regulations 1999** place a duty on employers to assess and manage risks to their employees and others arising from work activities.

Employers must also make arrangements to ensure the health and safety of the workplace, including making arrangements for emergencies, adequate information and training for employees, and for health surveillance where appropriate.

Employees must work safely in accordance with their training and instructions given to them. Employees must also notify the employer or the person responsible for health and safety of any serious or immediate danger to health and safety or any shortcoming in health and safety arrangements.

**The Working Time Regulations 1998, as amended**, are also a health and safety initiative, enforceable by the health and safety authorities. The Regulations cover, for example, working time, rest breaks, paid leave and work involving special hazards. Employers are responsible for ensuring that working arrangements comply with the Regulations.

These major pieces of health and safety legislation set out the legal responsibility that employers have towards their employees and others who may be affected by the organisation and its activities. Health and safety is about preventing people from being harmed at work or becoming ill, by taking precautionary measures and providing a satisfactory working environment.

## **Reporting of Injuries, Diseases and Dangerous Occurrences Regulations 2013 (RIDDOR 2013).**

RIDDOR is the law that requires employers, and other people in control of work premises, to report and keep records of:

- work-related accidents which cause death;
- work-related accidents which cause certain serious injuries (reportable injuries);
- diagnosed cases of certain industrial diseases; and
- certain 'dangerous occurrences' (incidents with the potential to cause harm).

There are also special requirements for gas incidents.

Further information relating to RIDDOR can be located at:

<http://www.hse.gov.uk/riddor/>

**Some of the key steps that employers must take** to protect their employees and others include:

- carrying out a risk assessment in order to identify any potential hazards and take reasonable measures to minimise those risks;
- considering how the organisation and its activities (e.g. use of any harmful substances) may affect employees' health and safety as part of the assessment;
- putting in place a health and safety policy for the establishment which sets out key information and procedures relating to how health and safety is managed;
- ensuring that the establishment's health and safety procedures are communicated to employees and that they understand and carry out their own responsibilities, such as following the health and safety rules that have been laid down within the workplace;
- putting in place first aid facilities and appropriate procedures for recording and reporting accidents and incidents;
- consulting employees or their safety representatives on health and safety matters

All employees are entitled to work in environments where risks to their health and safety are properly controlled. **However, individual employees also have responsibilities.** They must:

- take reasonable care for the health and safety of themselves and others;
- familiarise themselves with health and safety policy and procedures in place within the workplace and, in particular, any specific duties and responsibilities assigned to them;
- co-operate with their employer/management to allow them to comply with their duties towards them;
- report all accidents, 'near miss' incidents and work-related ill health conditions to their employer/line manager;
- inform their employer/line manager, without delay, of any dangerous situations or problems with the health and safety arrangements in place;
- never interfere with, or misuse, anything provided for their health, safety and welfare.

It is clear that healthy employees are able to make a greater contribution to the effectiveness and efficiency of the school. As well as meeting the statutory obligations to ensure employee health and safety, the Trustees, the LGBs and senior officers, recognise that they have a broader, general, responsibility to promote a healthier workforce and will seek to do so wherever possible.

## **Other Relevant Legislation - Disability**

**Under the Equality Act 2010, disability is a 'protected characteristic'.** It defines what is classified as a 'disability' and provides a **statutory right for disabled people not to be discriminated against on grounds related to a present or past disability.** This includes in relation to recruitment processes and in employment.

In relation to recruitment, **it is unlawful**, other than in exceptional circumstances, for employers **to ask about a candidate's health before making a conditional job offer.**

The Equality Act places a **duty on employers to make 'reasonable adjustments' for disabled employees** to help them overcome disadvantage resulting from an impairment, such as the provision of specialist aids or equipment.



**The Act provides protection against direct discrimination and also indirect discrimination.** An example of the former is not considering a disabled person for a promotion because s/he is disabled, perhaps assuming that s/he will have greater absence levels and/or not considering reasonable adjustments to the role. Indirect discrimination means, for example, that a job applicant or employee could claim that a particular job requirement the employer has in place disadvantages people with the same disability. Unless this can be objectively justified, it would be unlawful.

**The Act also includes a protection from ‘discrimination arising from disability’.** This means that it is discrimination to treat a disabled person unfavourably due to something connected with his or her disability, for example, a tendency to make spelling mistakes arising from dyslexia. This type of discrimination is unlawful where the employer knows, or could reasonably be expected to know, that the person has a disability. Such discrimination is only justifiable if an employer can show that it is a proportionate means of achieving a legitimate aim.

**Other forms of disability discrimination are also protected under the Equality Act and could be relevant to absence and, therefore, in managing absence.** These include discrimination by association – where someone is directly discriminated against because s/he associates with a person who is disabled, discrimination by perception – where someone is directly discriminated against because others think they have a disability, and harassment - unwanted conduct which has the effect of violating a person’s dignity or creating an intimidating, hostile or some other form of uncomfortable atmosphere for that person. This includes harassment based on association or perception. Absence(s) that may from a form of harassment may be difficult to identify and address as the employee may feel threatened or intimidated and the ‘harasser’ is likely to be careful to cover his/her tracks. Further guidance is provided in the document ‘Dealing with Bullying and Harassment in the Workplace’, available from the schools.

**Employers face a greater legal obligation in the way they manage and accommodate disability-related sickness or absence** than would apply generally when dealing with sickness absence. For example, consideration may need to be given to adjustments to the job in order that an employee may return following a period of sickness absence. It may also be considered to be a ‘reasonable adjustment’ to accept that a person with a disability will need some level of absence from work.

**Similarly, an employer will need to take care not to discriminate against a disabled person in managing performance.** For example, if a disabled employee is dismissed due to performance (which may or may not involve absence issues) and this arose as a consequence of his/her disability, the employer would need to show that the treatment was justified. Where appropriate, reasonable adjustments would have been made in an attempt to assist the employee’s performance.

**Further, more comprehensive advice is contained within the guidance and policy document ‘Dealing with Disability in Recruitment and Employment’** which is available within the school.

### **Other Relevant Legislation - General**

**The Education (Health Standards) (England) Regulations 2003** place a specific requirement on Governing Bodies to ensure that a relevant activity may only be carried out by a person if, having regard to any duty of the employer under the Equality Act, has the health and mental capacity to do so. This includes such responsibilities in respect of potential new employees and those in continuing employment. Relevant activities are defined in the regulations and include both teaching and support roles.

**The Education (Induction Arrangements for School Teachers) (England) Regulations 2012** include a requirement that “where a person serving an induction period is absent from work on 30 or more days, that person’s induction period is to be extended by the aggregate period of that person’s absences.” In other words, if a teacher is absent for a total of 35 days, the induction period is extended by 35 days. (This requirement does not, however, apply in the case of absence on statutory maternity leave. In these circumstances, a NQT may choose whether or not to have induction extended. It is advised that the teacher seeks advice in these circumstances from her Headteacher, Induction Tutor, the Appropriate Body and/or Professional Association).

## **5. SICKNESS SCHEMES – TEACHERS AND SUPPORT STAFF**

Teachers and Support Staff have their own separate schemes relating to sick leave and pay entitlements, as determined by their national Conditions of Service. In the case of normal sickness absence, the arrangements that apply are as set out below.

### **Schoolteachers**

As stated in the Conditions of Service for Schoolteachers in England and Wales (known as the 'Burgundy Book'), provided the appropriate conditions are met, a teacher absent from duty owing to his/her illness (which includes injury or other disability) shall be entitled to receive in any one year sick pay as follows:

During the first year of service:	full pay for 25 working days and, after completing four calendar months' service, half-pay for 50 working days.
During the second year of service:	full pay for 50 working days, and half-pay for 50 working days.
During the third year of service:	full pay for 75 working days, and half-pay for 75 working days.
During the fourth and successive years:	full pay for 100 working days, and half-pay for 100 working days.

N.B. For the purpose of the schoolteachers' sick pay scheme, "service" includes all aggregated teaching service with one or more local Education Authorities.

For the purpose of this scheme, "working days" means teaching and non-teaching days within "directed time", as specified in the School Teachers' Pay and Conditions Document.

### **Support Staff**

Under the National Joint Council for Local Government Services National Agreement on Pay and Conditions of Service, employees are entitled to receive sick pay for the following periods:

During the first year of service	1 month's full pay and, after completing 4 months service, 2 months half-pay.
During the second year of service	2 months full pay and 2 months half-pay.
During the third year of service	4 months full pay and 4 months half-pay.
During the fourth and fifth year of service	5 months full pay and 5 months half-pay.
After five years' service	6 months full pay and 6 months half pay.

N.B. For the purpose of the sick pay scheme applicable to support staff, "service" normally means continuous service with one or more Local Education Authorities.

One month shall be deemed to be equivalent to 26 working days, Saturday being reckoned in all cases as a working day.

### **Statutory Sick Pay (SSP) – All Employees**

Details of the Statutory Sick Pay Scheme can be located on the following link:

<https://www.gov.uk/statutory-sick-pay/overview>

## **All Employees**

### **Late Notification -**

If a member of staff is late in notifying sickness absence and the explanation of late notification is unsatisfactory, payment of Statutory Sick Pay (SSP) and contractual sick pay may be withheld. In this case a member of staff may appeal through the normal national insurance appeal system if related to non-payment of SSP and through the Grievance Procedure if related to non-payment of contractual sick pay.

### **Sickness Absence Attributable to Particular, Exceptional Circumstances –**

In certain situations, the sickness scheme and entitlements set out above may not apply in the normal manner. For example, in circumstances where an employee is absent as a result of:

- an accident, injury or assault at work; or
- contact with an infectious disease

s/he may have entitlements additional to those laid down in the relevant sickness scheme (i.e. the absence may not be reckoned against his/her scheme entitlements).

If an absence is due to the actionable negligence of a third party in respect of which damages are recoverable, the employer may require the employee to refund part or all of the sick pay paid to him/her, as appropriate according to the circumstances.

If the absence of an employee is deemed to be due to his/her own misconduct, or if s/he has failed to observe the conditions of the scheme or has been guilty of conduct prejudicial to his/her recovery, payment of sick pay may be suspended.

Similarly, if dangerous activities or sports are undertaken frequently by employees that result in repeated sickness absence, s/he may not receive Occupational Sick Pay. (However, an eligible employee will be entitled to receive SSP).

Abuse of the sickness scheme by an employee will be dealt with under the disciplinary procedure.

Full details of sick pay schemes are contained within the Conditions of Service documents relevant to each staff group.

## **6. SPECIFIC POLICY, REQUIREMENTS AND CONSIDERATIONS RELATING TO EMPLOYEE ABSENCE**

### **a) Employees who are New or Expectant Mothers**

**A new or expectant mother is a woman who is pregnant, has given birth within the last six months or is breastfeeding.** 'Given birth' is defined in the Management of Health and Safety at Work Regulations as having delivered a living child to, after 24 weeks of pregnancy, a stillborn child.

**Workplace risk assessments** – as required under the above Regulations – should automatically consider any risks to new or expectant mothers, as well as women of childbearing age (such as from working conditions or duties, facilities, noise, unusual stress levels, exposure to violence or the use of physical, chemical or biological agents).

If significant risks are identified for new or expectant mothers, appropriate action will be taken to remove or minimise them. This will include considering adjustments to working conditions or hours or, if that is not possible, offering suitable alternative work (on the same pay and conditions) or, if that is not possible, suspending the employee from work for as long as is necessary to protect her health and safety and that of her child. Where suitable alternative work is refused there is no right to pay.

**Employers are legally required to provide suitable rest facilities for workers who are pregnant or breastfeeding.** Also, although not a legal requirement, employers are encouraged to provide a healthy and safe environment for nursing mothers to express and store milk. This could be provided within the suitable rest facilities. (It is not suitable to use toilets for this purpose). Employers are encouraged to allow reasonable time off for these purposes, although there is no requirement for it to be paid. This will normally be considered at the relevant time, taking into account all the prevailing circumstances.

**Absence on account of illness which is attributable to the pregnancy**, including absence on account of miscarriage, and which occurs outside the period of absence for maternity, will be treated as ordinary absence on sick leave and subject to the conditions normally governing such leave provided it is covered by appropriate medical evidence. However, pregnancy-related sickness absence will be identified separately from other sickness on individual records and not taken into account when making a decision about employment.

**If a woman is signed off sick for a pregnancy-related reason at any time after the beginning of the fourth week before her expected week of childbirth**, her maternity leave will automatically be triggered, regardless of when she had intended to start it.

**A "Fitness for Work" statement may provide recommendations about adaptations to the employee's role as an alternative to stating that she is not fit for work.** Any recommendations will be considered but, if it is not reasonably practicable to put them in place, then the default position is that she is not fit for work and the normal sick leave and pay arrangements would apply. It is recognised that it would be discriminatory to take capability action against an employee where her absence is due to pregnancy.

**Any pregnant employee has the right to reasonable paid time off to attend for ante-natal care.** Such appointments do not count against sick leave entitlement. **Further information and provisions relating to ante natal appointments** are set out in separate documentation on 'Special Leave Provisions'.

**Women who are pregnant, have recently given birth or are breastfeeding have certain additional protections under the Equality Act.** Adverse or less favourable treatment due to factors relating to pregnancy is unlawful.

### **b) Alcohol and Substance Misuse**

**Staff experiencing alcohol or drug-related problems will be encouraged and supported in obtaining help to overcome them.** Alcohol and substance misuse can be a serious risk to an individual's personal safety, that of pupils within his or her care, as well as other employees and persons with whom he or she may come into contact. Such problems can lead to reduced levels of performance, absenteeism and accidents at work. An employee experiencing alcohol or substance misuse, which may affect his/her conduct, work performance or fitness, should seek help at the earliest opportunity. An employee taking a

prescribed course of medication which may potentially affect his/her work performance must inform the Headteacher and/or manager. Confidentiality will be maintained in supporting employees as far as possible in this respect. However, it must be accepted that where this information is shared with a Line Manager or other member of staff, it will be necessary to inform the Headteacher of the situation.

**Wherever possible, any treatment that an employee is undergoing for his/her alcohol or drugs problem should be arranged outside of working hours.** Where this may not always be possible, the situation should be discussed between the employee and the Headteacher/manager to consider the circumstances with a view to agreeing reasonable arrangements. Otherwise, sickness or absence that is due to alcohol or drugs will be recorded and managed in the normal way according to the *school's/PRU's* procedures.

**Whilst an employee with an alcohol or drugs-related health problem will be supported as much as possible, if s/he refuses to seek help,** does not cooperate in following any prescribed treatment or is a risk to him/herself or others, the Trust may decide that it is necessary to take disciplinary or capability action. Where an employee is considered to be unfit to carry out his/her contractual duties in a safe and responsible manner, this will normally involve immediate suspension.

**It should be noted, in particular, that drinking alcohol or misusing substances before or during the school day can impair judgement and performance and is, therefore, unacceptable.** If a member of staff is considered by the Headteacher/manager to be unfit for to undertake his/her duties in a responsible manner, testing in the form of a breathalyser may be carried out. A breathalyser test will be appropriate only in circumstances where it is considered to be 'a proportionate response to meeting a legitimate aim', e.g. where there are reasonable suspicions that a teacher in charge of pupils is under the influence of alcohol. Where such action is considered necessary, the member of staff will be suspended pending further appropriate action.

**Further, more comprehensive advice is contained within the guidance and policy document 'Dealing with Alcohol and Substance Misuse by Employees'** which is available within the school.

The document also includes further information regarding breathalysers and the correct protocol for their use, as well as details of Support Agencies that can offer help in relation to alcohol and substance misuse.

### **c) Mental Illness**

The normal approach to managing sickness absence will usually be applied but due to the nature of certain types of mental illness, Headteachers and managers will be aware of the need to be particularly cautious in relation to the effects of their actions on individual employees. Close liaison with the OHS in dealing with a case of mental illness is considered to be essential.

Severe and long-term mental illness is described as a disability under the Equality Act and any action will be taken accordingly.

### **d) Terminal Illness**

In cases of terminal illness it is recognised that there is a need to deal with employees in a particularly sensitive manner. Consultation will be essential in order to assess the needs and wishes of the employee. Where the employee may wish to explore his or her financial options, specific information, including estimates of ill health pensions, dependants pensions and in-service death grants can be provided on request.

Further information about teachers' pensions is available from the website:  
[www.teacherspensions.co.uk](http://www.teacherspensions.co.uk)

Further information about Local Government pensions can be obtained from the website:  
<https://www.lgpsmember.org/> (or contact the London Borough of Enfield's Pensions Team at Thomas Hardy House, 39 London Road, Enfield. EN2 6DS).

### **e) Medical Suspension**

In exceptional circumstances it may be necessary to suspend an employee, on medical grounds, in order to ensure that s/he does not stay at work, or resume work, if there is a risk to him or herself, to other staff or to pupils.

Suspension of this nature will normally only be used as a last resort where the employee concerned is unable, or unwilling, to see his/her own GP and will automatically be followed by referral to the OHS. However, each case will be judged according to its own individual circumstances.

Any medical suspension will be confirmed in writing, will be made on full contractual pay and will not count against sick leave entitlement

Where suspension may be necessary or is being considered by the Trust, advice will be sought from the Schools' Personnel Service (or HR provider, as appropriate).

#### **f) Ill Health Retirement**

In cases of chronic ill health, retirement on these grounds may be considered after all other alternatives have been explored and exhausted.

Referrals for consideration for ill health retirement will be made in accordance with the current Teachers' Pension Scheme or Local Government Pension Scheme provisions, as relevant and appropriate.

#### **g) Sickness During Holidays and Holidays During Sickness Absence**

**Sickness During Holidays** – The purpose of annual leave is to allow employees and workers to rest. Similarly, the purpose of entitlement to sick leave is to allow them to recover from illness where this may on occasion be required. The two events cannot happen at the same time.

An employee who falls sick during a period of annual leave will normally be allowed to reclaim at least the statutory annual leave laid down in the Working Time Regulations (28 days, or 5.6 weeks for full timers) and be allowed to take it at another time, even if circumstances mean that this needs to be in a new leave year. (Where the leave policy states that there can be 'no carry over', or states that only a fixed number of days can be carried over, this situation will be a permitted exception).

The intention is to cover both longer term sickness absences and situations where an employee or worker is prevented from taking pre-booked holiday due to illness. In these circumstances, where an employee is sick during what should have been a period of leave, s/he will be asked to self-certify and/or provide written confirmation to cover the first 7 days of the illness. If the illness extends beyond the 7<sup>th</sup> calendar day, the employee will be required to provide a medical statement, or other medical evidence, in the usual way.

**Holidays During Sickness Absence** - Employees on long-term sick leave may request, and be permitted, to take annual leave during this time. Most employees are only likely to make such a request during the unpaid part of sick leave, effectively 'swapping' sick leave for annual leave. Where an employee takes annual leave during sick leave the statutory sick pay (SSP) can be offset against holiday pay during that time. It will be made clear to the employee how his/her pay is made up. Records will need to show that the employee had moved from sick leave to annual leave and then back to sick leave again.

The existence of a medical statement and the fact that the employee is still unwell during the annual leave does not prevent it from being taken and recorded. The employee will not be undertaking any work during this time so 'evidence' that s/he is fit for work will not be needed. Note that moving between sick leave and annual leave will not 'break' the sickness, i.e. the period of sick leave will be continuous if it relates to the same sickness or injury as prior to the period of annual leave. So, taking annual leave during a period of sick leave will not trigger a new entitlement to sick pay.

The question often arises about whether employees can go away on holiday while off sick. This may be acceptable depending upon where they want to go and the reasons for their absence. As long as an employee continues to meet the conditions for eligibility and qualification for SSP or occupational sick pay (OSP) s/he will continue to be paid. However, the Trust reserves the right to withhold SSP or OSP if it is discovered that the employee is undertaking activities that should not be possible in the context of the sickness absence, for example, going on an activity holiday while absent from work with a bad back.

In other circumstances, it is recognised that an employee may benefit from a holiday while off sick, for example, an employee who has a mental illness such as depression. (Depending on the situation, this could be deemed to be a 'reasonable adjustment' for a disability under the Equality Act). Another example may be an employee whose country of origin is other than the UK who wishes to visit family abroad during a period of sick leave. In such circumstances, employees will normally be permitted to travel but if they do something inconsistent with their stated reasons for sickness absence, or something that worsens the illness or prolongs the absence, the Trust reserves the right to stop SSP or OSP and/or initiate disciplinary action.

**In practice, the above will apply in the case of support staff. The position relating to teachers is somewhat different** although the principles are the same, i.e. they still have the same entitlement to 28 days' annual leave under the Working Time Regulations. However, teachers' pay and leave arrangements are expressed differently from other employees. Teachers do not have a contractual entitlement to paid annual leave nor a specified annual leave year. Their entitlement to annual leave is not an additional entitlement over and above the school closure arrangements. Therefore, the entitlement to statutory annual leave is offset by periods of school closure whether they occur before or after any period of sickness. Where there is insufficient school closure time to allow the statutory annual leave to be taken, the teacher carries forward the leave to be taken within further school closures. When a teacher commences sick leave, the amount of 'leave' a teacher has had in the current leave year will be established by the amount of school closure periods that have already occurred during the leave year. If this exceeds the entitlement to statutory annual leave there is no further entitlement to leave.

#### **h) Sickness During Working Hours**

If an employee becomes sick and leaves work before completing half of his/her scheduled hours for the day, s/he will be recorded as being sick for the day. If s/he works more than half the scheduled hours for the day, but less than the full day, s/he will be recorded as being sick for half a day.

Employers have a duty of care towards their staff and their general well-being. Staff will be encouraged and supported in attending for both necessary and other routine checks.

The arrangements in place for full-timers will be applied on a pro-rata basis to part-timers.

#### **i) Employees Reducing to Half or Nil Pay**

The London Borough of Enfield's Payroll Team will notify the Headteacher, normally via email, where an employee absent on sick leave may potentially be reducing to half or nil pay. In addition to confirming the employee's pay position, the Payroll Team will ask for confirmation where the employee may now have returned to work. (Where the Trust uses an alternative payroll provider, similar arrangements will be made).

The Headteacher will be in contact with the employee on sick leave and, in possession of all the relevant details, it will be for him/her to decide on the best method of communicating this information.

**A model letter for the Headteacher/DMS/Line Manager to issue to the employee is included in the model letters section of this document at Appendix 6A. This will be adapted, as appropriate, to suit the individual circumstances.**

#### **j) Medical and Dental Appointments**

**Ad-hoc medical and/or dental appointments should be made in an employee's own time, wherever possible.** However, it is recognised that this can sometimes be difficult.

**Where it is not possible, or reasonable, for an employee to make a particular appointment in his or her own time,** then it will normally be classed as special leave with full pay and not treated as sickness absence or recorded as such (unless it is part of a current sickness absence). Where an employee has an appointment that is part of an immediate or current absence, or where it is for treatment as opposed to consultation, this will be classed as sickness absence in the same way as the time spent by an employee in hospital. This situation could arise, for example, where an employee attends an appointment(s) for treatment as a result of a particular illness or injury, or where s/he calls in sick and intends to consult a

Doctor about his/her illness or injury etc. Similarly, if an individual is trying to obtain an emergency dental appointment and does not come into work then this is sickness absence.

Employees should refer to **further information and provisions relating to medical and dental appointments** which are set out in separate documentation on '**Special Leave Provisions**'.

(**Note** - The requirements relating to medical and dental appointments **do not apply to ante-natal appointments**. See below).

#### **k) Ante Natal Appointments**

**Pregnant employees are entitled to reasonable time off with pay** for ante natal care made on the advice of a registered medical practitioner.

**Fathers, partners and civil partners of a pregnant woman are entitled to unpaid time off** during working hours to accompany her to 2 ante natal appointments. **Those who will become parents through surrogacy arrangements** also have a similar right to unpaid time off to accompany the birth mother to two ante natal appointments.

**There are also certain rights that apply to adopters. The main adopter** will be able to take paid time off for up to 5 adoption appointments. **The secondary adopter** will be entitled to take unpaid time off for up to 2 appointments

Employees should refer to **further information and provisions relating to ante natal appointments** which are set out in separate documentation on '**Special Leave Provisions**'.

#### **l) Time Off for IVF Treatment**

**There are no specific recommendations for dealing with requests for Time off to undergo IVF Treatment.** Therefore, there are a number of possible alternatives for responding to requests for time off for this purpose.

Employees should refer to **further information and provisions relating to time off for IVF treatment** which are set out in separate documentation on '**Special Leave Provisions**'.

**If the treatment causes pain, sickness or illness** then any resulting absence will be treated as sick leave in the normal way.

#### **m) Time Off for Elective Procedures (other than IVF)**

**Sick leave cannot normally be taken for elective procedures such as cosmetic surgery.** Wherever possible, employees should try and arrange for the surgery to coincide with a period of school closure. Where this is not possible, annual leave (in the case of support staff on relevant contracts), unpaid leave or flexible working arrangements will be considered by the Headteacher, at his/her discretion according to all the prevailing circumstances.

**Should the consequences of an elective procedure mean that the employee needs time off to recover,** then this will be treated as sickness absence in the normal way, provided that the Trust's absence reporting and certification procedures are followed.

**In the case of treatment or a procedure to correct, or prevent sickness absence arising, from a diagnosed medical condition,** treatment will not normally be regarded as sickness absence and authorised paid absence will be granted. Following the treatment or procedure, any necessary time off will be regarded as sick leave, with the requirement that the usual absence reporting and certification procedures are followed.

See also separate documentation on '**Special Leave Provisions**'.

#### **n) Statements of Fitness for Work**



In 2010, the 'Statement of Fitness for Work' (also known as a 'Fit Note') replaced the old medical certificate, or 'sick note'.

**The use of the 'fit note' is based on key principles** established by research and supported by healthcare professionals:

- Appropriate work is usually good for an individual's physical and mental health
- This is also the case for someone with a health condition – work can support recovery and help maintain well-being
- In most cases, people do not need to be 100% fit to return to work. This may not mean doing their normal job.
- People with health conditions may have limits on what they can do at work, but these will not always mean they cannot do any work.

**A Doctor cannot issue a fit note during the first seven calendar days' of sickness absence.**

Therefore, employees must follow the school's own procedures for absences up to this period of time. If, for any reason, the school requires medical evidence for the first seven calendar days' of absence they will expect to pay any fee required as part of a private arrangement.

**The 'Fit Note' tells the employer if an employee is either not fit for work or that s/he may be fit for work taking into account certain advice.** If an employee's Doctor considers him/her to be fit for work, s/he will not be issued with a fit note. Individuals do not need to be signed back to work and there is no option on the fit note to do so. An employee can return to work at any time, even if this is before his/her fit note expires. S/he does not need to go back to the Doctor first. If the school requires medical evidence that an employee is fit for work, arrangements will normally be made privately with a GP or OHS.

**Employers Liability Compulsory Insurance** does not prevent employees who 'may be fit for work' from returning to work. In these circumstances, the school will ensure that account is taken of any advice in the fit note, perform any necessary safety procedures and consider whether a risk assessment is necessary. Where there is any uncertainty, the insurer will be contacted for advice and/or clarification.

**If an employee's fit note says that s/he may be fit for work,** the situation, including any advice given on the note, will be discussed with him/her about changes or support that could be put in place to aid a return to work, or continuation in work. The discussion will be based on practical ways that may support the employee rather than on his/her health condition.

**Any changes that may be agreed will be put in writing** so that all parties are clear. Usually, the changes will last at least until the fit note expires – although this will depend on the advice in the fit note and the discussions with the employee. If changes cannot be accommodated, the fit note will be treated as if it says that the employee is not fit for work. A new fit note is not required to confirm this. The fit note is classed as advice and it is for the employer to determine whether or not to accept it.

If it is believed that an employee is not fit for work when s/he has been assessed as fit for work by a Doctor, or if it is considered that an employee can do some work when assessed as 'not fit for work', other evidence about the employee's fitness for work may be sought from other Doctors or professionals such as the OHS.

Note: A 'Fit Note' belongs to the employee concerned and s/he should retain the original. A copy of the original will be taken by the school for its own records.

Further information about Statements of Fitness to Work can be located at:

<https://www.gov.uk/government/publications/fit-note-guidance-for-employers-and-line-managers>

[https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/464395/fit-note-patients-employees-guidance-sept-2015.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/464395/fit-note-patients-employees-guidance-sept-2015.pdf)

#### **p) Referral of an Employee to the Occupational Health Service (OHS)**

One of the functions of the OHS is to assist managers in dealing with work related health issues, including the management of cases of absence. On occasion it may be appropriate for a *Headteacher* or other

manager to refer an employee to the OHS. The reasons for this could, for example, include circumstances where:

- An employee has been on long term absence, or has had frequent short term absences and the Headteacher, DMS or manager, as appropriate, needs occupational medical advice in order to assess how best to manage the situation.
- The employee's capability to perform the duties of the post, even though the employee may still be at work, is or may be affected by illness or injury.
- Further guidance may be required in relation to interpreting advice given by a Doctor on an employee's 'Statement of Fitness for Work'.
- An employee is absent as a result of a reportable industrial injury or disease.
- There is concern that an employee's state of health may put themselves or others at risk (especially if the employee is still at work).
- The nature of an employee's job or particular illness means that it is appropriate to seek medical advice in an occupational context before s/he is deemed fit to return to work and particular duties, even if already cleared by a GP.
- An employee applies for retirement on the grounds of ill health.

In circumstances where a Headteacher, or other manager, may decide it is appropriate to refer an employee to the OHS:

- The employee will first be advised of the need for referral and the reasons for it.
- The referral will be made by the Headteacher/DMS/Line manager, as appropriate, providing details of the employee and his/her job. As a minimum, this should include Job Description, risk assessment and sickness record history. In the absence of such information, the OHS will have to rely on any details provided by the employee during the consultation.
- The employee will be asked to sign a consent form for medical assessment by the OHS.
- It may on occasion be deemed necessary for the OHS to obtain a report from the employee's GP or hospital. Under the terms of the Access to Medical Reports Act 1988 the employee has the right to see the report before it is sent to the OHS. S/he must arrange to do this within 21 days of the OHS writing to the Doctor.
- The employee can withhold consent for a medical report to be given to the OHS.
- The employee may ask the GP (in writing) to amend any part of the report if s/he feels it is wrong or misleading. If the Doctor refuses to do this s/he must attach a statement of the employee's objection.
- The OHS will make an assessment based on:
  - information provided by the *Headteacher/DMS/Manager*;
  - medical history provided by the employee;
  - medical examination of the employee/medical report, as appropriate;
  - nature of the work undertaken by the employee.
- A report from the employee's consultation with the OHS will advise the Headteacher/Manager on the outcome and the advice will, therefore, serve as a guide on how to proceed with managing the absence.
- The OHS will observe full medical confidentiality and no clinical or personal details about the employee will be imparted to management.
- The employee can also request to see the OHS report to management.

Note also:

1. The service provided by OHS is purely advisory. It is for the Headteacher/manager to decide on how to proceed based on advice given – this is not the responsibility of the OHS.
2. An employee may refuse to co-operate with any attempt to obtain information and advice regarding his/her health but, in these circumstances, it may be necessary to reach a decision regarding future employment according to the information available at the time.

#### **q) Absence Monitoring by the Trust**

**Absence will be monitored and measured because:**

- Information collected will confirm if there is a problem with absence levels.
- Monitoring will identify the type of absence problems that may exist.

- It will highlight patterns – for example, whether absence levels are higher at particular times or higher amongst different groups of employees.
- Identification of trends in absences means that appropriate action can be taken to address specific issues and/or underlying causes.
- It assists with the prompt detection of problems, enabling individual employees to be properly supported by management and others from an early stage.
- Measuring absence levels can help identify why employees are absent and what can be done to ensure that they are more likely to attend work in the future.
- It helps in developing comparative data which will show how effectively absence is being managed and whether or not absence levels are reducing.

For these reasons, all absences will be recorded by the Headteacher, or by a designated member of staff who will keep the Headteacher informed.

Statistical information will be provided to the LGB and Trustee Board on a regular basis (e.g. annually) in respect of both teaching and support staff. Figures relating to teaching and support staff will normally be collected separately. An example form that may be used for monitoring purposes, '**Sickness Absence Monitoring Report**' is attached at **Appendix 1A** to this document. **A completed example of the form is also attached, at Appendix 1B.** The form sets out details of the type of figures and information that may be collected. The Trust will use either this format, or adopt a similar, alternative method for collecting data on absence levels, where this is considered more practical or appropriate. Methods of collecting absence figures and reporting on absence levels will be kept under review.

Comparative data on absences over time is needed in order to find out if there are particular patterns of absence, whether or not absence levels are reducing etc. At the same time, staff absence needs to be managed effectively, in a fair and proper manner, if it is to be reduced. It is generally recognised that a significant proportion of sickness absence can be reduced through effective management.

#### **r) Steps to Reduce Absence Levels**

Employees are an employer's most valuable asset. A healthy workforce is likely to lead to improved job performance, greater effectiveness, efficiency and creativity. Employers who recognise that taking care of the health, safety and well-being of their employees can expect to benefit from reduced absence levels and turnover, as well as a higher morale.

Employers have a crucial role to play in promoting the health and well-being of their employees. Even for those who do have health problems, there are often low-cost actions that may help them to stay in, or return to, work. It is recognised that there is a need to take positive action to ensure the well-being of employees in order to keep absence levels to a minimum. Such action will include the following.

**Health, Safety and Well-Being** - The Trustees, LGBs and officers, are aware of their statutory obligations in relation to **health and safety** and will endeavour to ensure that they act in accordance with the law and keep abreast of relevant new developments and changes in this area. However, individual employees also have personal responsibilities for health and safety matters and should ensure they familiarise themselves with these areas of responsibility and take any necessary action accordingly. All employees should raise any health and safety matters that are drawn to their attention with their Line Manager or Headteacher as soon as possible. In general, all employees and workers are required to take due care for their own safety and the safety of their fellow employees and others at all times.

For many, the connection between health, safety and work is about concerns relating to physical hazards and conditions. Whilst the Trustees are committed to meeting their obligations in providing a safe working environment, as well as expecting employees to adhere to relevant procedures and act responsibly in this respect, the importance of **physical and mental well-being** and a reasonable work-life balance is also recognised. Similarly to health and safety, health and well-being at work belongs to both employers and employees. The Trustees will endeavour to keep under review employment policies and practices known to positively encourage a healthy and productive workplace. These may include communications, flexible working arrangements, ensuring equality of opportunity and dealing with absence. Negative behaviour can be damaging to the well-being of others and policies to address this will also be kept under review. These include, for example, procedures for responding to bullying, disciplinary matters and grievances.

The Trustees are mindful of the fact that stress, including work-related stress, can be a significant cause of illness and is generally known to be linked with high levels of sickness absence, staff turnover and other issues such as a dip in performance levels and strained working relationships. The causes of work-related stress may relate to a variety of issues including, for example, demands, working conditions, working relationships, communications and/or organisational change. It is important for the employer to find out about any issues in the workplace in order that consideration can be given to them and any appropriate action. In these circumstances, it may from time to time be decided to survey employees. Guidance and tools for this purpose are available on the Health and Safety Executive (HSE) website, including an employee questionnaire. At the time of writing, this is located at the link below and may be used, or adapted for use, by *the Trust*.

<http://www.hse.gov.uk/stress/standards/pdfs/indicatortool.pdf>

**Recruitment and Selection** – Taking the right steps during the recruitment process can help to prevent or reduce absence later on. Particular care will be taken in relation to health or disability-related enquiries at this stage. The Equality Act 2010 prevents employers from asking health-related questions before an individual has been made a conditional job offer, other than in specific circumstances. Health-related questions may only be asked prior to this to:

- decide whether there is a need to make reasonable adjustments to enable an applicant to take part in the recruitment process;
- monitor the diversity of applicants;
- take positive action to assist disabled people;
- decide whether an applicant can carry out a function that is essential ('intrinsic') to the job, for example, where a job includes a significant amount of manual handling;
- establish that a person has a disability where this is an occupational requirement.

In view of the above, applicants will be provided with full information on the assessment process to be used and asked if, for reasons concerned with health or disability, they require any adjustments to be made. Other questions will be asked only if relevant in terms of any of the above factors.

Medical information received after a conditional job offer is made will be used to assess whether the individual is likely to be able to carry out relevant functions that are intrinsic to the job, as well as to consider whether it is possible to make any reasonable adjustments to accommodate a disability or health-related limitation. Individuals will not be discriminated against as a result of receipt of this medical information.

It is recognised that the safeguards and restrictions on health-related questions highlighted above are measures that are designed to ensure that individuals do not suffer discrimination during or after recruitment. The intention is that, by adhering to these requirements and taking the appropriate action, including those relating to reasonable adjustments, applicants for jobs and newly-appointed employees will feel supported throughout the recruitment process and on commencing employment. It is hoped that taking the right steps at the right time will encourage good attendance at work post-recruitment.

**Induction** – The importance of a comprehensive Induction cannot be over-emphasised in terms of ensuring that new employees are able to settle in and feel confident going forward. Care will be taken to ensure that all new employees, including those in new roles, are aware of and understand over-arching school policies, procedures and practices and are clear about their responsibilities in following them at all times. At the same time, induction will also be personalised to the specific role to ensure that individual employees are provided with adequate tools to carry out their duties and fulfil their responsibilities.

A robust and well planned induction for all may assist in reducing absence levels and turnover in the longer term.

**Records** – Care will be taken at all times to ensure that details of employee absences are properly recorded according to the systems in place and that these records are kept up-to-date and maintained. This is important for purposes of sick pay entitlements, cover, reporting to the Trustees and LGBs, and for identifying particular problem areas or patterns so that early intervention may take place in order to resolve any issues for the benefit of both parties. Records will also be used for producing absence statistics so that these are monitored over time, with a view to reviewing procedures, as considered appropriate.

**Supporting Sick Employees** – The Trustees, LGBs and the Headteacher recognise the benefits for both parties in providing appropriate support to enable an employee who is or has been ill to remain in, or return

to, work. This may involve consideration of amended duties or hours for a period of time and having due regard to advice provided on a statement of fitness to work, or by the OHS.

**Flexible Working Arrangements** - Due consideration will be given to any requests for flexible working arrangements, taking into account the relevant legislation, and accommodate such requests if possible in terms of the needs and organisation of the school/Trust and its pupils.

**Communication** – All employees will be made aware of any documentation on absence procedures, for example, as contained within this document covering sickness absence and relevant others on special leave arrangements and provisions. The use of areas of discretion, as well as arrangements for access to OHS or other facilities, will be made clear to all employees by making available any relevant materials, through bulletins, discussion at meetings etc., as appropriate. This information will also be included as part of the induction of new employees. It is hoped that all employees are healthy, well and feel supported. They are encouraged to talk to their manager or the Headteacher about any work, health or other issues that may be of concern in order that appropriate support and/or advice may be offered. Managers are expected to be proactive about looking into absences and taking action to assist employees and aid their return to work and/or full duties wherever possible.

## **7. CONSIDERATION OF A CAPABILITY CASE**

In circumstances where it becomes necessary to initiate capability proceedings in relation ill health, the following arrangements for consideration of the case will apply.

### **(a) Delegation of Authority**

Regulations allow the Trustees to delegate many of its functions relating to staff employment to:

- the Headteacher;
- one or more members of the LGB); or
- one or more members of the LGB and the Headteacher.

With the exception of decisions relating to the Headteacher, this includes capability decisions up to and including dismissal. The Trustees may delegate any such decisions relating to the Headteacher to one or more members of the LGB nominated by the Chair.

In terms of the Ill Health Capability Procedure:

- **For decisions relating to all staff except the Headteacher - the Trustees will normally delegate functions relating to all capability and dismissal decisions to the Headteacher**, unless there are particular circumstances where it considers that this would be inappropriate. Where the latter is the case, functions relating to capability and dismissal decisions will be delegated to the chair of the LGB.
- **The Trustees will also consider and agree at the relevant time, whether the delegation of functions should continue in the event of an Acting Headteacher** being in place or if a Deputy Headteacher is asked to undertake the duties of the Headteacher in the event of his/her long term absence.
- **Subsequent appeals will be delegated to one or more Trustees/LGB members, not involved in the original determination** in order to provide a greater degree of impartiality. However, the intention is that appeals will normally be heard by a Panel of **three made up of Trustees and LGB members unless** there are not enough members who have not been involved in any previous action or decision connected with the capability/dismissal, or there is otherwise a conflict of interest.
- **For such decisions relating to the Headteacher - functions relating to capability action and dismissal will be delegated to a Panel of one or more Trustees and the Chair of the LGB.** (At this stage, when determining numbers, the Trustees will need to ensure that there will be a sufficient number of different Trustees to hear an appeal, if required. See below in relation to Appeal Panel numbers).

- Any subsequent **appeal will be delegated to a Panel of one or more Trustees not involved in the original determination** in order to provide a greater degree of impartiality. The intention is that an appeal will normally be heard by a Panel of **three Trustees unless** there are not enough Trustees who have not been involved in any previous action or decision connected with the capability/dismissal, or there is otherwise a conflict of interest. In any event, the Appeal Panel will consist of no fewer members than the first Panel.

Where functions have been delegated, the person, or persons, to whom they have been delegated cannot delegate them to another person or persons.

The delegation of functions will be agreed by the whole Board of Trustees and reviewed at least annually, taking into account the factors set out in the School Staffing Regulations and associated guidance.

The Trustee Board and the LGB will fully document all decisions made.

#### **(b) Maintained Schools/PRUs that have had their delegated budget suspended**

While staff capability and dismissal decisions are normally a matter for the *school/PRU*, the Local Authority will be responsible for determining these arrangements where the delegated budget has been suspended.

Where the Local Authority is responsible for taking direct action for such matters in respect of Community schools, including PRUs, this will be carried out in accordance with the relevant Council Policies and Procedures applicable to centrally-employed staff, as appropriate. In respect of Foundation and Voluntary Aided Schools, the Local Authority may issue the Governing Body (or others controlling the use of the premises, as relevant) with directions.

These arrangements will be applied as required by Part 1 of Schedule 2 of the Education Act 2002 and associated guidance, and any subsequent amendments.

#### **(c) Maintained Schools/PRUs that have an Interim Executive Board (IEB) in Place**

In circumstances where an IEB takes on the responsibilities of the *Governing Body/PRU Management Committee*, any reference to the *Governing Body* or *PRU Management Committee* in this document should be interpreted as meaning the IEB.

#### **(d) Collaboration Arrangements and Federations**

**School Federation arrangements** allow two or more schools to federate under one Governing Body, subject to the procedures set out in the relevant Regulations.

**School Collaboration arrangements** enable the Governing Bodies of two or more maintained schools to work together in relation to staffing functions. Each school within a collaborative arrangement will retain its own Governing Body and will have joint committees. Collaborating Governing Bodies may delegate functions to a Headteacher or a joint committee in the same way that they may delegate them to the Headteacher or a committee of a single Governing Body. (Similarly, one or more Governing Bodies may make collaboration arrangements with one or more Further Education Bodies).

The framework for the above arrangements are set out in specific legislation relating to School Governance (Federations, Collaborations, Constitution and Procedures, as relevant) as well as within Education and Inspections, Standards and Framework Acts and School Staffing Regulations. These apply to Federation and Collaboration arrangements, as appropriate.

Any references in this document to schools, Headteachers, Governing Bodies and Governing Body Panels shall, normally, also be taken to include:

- Schools, Headteachers, Governing Bodies and Panels working together under **Collaboration** arrangements (as well as Principals, Further Education Bodies and Committees, where relevant); and
- Those staff and others attached to, or associated with, schools which are part of a statutory **Federation** under the Federation Regulations and should be interpreted accordingly.



The above arrangements will also apply in the case of PRUs and PRU Management Committees, as well as Academies and Proprietors, Governing Bodies and/or Academy Trusts, as relevant and if applicable at any time.

## **8. GENERAL PRINCIPLES RELATING TO THE ILL HEALTH CAPABILITY PROCEDURE AND CAPABILITY MEETINGS, INCLUDING APPEALS**

### **(a) Definition of Working Days**

In the context of this procedure, 'working days' will be regarded as school working days (determined according to the particular terms and conditions of employment of the staff concerned).

### **(b) Confidentiality**

All proceedings covered by this document will be treated with the strictest confidence. Confidentiality will be observed fully by all parties involved, prior to, during and subsequent to any formal meetings. Records relating to capability matters will be safeguarded carefully.

### **(c) Employee Representation**

As soon as it becomes evident that formal capability action is being considered, the employee will be informed of his/her right to be represented at any interviews and at any subsequent capability meetings.

Any employee subject to capability action will be informed, at each stage during the formal capability procedure, that they have the right to be represented and/or accompanied by:

- a local area or regional official of a Trade Union/Professional Association;
- a workplace Trade Union/Professional Association Representative, as long as s/he has been reasonably certified in writing by their union as having experience of, or having received training in, acting as an employee's companion at capability meetings. Certification may take the form of a card or letter; or
- a work colleague.

In the event of an official of a recognised Professional Association or Trade Union being the subject of capability proceedings, the relevant Local Authority Director or his/her representative will be advised of the position, in order that the full-time official can be notified in writing of the investigation as soon as reasonably practicable.

In relation to the employee's chosen companion, the following points should be noted:

**The companion will be allowed to** address any meeting that takes place in order to -

- Put the employee's case
- Respond on the employee's behalf to any view expressed at any meetings
- Sum up the employee's case.

The companion may also confer with the employee during meetings.

**The companion may not** -

- Answer questions on the employee's behalf
- Address any meeting that takes place if the employee does not wish it
- Prevent the employer from explaining their case.

### **(d) Where an Employee Raises a Grievance during the Capability Process**

On occasion, an employee may raise a grievance during a capability process. In these circumstances, it may be decided to temporarily suspend the capability process to deal with the grievance. Alternatively, where the grievance is related to the capability matter or process, it could be decided that it is more appropriate for the employee to present the grievance as part of his/her case at a capability meeting or appeal. An impartial person, normally a LGB member who has not been involved in and has no personal interest in the matter, will decide upon the appropriate course of action to follow in this situation.

### **(e) Headteacher's Attendance at LGB meeting**

In circumstances where s/he is not hearing the case under delegated authority, the Headteacher of a school may, of right, be present at any capability to give advice to the LGB but, in the interests of natural justice, may be requested by the members of the panel to withdraw at any time during the proceedings.

Where the possibility of dismissal or removal of any employee from a school arises, the attendance of the Headteacher, for the purpose of giving advice, is a statutory right under the terms of the School Staffing (England) Regulations 2009 and any subsequent amendments.

The above provisions will not apply where the Headteacher is formally presenting the case against the employee, or is a witness, or where the Headteacher is the subject of the capability action.

**(f) Local Authority Representation at Meetings**

Where the possibility of dismissal or removal of any teacher from a Community school arises, the LA's representative will be entitled to attend for the purpose of giving advice. The Chairperson or Panel, as appropriate, are required to consider any advice given before reaching any such determination. This is a requirement under the terms of the School Staffing (England) Regulations 2009 and any subsequent amendments. This entitlement does not exist in relation to Voluntary Aided or Foundation schools but it may do so where an agreement is put in place between the parties.

**(g) Attendance of Others at meetings**

The Chairperson or Panel, as appropriate, may also have present a Human Resources (HR) and/or legal adviser for the purpose of advising on procedure and law.

**(h) Note Taking at Meetings**

The Chairperson or Panel presiding over any meetings that are part of this procedure will normally have a clerk (notetaker) for their own purposes only. Others present at any such meetings may take their own notes. However, they may not record a meeting, or any part of it, unless this is with the agreement of the person chairing the meeting and with the knowledge of all participants, including witnesses.

**(i) Variations to the Procedure**

All matters relating to the procedure or evidence to be received at a meeting will be at the discretion of the Chair of the Capability or Capability Appeal Panel (as appropriate). This procedure will only be varied with the agreement of both parties, where the Chair of the Panel considers it fair and reasonable to do so.

**(j) Where an Employee Fails to Attend a Capability Meeting or Capability Appeal Meeting**

If an employee fails to attend a capability meeting, the Chair will decide whether to proceed in the employee's absence or whether to reconvene the hearing at some other time. Before such a decision is taken, and where no prior notification of non-attendance has been received from the employee, all reasonable attempts will be made to contact the employee or to consider any reasons presented by him/her for not attending, in order to ascertain and take account of the reason for his/her absence. Where an employee is unable to attend through sickness, medical evidence to that effect will be required to enable a postponement to be considered. The Chair may seek HR advice before reaching a decision to proceed or otherwise.

**(k) Adjournment**

The Chair may adjourn the meeting at any stage, for any reason, and both parties will be given reasonable notice of the reconvened meeting and of the nature of any new evidence to be dealt with at that time. Either party may request an adjournment. They must provide the Chair with reasons for their request in order for the Chair to consider this and to decide if an adjournment is reasonable. The decision of the Chair in this matter will be final. Where necessary, the period of adjournment will be reviewed by the Chair after 2 weeks.



## (I) Termination of Employment By Notice

Any notice to be given to an employee under this procedure will be deemed properly delivered to, and received by, the employee if:

- It is handed to the employee; or
- It is hand-delivered to the employee's last known residence as notified by the employee; or
- It is posted first class in an envelope addressed to the employee at the employee's last known address, in which case it will be regarded as having been received in the ordinary course of post.

The employee's notice period will begin from the date that the notice is deemed to have been properly delivered and received in accordance with the above.

The employee may also be asked to provide a personal email address. Where this is the case, the notice may be emailed to him or her IN ADDITION to any of the above.

### **Teaching Staff**

The Conditions of Service for School Teachers in England and Wales (known as the 'Burgundy Book') is a national agreement applicable to school teachers employed within maintained schools in England and Wales. (The Burgundy Book will also apply to those teachers in non-maintained schools where they have chosen to incorporate the agreement into their teachers' contracts of employment). Amongst its provisions, the Burgundy Book contains details of notice periods applicable to teachers.

The minimum period of notice to which **AN ESTABLISHED\*\* TEACHER** will be entitled (unless the contract is terminated by summary dismissal should gross misconduct or gross negligence occur), is two months' notice in the Autumn and Spring Terms, and three months' in the Summer Term, terminating at the end of a school term.

Additionally, all established teachers with more than 8 years' continuous service are entitled to receive a minimum of one week's notice for each year of service up to a maximum of 12 weeks for 12 or more years of service. Minimum notice periods are summarised below.

<b>MINIMUM NOTICE PERIODS – ALL TEACHERS BELOW THE HEADTEACHER</b>			
<b>Period of Continuous Service</b>	<b>Termination of Service 31<sup>st</sup> December</b>	<b>Termination of Service 30<sup>th</sup> April</b>	<b>Termination of Service 31<sup>st</sup> August</b>
Less than 9 years	2 months	2 months	3 months
At least 9 years but less than 10	9 weeks	9 weeks	3 months
At least 10 years but less than 11	10 weeks	10 weeks	3 months
At least 11 years but less than 12	11 weeks	11 weeks	3 months
12 years or more	12 weeks	12 weeks	3 months

The minimum period of notice to which **AN ESTABLISHED\*\* HEADTEACHER** will be entitled (unless the contract is terminated by summary dismissal should gross misconduct or gross negligence occur), is three months' notice in the Autumn and Spring Terms, and four months' notice in the Summer Term, terminating at the end of a school term. Minimum notice periods are summarised below.

<b>MINIMUM NOTICE PERIODS – HEADTEACHERS</b>		
<b>Termination of Service 31<sup>st</sup> December</b>	<b>Termination of Service 30<sup>th</sup> April</b>	<b>Termination of Service 31<sup>st</sup> August</b>
3 months	3 months	4 months

### **Support Staff**

The minimum period of notice to which **AN ESTABLISHED\*\* MEMBER OF THE SUPPORT STAFF** will be entitled is:

- One month in respect of an employee with up to 5 years' continuous service

- One week for each year where the employee has 5 years or more but less than 12 years' of continuous service
- Not less than 12 weeks where the employee has 12 years' or more continuous service.

The Table below sets out the LA's normal contractual notice periods for Support Staff in maintained schools. These are equal to, or in excess of, the statutory minimum notice period requirements. *(Notice periods for Support Staff in non-maintained schools may differ from those given below).*

SUPPORT STAFF	
Period of Continuous Service	Minimum Notice Period#
Up to 5 years	One month
5 years or more but less than 12 years	One week for each year (e.g. 5 years or more but less than 6 years = 5 weeks, 11 years or more but less than 12 years = 11 weeks)
12 years or more	Not less than 12 weeks

**N.B.** Although the notice periods set out above for support staff will often be the norm, individual contracts will need to be checked in advance as a particular post, or posts, may for various reasons have additional notice requirements incorporated. For example, senior posts may have a notice period of two or three months.

*\*\*For the purposes of this document, 'Established' should be interpreted as not including casual workers, workers supplied by a third party, or employees on fixed term contracts (with or without a pre-determined end date).*

It should be noted that **different arrangements may apply where AN EMPLOYEE IS ON A FIXED TERM CONTRACT (WITH OR WITHOUT A PRE-DETERMINED END DATE).** Any notice that may apply will be determined by the individual's fixed term contract of employment.

**ADDITIONAL NOTE:** Summary dismissal (dismissal without notice) will **NOT** apply in circumstances where an employee is dismissed due to a lack of capability due to ill health.

#### **(m) Pay After Effective Date of Dismissal**

Payment of remuneration for any period after the effective date of a dismissal shall only be made if an appeal against the dismissal is successful.

#### **(n) Resignation of an Employee**

At any stage of the capability procedure, the Headteacher/LGB may decide to accept the resignation of the employee (with or without due notice), subject to any conditions which may be agreed at that time.

#### **(o) The Clerk's (Note taker's) Report**

The formal written report of formal capability meetings will not be presented to the LGB/Trustees for consideration until after any appeal against a capability decision has been concluded, or the timescale for lodging an appeal has lapsed. The report will be a Part II item on the LGB/Trustees meeting agenda. The Clerk's report will be confined to reporting the minimum essential details i.e. the findings and the sanction, as appropriate.

### **9. DATA PROTECTION**

The Trust will collect and process personal data in full compliance with its obligations under the General Data Protection Regulation (GDPR) (EU) 2016/679 and the Data Protection Act 2018 by keeping employees' personal data up-to-date, by storing and destroying it securely, by not collecting or retaining excessive amounts of data, by protecting personal data from loss, misuse, unauthorised access and disclosure and by ensuring that appropriate measures are in place to protect personal data.

The Trust will keep employees' personal data confidential and share it only with persons with a genuine need to know, such as the Local Authority, Department for Education (DfE), Disclosure and Barring Service (DBS) and/or the Teaching Regulation Agency (TRA), in relation to relevant matters. The Trust may also share employees' personal data with other third parties, but only where this is necessary to comply with a legal obligation or is permitted under UK law.

For further information relating to the Data Protection arrangements, employees should refer to the Trust's Privacy Notice and other associated documents. These can be located on the Trust's website or otherwise by contacting the School.

# **THE MANAGEMENT OF EMPLOYEE ABSENCE AND ILL HEALTH CAPABILITY PROCEDURE**

## **Policy and Procedure for Use by Maintained Schools, PRUs, Academies and Others**

### **SECTION B: PROCEDURES**

This Trust is committed to ensuring that the Absence Management and Ill Health Capability Procedures contained within this document follow all the principles of natural justice, as highlighted in the ACAS Code of Practice on 'Disciplinary and Grievance Procedures' and associated guidance, as well as the separate ACAS guidance and advice on managing staff absence.

The ACAS Code of Practice on 'Disciplinary and Grievance Procedures and associated guidance can be located at: <http://www.acas.org.uk/index.aspx?articleid=2174>. Separate ACAS guidance on Managing Staff Absence can be located at: <http://www.acas.org.uk/index.aspx?articleid=4199>

#### **1. ABSENCE MANAGEMENT AND ABSENCE NOTIFICATION REQUIREMENTS**

##### **(a) Principles of Absence Management**

To enable absence to be managed effectively, the Trust will ensure that the following principles are in place and/or followed, as appropriate:

- Provision of **clear written guidelines for employees** in relation to leave and pay entitlements, procedures for notification of absences and requirements on return to work
- **Ensuring that the designated member of staff (DMS) and/or Line Managers are fully conversant** with relevant policies and procedures **and are competent** in handling absence matters
- **Maintenance of accurate absence records** for monitoring and reporting purposes
- **Maintenance of appropriate contact** with employees who are absent
- **The undertaking of return to work interviews** after absences, holding discussions sensitively to ascertain the position relating to an employee's well-being and any underlying issues that may be relevant; holding similar discussions regularly with employees remaining at work on amended hours or duties during periods of illness or injury
- **The setting of trigger levels** to ensure that further investigation of absences that may be a cause for concern are dealt with in a fair and consistent manner (see (c) below)
- **Seeking timely advice from the OHS**, as appropriate to the case
- **Consideration of advice provided on statements of fitness for work or by the OHS**, relating to support for employees remaining at, or returning to, work; taking action as appropriate and reasonable according to all the prevailing circumstances
- Ensuring that **absences due to pregnancy-related sickness or disability** are identified separately on individual records; in relation to disability-related absence, trigger levels will be applied appropriately taking this into account; pregnancy-related absences will not be taken into account when making a decision about an individual's employment
- Terminating service on the grounds of ill health only when all other reasonable alternatives have been explored
- **Encouraging good attendance** by considering the development of appropriate initiatives, such as improving communication, working conditions and/or flexible working
- Ensuring that **health-related matters are only explored as part of the recruitment process in accordance with the requirements of the Equality Act 2010** and any subsequent amendments.

##### **(b) Types of Absence**

**There are different types of absence** which can, broadly, be categorised as follows:

- Occasional short-term absence.
- Recurrent short-term absence with no underlying medical condition or other specific problem.

- Recurrent short-term absence with an underlying medical condition.
- Long-term sickness absence.

**Each type of absence will be handled in an appropriate manner** according to the particular circumstances of the case. The main management considerations are:

- **Information** – key sources are monitoring statistics, as referred to above, findings from individual discussions and interviews, as well as medical advice from the GP, OHS and/or Fit for Work, where appropriate
- **Type of Sickness Absence** – sometimes absences may not be perceived to be a problem. Any employee could be affected by occasional absence. However, other absences, such as persistent or recurrent short-term absence, or long-term absence, may potentially be unsustainable for the school/Trust and require investigation and further action, as appropriate. In relation to disability-related sickness consideration will be given to making any appropriate reasonable adjustments. This may similarly apply in the case of pregnancy-related sickness.
- **Absences with Other Underlying Causes** – Sometimes employees take time off due to circumstances related to their employment but do not identify this as a reason for their absence. This may be related to stress or bullying/harassment. It will, therefore, be important to identify absences which may have a specific underlying cause. **There is a policy in place ‘Dealing with Bullying and Harassment in the Workplace’** which is available to all employees within the school. Employees may also wish to contact their Professional Association/Trade Union for further advice.
- **Non-genuine Absences** – On rare occasions, it may become evident from facts gathered that absences are an issue of misconduct. In these exceptional circumstances, the matter will be dealt with in accordance with the school's/Trust's disciplinary procedure.
- **Individual Considerations** – It is recognised that it is also important, before deciding on a course of action, to consider factors relevant to the individual employee, for example his/her work/absence record, the demands of his/her role, possible difficulties with colleagues or other work-related issues, personal problems and/or whether the absence is disability or pregnancy-related.
- **Communication and Consultation** – Communication between the parties is very important to the absence process. Return to work interviews are essential to the management of absence and have been shown to be the single most effective action in reducing absence. Communication and consultation may also include, as appropriate, advising an employee when their absence is becoming a concern, seeking medical advice from the OHS, allowing the employee to state his/her case and views, arranging personal visits or meetings with the employee and his/her representative, as appropriate to the circumstances. An employee will always be notified if his/her employment is at risk. The more communication that takes place, and the earlier the consultation, the more likelihood there will be of a mutually satisfactory solution.

### **(c) Trigger Levels for the Investigation of Absence**

**When dealing with either recurrent short-term absences, or long-term absences, it is important to be objective** and, therefore, to determine at what point an absence(s) is becoming a concern, or reaching a level where the school is unable to continue to function effectively, without adversely affecting pupils or other staff.

It is important that employees understand and are clear about the trigger points. This will help to clarify at what point repeated or ongoing absence may lead to formal action. **The use of trigger levels** will assist in determining expected standards and will also help to ensure that all staff are treated in a fair, consistent and supportive manner. Triggers will give an indication that an individual's level of absence may be a cause for concern and that further consideration of the situation is required. **A trigger does not in itself, mean that action will automatically be taken.** It is merely a signal, or prompt, to alert the manager that the situation has arisen and needs to be considered. A referral to the OHS may be appropriate when a trigger level is reached, or earlier, depending upon the type of absence. Sometimes the circumstances of a particular case will require subsequent action, sometimes they will not.

**Clearly, there will be a need for sensitivity according to the circumstances of the case and particular illness.** For example, it is recognised that an employee who is attending regular hospital appointments may need some time off during school hours and these will not normally be taken into account when considering attendance in the context of absence trigger levels. Special consideration will also be given to absences related to pregnancy and disability. These absences will be identified separately from other sickness absence on individual records. In relation to disability-related absence, trigger levels will be applied as deemed appropriate in the circumstances, taking account of this information. Pregnancy-related absence will not be taken into account when making a decision about an individual's employment.

**Wherever it is practicably possible, prior to a trigger level being reached, informal measures to reduce absence and/or to support the employee, as appropriate, will be considered and discussed** to ascertain the extent of the problem, for example, whether there is an emerging pattern to the absence, if there are any underlying issues adversely affecting the employee etc. The employee will also be made aware of the trigger levels in place, that s/he needs to maintain an appropriate level of attendance in accordance with the school's expectations and the potential consequences of not doing so. Return to Work interviews, for example, will address matters such as these (see (f) below).

The following trigger levels will normally apply:

<p><b>One continuous period totalling 15 working days absence in 12 months</b></p> <p><b><u>or</u></b></p> <p><b>Two or more separate periods of absence totalling 15 working days in 12 months</b></p> <p><b><u>or</u></b></p> <p><b>4 separate periods of absence of any length in a four-month period</b></p> <p><b><u>or</u></b></p> <p><b>Intermittent absence which is a cause for concern</b></p>
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It is important to remember that the main aims of using trigger levels to assist in managing absence are to:

- Encourage good attendance
- Provide support
- Be fair and consistent
- Assess the situation and take further action, as appropriate.

The trigger levels established within the school may be reviewed from time to time.

It should be noted that repeated and/or unexplained absences may be treated as a conduct issue and lead to disciplinary action and, ultimately, dismissal.

#### **(d) Employee Absence Notification Requirements**

All employees are required to follow the '**Sickness Absence Reporting Procedure**' attached as **Appendix 2** to this document.

The Headteacher/Line Manager is also responsible for completing the appropriate section(s) of the '**Report on Absence and Return to Work**' form - attached as **Appendix 3A**.

#### **(e) Contact During a Period of Absence**

All employees are required to maintain contact in accordance with the '**Sickness Absence Reporting Procedure**' attached as **Appendix 2** to this document.

Where the absence is likely to be longer term, the Headteacher/Line Manager and the employee will discuss how best to maintain contact at agreed intervals.

In exceptional circumstances, it is acknowledged that it may not be possible for the employee to maintain contact. In this case, the DMS or Line Manager will liaise and maintain contact with another

appropriate person, such as a family member, friend or Professional Association/Trade Union Representative, as appropriate circumstances.

#### **(f) Returning to Work**

On return to work, any employee who has been absent due to sickness or injury must ensure that s/he completes the appropriate section of the “**Report on Absence and Return to Work**” form attached to this document as **Appendix 3A** stating the reason for absence.

The employee will meet with the DMS or Line Manager in order that the form can be completed and a discussion takes place to welcome him/her back, to check that s/he is well enough to resume duties and to provide an update on any news or relevant developments. The discussion will also seek to:

- enquire into the reason(s) for the absence to gain a better understanding of the employee's problem and establish whether there may be any underlying issue(s);
- assess whether the reason(s) offered are consistent with any other reliable evidence;
- raise any doubts about the absence and allow the employee to explain it;
- discuss the details in circumstances where the employee has a Fit Note and consider any reasonable adjustments that may be relevant or appropriate;
- find out if there is anything else that the Manager or the *School/PRU* can do to provide support, including (for example) giving consideration to any other possible solutions such as counselling, flexible working arrangements and ensuring that the employee is aware of the school's policy on 'Dealing with Bullying and Harassment in the Workplace' etc;
- establish that the employee is fit to return to work;
- ensure that the employee is aware of the trigger levels in place and understands that s/he needs to maintain an appropriate level of attendance in accordance with the school's expectations and the potential consequences of not doing so (i.e. s/he must be told if the level of absence is, or may potentially be, putting his/her job at risk) ; and
- ensure that, **prior to a trigger level being reached, informal measures to reduce absence and/or to support the employee, as appropriate, are/have been fully considered and discussed.**

Where an employee's 'Statement of Fitness for Work' advises that s/he 'may be fit for work', providing additional advice on adjustments to accommodate a return, the discussion will also be used to agree in detail how this might be managed. If a phased return and/or return on amended duties, or with particular adjustments, are not possible following discussion, the Statement will be applied as if the employee is 'not fit for work'. In practice, it is likely that such discussions will have taken place before any return, to assess whether adjustments to hours, the role or any other adaptations would be possible in principle. Similar principles will apply in relation to any advice provided by the OHS (see Section A, 6. (n) and (p) of this document for further information).

Where a phased return to work is agreed, payment of salary will normally be made according to hours worked. Depending on the circumstances, consideration may be given to payment at the employee's normal rate of pay for a short period of time to facilitate a return to full duties.

Where any supportive measures or reasonable adjustments are agreed in relation to a return to work, these will be recorded and confirmed in writing to the employee.

A '**Sickness Absence Record**' form is attached at **Appendix 3B**. This form (or a suitable alternative) will be used by the DMS or Line Manager for the purpose of keeping a record of individual absences to assist with the monitoring and managing of absence process. Records of absences due to pregnancy or to the disability of an employee will be clearly distinguishable and identified separately from other sickness absence records. (A similar style of form may also be used for recording absences other than those due to sickness).

Additional Note re. **Appendices 2, 3A and 3B**

From time to time, **changes may be made** to Absence Reporting Procedures and Return to Work forms if considered appropriate. Current forms can be obtained from Line Managers or the School Office.

#### **(g) The Need for an Ill-Health Capability Procedure**

During their working lives, the majority of people will, at some time, require time off to recover from bouts of illness. In most cases this will not be a cause for concern in relation to their employment and they will be fully supported during their absence and on returning to work. However, on occasion, there may be instances of an employee having regular and/or intermittent periods of **short-term absence** that are becoming a cause for concern and may require further consideration of the situation. In these circumstances, it may be decided that the formal ill health capability procedure is required to address the matter.

In the case of **long-term absence**, It is recognised that not all cases need be perceived as an on-going problem requiring further investigation or action. For example, an employee may undergo a procedure or treatment, recuperate and then be expected to return to work without any likelihood of the problem recurring. In these circumstances, the only action required may be to maintain contact and offer support during the period of the absence. However, in dealing with other cases of long-term absence, it may be necessary to take action under the formal ill health capability procedure to resolve the situation.

The DMS or Line Manager who is competent in handling absence matters, will act fairly, reasonably and sensitively and take into account the particular circumstances and welfare aspect of each case.

Particularly in relation to long-term absence, the DMS or Line Manager will seek to maintain contact to ensure that the employee feels supported rather than isolated. The circumstances of each case will vary and it is not possible to be prescriptive regarding the type and level of contact that should be maintained. Discretion will be exercised throughout. On occasion and depending upon all the circumstances of the case, it may be appropriate to meet the employee at home, or a neutral venue. It is recognised that in some, exceptional, cases of long-term absence it may not always be possible to meet or maintain contact with the employee directly, particularly in cases of the most serious illness or injury. In these circumstances, consideration will be given to liaising with a representative of the employee based on medical evidence. A record will be made of all instances of contact.

At any stage, the Headteacher/DMS/Line Manager may require a medical statement/evidence prior to the eighth calendar day of absence. (In these circumstances, the school expects to pay any fee charged).

**The Ill Health Capability Procedure is set out in 2. below.**

## **2. ILL HEALTH CAPABILITY PROCEDURE FOR DEALING WITH SHORT AND LONG-TERM ABSENCE**



## IMPORTANT NOTES

- (i) This procedure is written on the basis that the Headteacher will conduct the meeting and reach a decision at this stage. However, if this is inappropriate, the formal Meetings will be conducted by one LGB member as set out under Section A. 7 (a) of this document 'Delegation of Authority' and should, therefore, be substituted for the Headteacher in the following procedure.
- (ii) Prior to using this procedure, **it is important to read Section A, 8. above** 'General Principles relating to the Capability Procedure and Capability Meetings, including Appeals'.
- (iii) This procedure contains **three stages: Stage 1 - to consider a 'first' or 'first and final' written warning, Stage 2 – to consider a 'final' written warning and Stage 3 - to consider 'dismissal'**. It should be noted that if a 'first and final' written warning is issued at Stage 1, then any further need to return to the procedure would be at Stage 3, i.e. to consider dismissal.
- (iv) Although the procedure is set out as three stages:
  - **Where a 'first and final' written warning is issued at Stage 1, the next Stage of the Procedure will be Stage 3;**
  - In exceptional circumstances, **it may also be appropriate to move directly from Stage 1 to Stage 3** of the procedure, even if a 'first' written warning was issued at Stage 1. (This may, for example, apply if there has been a significant deterioration in the situation relating to the absence, or absence levels, and this is having a serious impact on the school and its pupils);
  - On occasion, **it may be considered to be pragmatic to move directly to Stage 3** of the procedure – to consider 'dismissal'. The purpose would be to bring the matter to a conclusion for the benefit of all parties (for example, in cases of serious or terminal ill health or injury).

In any such circumstances, the relevant stages of the procedure will be applied appropriately.

### **A Flowchart setting out the Procedure for Management of Recurrent Short-term and Long-term Absence is attached at Appendix 4 to this document.**

- (v) Formal meetings under this procedure will normally follow the general format described in **Appendix 5** to this document '**General Format of Formal Capability Meetings and Appeals**'.
- (vi) An employee subject to formal ill health capability proceedings will have the **right of appeal** against a 'first', 'first and final', 'final' written warning and dismissal.

### **Stage 1 – Formal Ill Health Capability Meeting to Consider a 'First' or 'First and Final' Written Warning**

#### **Prior to the Meeting**

The employee will be given **at least five working days' notice** of the Meeting. (This should be interpreted to mean that if the meeting is to take place on a Wednesday (for example) the notification must be sent to arrive by the Wednesday of the previous week). The written notification will contain:

- (a) Details of absences, including reasons given, as well as any relevant discussions about the absences, and/or support/adjustments provided\*\*;
- (b) Copies of any relevant written evidence (e.g. Statements of Fitness for Work, OHS report)
- (c) Details of the time and place of the meeting;
- (d) Confirmation of the employee's right to be accompanied; and

- (e) As relevant, the name(s) of the DMS/Line Manager and any other witnesses to be called to the meeting;
- (f) The possible consequences for the employee of his/her absence(s), i.e. that a 'first' or first and final' written warning may be the outcome of the meeting.

**A model letter** is attached at **Appendix 6B** to this document.

*\*\*This information may either be included within the letter itself or provided as a separate document and attached to the letter.*

### **At the Meeting**

The purpose of the formal meeting, as appropriate to the circumstances, will be to:

- Explore the reasons for the absence(s) and provide an opportunity for the employee to raise any health or other concerns arising from within or outside the workplace that may be impacting on attendance
- Consider the likely duration, or frequency, of absence(s)
- Consider any (further) help, support, adjustments to the role or other action, including a referral to the OHS (if this has not already happened) to determine whether there is an underlying medical condition, prognosis for a return to work, likelihood of further absences etc., as appropriate to the circumstances
- Seek a commitment by the employee to return to work/improve attendance and/or await further information, for example, from an OHS referral.

The DMS or Line Manager who has gathered the facts relating to the employee's absences will normally present the evidence to the *Headteacher*. The employee and his/her companion will be given the opportunity to respond to the concerns about absence and make any relevant representations. This may provide new information or a different context to the information/evidence already collected.

**During, or at the end of, the meeting** the Headteacher may decide to:

- (a) **Conclude that there are insufficient grounds for taking further action at this stage** (e.g. if there are particular mitigating circumstances or there is insufficient evidence to warrant a warning). In these circumstances, the employee will be informed that no further formal action will be taken at the present time and that his/her absence will continue to be monitored under the school's normal absence management and notification procedures.
- (b) **Adjourn the meeting**, for example, if s/he requires further information or advice. The employee will be notified of the arrangements for a re-convened meeting as soon as possible. This stage of the procedure will then be re-visited. (The **model letter** at **Appendix 6B** to this document can be adapted for the purpose of setting out the arrangements for the re-convened meeting, as appropriate).
- (c) **Issue a 'first' or, if the seriousness of the absence concerns warrant it in his/her opinion, a 'first and final' written warning** that failure to improve attendance (e.g. if the employee is absent from work on x or more occasions within a period of y weeks/months) or make a full return to work within a reasonable period (e.g. 4-10 weeks, as appropriate) may lead to dismissal. A model letter for this purpose is attached at **Appendix 6C** to this document.

### **Monitoring and Review Following the Issue of a 'First' or 'First and Final' Written Warning**

Towards the end of the agreed period set for improved attendance or a full return to work, the DMS/Line manager will meet with the employee (and his/her Representative if s/he so wishes) as appropriate, to discuss the way forward.

**If the level of attendance has improved**, the employee will be informed that unless there is again a decline in the level of attendance (precise details to be decided at the time, depending upon the circumstances), no further formal action will be taken at this stage and his/her absence will continue

to be monitored under the school's normal absence management and notification procedures. This will be confirmed in writing and a **model letter** for this purpose is attached at **Appendix 6D** to this document.

**If the employee's attendance has not shown an acceptable level of improvement** then the employee will be required to attend a formal meeting under **Stage 2** of this procedure - **Formal III Health Capability Meeting to Consider a 'Final' Written Warning** (normally in circumstances where a 'First' written warning was issued) or **Stage 3 – Formal III Health Capability Meeting to Consider Dismissal** (normally in circumstances where a 'First and Final' written warning was issued). S/he will be informed that s/he will shortly receive a letter to this effect. (See Stage 2 or Stage 3 below as appropriate).

### **Stage 2 – Formal III Health Capability Meeting to Consider a 'Final' Written Warning**

#### **Prior to the Meeting**

The employee will be given **at least five working days' notice** of the Meeting. (This should be interpreted to mean that if the meeting is to take place on a Wednesday (for example) the notification must be sent to arrive by the Wednesday of the previous week). The written notification will contain:

- (a) Details of absence(s), reasons given and previous discussion(s)/meeting relating to continuing concerns about capability, as well as any support/adjustments provided\*\*;
- (b) Copies of any other written evidence (e.g. OHS report);
- (c) Details of the time and place of the meeting;
- (d) Confirmation of the employee's right to be accompanied; and
- (e) As relevant, the name(s) of the DMS/Line Manager and any other witnesses to be called to the meeting;
- (f) The possible consequences for the employee of his/her absence(s), i.e. that a 'final' written warning may be the outcome of the meeting.

A **model letter** is attached at **Appendix 6E** to this document.

*\*\*This information may either be included within the letter itself or provided as a separate document and attached to the letter.*

#### **At the Meeting**

The purpose of the meeting will be to consider the facts and evidence relating to the absence(s) so far and, in particular, the further information gathered since the Stage 1 meeting. The DMS or Line Manager who has continued to gather the information relating to the employee's absence(s) will normally present the evidence to the *Headteacher*. The employee and his/her companion will be given the opportunity to respond to the concerns about absence and make any relevant representations. This may provide new information or a different context to the information/evidence already collected.

**During, or at the end of, the meeting** the *Headteacher* may decide to:

- (a) **Conclude that there are insufficient grounds for taking further action at this stage** (e.g. if there are particular mitigating circumstances or there is insufficient evidence to warrant a warning). In these circumstances, the employee will be informed that no further formal action will be taken at the present time and that his/her absence will continue to be monitored under the school's normal absence management and notification procedures.
- (b) **Adjourn the meeting**, for example, if s/he requires further information or advice. The employee will be notified of the arrangements for a re-convened meeting as soon as possible. This stage of the procedure will then be re-visited. (The model letter at **Appendix 6B** to this document can be adapted for the purpose of setting out the arrangements for the re-convened meeting, as appropriate).

- (c) **Exceptionally, extend the period and terms of the first written warning.** This may apply in circumstances where the *Headteacher* considers that there has been some limited improvement and/or that a full return to work may be possible. This stage of the procedure may then need to be revisited following further monitoring and review. A **model letter** for this purpose is attached at **Appendix 6F** to this document.
- (d) **Issue a ‘final’ written warning** that failure to improve attendance (*e.g. if the employee is absent from work on x or more occasions within a period of y weeks/months*) or make a full return to work within a reasonable period (*e.g. 4-10 weeks, as appropriate*) may lead to dismissal. A **model letter** for this purpose is attached at **Appendix 6G** to this document.

### **Monitoring and Review Following the Issue of a ‘Final’ Written Warning**

Towards the end of the agreed period set for improved attendance or a full return to work, the DMS/Line manager will meet with the employee (and his/her Representative if s/he so wishes) as appropriate, to discuss the way forward.

**If the level of attendance has improved**, the employee will be informed that unless there is again a decline in the level of attendance (precise details to be decided at the time, depending upon the circumstances), no further formal action will be taken at this stage and his/her absence will continue to be monitored under the school’s normal absence management and notification procedures. This will be confirmed in writing and a **model letter** for this purpose is attached at **Appendix 6H** to this document.

**If the employee’s attendance has not shown an acceptable level of improvement** then the employee will be required to attend a formal meeting under **Stage 3** of this procedure – **Formal III Health Capability Meeting to Consider Dismissal**. S/he will be informed that s/he will shortly receive a letter to this effect. (See Stage 3 below).

### **Stage 3 – Formal III Health Capability Meeting to Consider ‘Dismissal’**

#### **Prior to the Meeting**

The employee will be given **at least five working days’ notice** of the Meeting. (This should be interpreted to mean that if the meeting is to take place on a Wednesday (for example) the notification must be sent to arrive by the Wednesday of the previous week). The written notification will contain:

- (a) Details of absence(s), reasons given and previous discussion(s)/meeting(s) relating to continuing concerns about capability, as well as any support/adjustments provided\*\*;
- (b) Copies of any other written evidence (e.g. OHS report);
- (c) Details of the time and place of the meeting;
- (d) Confirmation of the employee’s right to be accompanied; and
- (e) As relevant, the name(s) of the DMS/Line Manager and any other witnesses to be called to the meeting;
- (f) The possible consequences for the employee of his/her absence(s), i.e. that ‘dismissal’ may be the outcome of the meeting.

A **model letter** is attached at **Appendix 6J** to this document.

*\*\*This information may either be included within the letter itself or provided as a separate document and attached to the letter.*

#### **At the Meeting**

The *Headteacher* will consider the case for dismissal, taking account of the facts and evidence relating to the absence(s) so far and, in particular, the further information gathered since the Stage 1 or Stage 2 meeting (as appropriate to the circumstances). In reaching a decision, s/he will take into account:

- The length of the employee’s employment and attendance record

- The impact of the employee's attendance on his/her workplace performance, on the *school*, colleagues and whether this can be sustained
- Whether any progress has been made towards attendance targets
- Whether there is any identifiable medical condition or other problem(s) that is preventing the employee achieving a satisfactory level of attendance
- Any specialist advice received regarding the employee's condition and his/her current and future ability to undertake the job role
- The impact of any measures or reasonable adjustments put in place to support the employee
- Whether all alternative options have been discussed and/or explored.

The outcome of the meeting may be to:

- Conclude that there are insufficient grounds for taking further action at this stage** (e.g. if there are particular mitigating circumstances or there is insufficient evidence to warrant dismissal). In these circumstances, the employee will be informed that no further formal action will be taken at the present time and that his/her absence will continue to be monitored under the *school's* normal absence management and notification procedures.
- Adjourn the meeting**, for example, if s/he requires further information or advice. The employee will be notified of the arrangements for a re-convened meeting as soon as possible. This stage of the procedure will then be re-visited. (The model letter at **Appendix 6B** to this document can be adapted for the purpose of setting out the arrangements for the re-convened meeting, as appropriate).
- Exceptionally, extend the period and terms of the 'first and final' or 'final' written warning.** This may apply in circumstances where the *Headteacher* considers that there has been some limited improvement and/or that a full return to work may be possible. This stage of the procedure may then need to be revisited following further monitoring and review. The model letter attached at **Appendix 6K** to this document can be adapted for this purpose.
- Dismiss the employee with notice** on the grounds of incapability due to ill health. A model letter for this purpose is attached at **Appendix 6L** to this document.

### **3. FORMAL CAPABILITY APPEALS PROCEDURE – SHORT AND LONG-TERM ABSENCE**

#### **IMPORTANT NOTES**

- (i) **Capability Appeals will be delegated to** one or more Trustee or member of the LGB not involved in the original determination. However, the intention is that Capability Appeals will normally be heard by a Panel of three Trustees/LGB members unless there are not enough members who have not been involved in the original determination, or there is otherwise a conflict of interest. Any Appeal Panel established will, in any event, consist of no fewer members than the first Panel.
- (ii) Prior to using this procedure, **it is important to read Section A, 8.** above 'General Principles relating to the Capability Procedure and Capability Meetings, including Appeals'.
- (iii) Formal meetings under this procedure will normally follow the general format described in **Appendix 5** to this document '**General Format of Formal Capability Meetings and Appeals**'.

#### **Appeal Meeting Arrangements**

If an employee considers that a decision to dismiss him/her, or other action taken against him/her, is wrong or unjust, **s/he may appeal in writing against the decision within 5 working days of the date of the decision letter**, setting out the grounds for appeal.

**Appeals will be heard without unreasonable delay** and, where possible, at an agreed time and place.

**A model letter 'Invitation to a Capability Appeal Meeting' is attached as Appendix 6M to this document.**

The same arrangements for notification and the right to be accompanied will apply as with formal capability meetings.

In relation to the format of the Capability Appeal Meeting, see **Appendix 5 to this document 'General Format of Formal Capability Meetings and Appeals'**.

**Following the conclusion of the Appeal Meeting**, the employee will be informed in writing of the outcome as soon as possible, normally within 5 working days of the meeting.

**A model letter 'Outcome of Capability Appeal Meeting' is attached as Appendix 6N to this document.**

**THE MANAGEMENT OF ABSENCE AND  
CAPABILITY PROCEDURE (ILL HEALTH)**

**Policy and Procedure for Use by  
Maintained Schools, PRUs, Academies and Others**

**SECTION C: APPENDICES**

## APPENDICES 1A and 1B

An example form that may be used for sickness absence monitoring purposes **“Sickness Absence Monitoring Report” is attached at Appendix 1A.**

A completed example of the **“Sickness Absence Monitoring Report” is attached at Appendix 1B**, together with additional explanatory notes.

The Trust will use either this form, or adopt a similar alternative method. There are many different ways in which absence figures can be collected. Methods for both collecting absence figures and reporting on absence levels will be kept under review. These methods may change over time where alternatives are considered to be more appropriate or practical, or in circumstances where statutory requirements may determine that figures are collected and/or reported in a specific format.

Figures relating to Teachers and Support Staff will normally be collected separately. Figures will be reported to Trustee Board and LGB at least annually.



**SICKNESS ABSENCE MONITORING REPORT**

SCHOOL:

REPORT PERIOD: CATEGORY OF EMPLOYEE:

See also notes overleaf.

	FT	PT	TOTAL
(a) No. of employees who have taken sick leave during report period (count multiple absences by the same employee only once)	<input type="text"/>	<input type="text"/>	<input type="text"/>
(b) Total No. of employees employed during report period.	<input type="text"/>	<input type="text"/>	<input type="text"/>
(c) Percentage of employees employed and taking sick leave during report period ( $a/b \times 100$ )	<input type="text"/> %	<input type="text"/> %	<input type="text"/> %
(d) Total No. Days sick leave taken by all employees during report period (on days they were expected at work)	<input type="text"/>	<input type="text"/>	<input type="text"/>
(e) Average No. Days sickness absence – <u>Total Employees Employed</u> ( $d/b$ )	<input type="text"/>	<input type="text"/>	<input type="text"/>
(f) Average No. Days sickness absence <u>Total Employees who took some sick leave</u> ( $d/a$ )	<input type="text"/>	<input type="text"/>	<input type="text"/>
(g) Total No. of Working Days available in Period (i.e. total no. of days available to be worked by all employees during period if there were no absences)	<input type="text"/>	<input type="text"/>	<input type="text"/>
(h) Absence rate ( $d/g \times 100$ )	<input type="text"/> %	<input type="text"/> %	<input type="text"/> %
(i) No. employees reaching trigger levels due to:			
(i) One continuous period totalling 15 working days in 12 months	<input type="text"/>	<input type="text"/>	<input type="text"/>
(ii) Two or more separate periods totalling 15 working days in 12 months	<input type="text"/>	<input type="text"/>	<input type="text"/>
(iii) 4 separate periods of any length in a four-month period	<input type="text"/>	<input type="text"/>	<input type="text"/>
(iv) Intermittent absence which is a cause for concern	<input type="text"/>	<input type="text"/>	<input type="text"/>

Additional comments relating to the above. See also separate notes attached for more information.

Headteacher's Signature:

Date:

## **Notes Relating to the Completion of the Sickness Absence Monitoring Report**

### **1. General Notes**

- (i) This is a statistical report to be used to provide data for purposes of monitoring and managing sickness absence levels, for reporting to *Governors*, and other external agencies, e.g. the DfE, as may be required from time to time.
- (ii) No names or other personal details relating to individuals will be included.
- (iii) All employees to whom the school's absence procedure applies will be included in the report.
- (iv) All sickness absence, whether paid or unpaid, will be included.
- (v) Sickness at weekends and during holidays will not be included.
- (vi) All types of sickness absence are included in the report. However, it should be noted that the figures may include some relating to pregnancy or disability. Details of such absences are held separately on individual records as different arrangements apply in terms of managing employees' absence for these reasons.

### **2. Notes Relating to Completion of Sections Overleaf**

- (i) **Re (a) overleaf – No. of employees who have taken sick leave during report period:**  
This means the number of employees who have taken any sick leave at all during the report period, i.e. recorded as a half day or more. (Multiple absences by the same employee during the report period are counted once only).
- (ii) **Re (b) overleaf – Total No. of employees employed during report period:**  
There are different ways of defining this figure as turnover may mean there have been different numbers of employees employed at different times. The usual method is a headcount of all those employed during the report period, i.e. if one post has had two different occupants during that period, then the two employees are both counted.
- (iii) **Re (d) overleaf – Total No. of days sick leave taken by all employees during report period (on days they were expected at work):**  
This is a count of all the working days lost due to sick leave during the report period. Therefore, only days on which an employee was due to come in to work will be counted. If a part-timer who is absent is contracted to work for only part of a day, then this is counted as one day lost (because it is, in effect, one day off for that person).
- (iv) **Re (g) overleaf – Total No. of working days available in period:**  
As with the figures referred to in 2(iii) above, a 'day' is counted as such for a part time employee who is contracted to work for only part of a particular day.
- (v) **Re (i) overleaf – No. of employees reaching 'trigger levels':**  
As trigger levels have been established as part of the procedure for managing absence it is important to record how many employees are reaching the triggers. (A note will be added to the report to indicate if any of the trigger levels reached relate to absences due to pregnancy or disability).

**SICKNESS ABSENCE MONITORING REPORT**

SCHOOL: NOTGOODENOUGH SCHOOL

REPORT PERIOD: Academic Year **2015/2016**CATEGORY OF STAFF: **Teachers**

See also notes overleaf.

	FT	PT	TOTAL
(a) No. of employees who have taken sick leave during report period (count multiple absences by the same employee only once)	58	5	63
(b) Total No. of employees employed during report period.	81	15	96
(c) Percentage of employees employed and taking sick leave during report period ( $a/b \times 100$ )	72 %	33 %	66%
(d) Total No. Days sick leave taken by all employees during report period (on days they were expected at work)	521	32	553
(e) Average No. Days sickness absence – <u>Total Employees Employed</u> (d/b)	6.4	2.1	5.8
(f) Average No. Days sickness absence <u>Total Employees who took some sick leave</u> (d/a)	9	6.4	8.8
(g) Total No. of Working Days available in Period (i.e. total no. of days available to be worked by all employees during period if there were no absences)	14765	1833	16598
(h) Absence rate ( $d/g \times 100$ )	3.5 %	1.7 %	3.3 %
(i) No. employees reaching trigger levels due to:			
(i) One continuous period totalling 15 working days in 12 months	2	1	3
(ii) Two or more separate periods totalling 15 working days in 12 months	-	-	-
(iii) 4 separate periods of any length in a four-month period	5	-	5
(iv) Intermittent absence which is a cause for concern	-	-	-

Additional Comments relating to the above. See also separate notes attached for more information.

Re (i) (i) The 2 full time and 1 part time member of staff referred to were all hospitalised for operations during the year. Therefore, no further investigation of these absences was necessary

Re (i) (iii) The absences of two of these employees have been investigated and resolved satisfactorily, the absences of a further two employees (now on maternity leave) were pregnancy-related and the fifth case is currently being investigated.

Headteacher's Signature:

Date: 20 Sept. 2016

## **Notes Relating to the Completion of the Sickness Absence Monitoring Report**

### **1. General Notes**

- (i) This is a statistical report to be used to provide data for purposes of monitoring and managing sickness absence levels, for reporting to Governors, and other external agencies, e.g. the DfE, as may be required from time to time.
- (ii) No names or other personal details relating to individuals will be included.
- (iii) All staff to which the school's absence procedure applies will be included in the report.
- (iv) All sickness absence, whether paid or unpaid, will be included.
- (v) Sickness at weekends and during holidays will not be included.
- (vi) All types of absence are included in the report. However, it should be noted that the figures may include some relating to pregnancy or disability. Details of such absences are held separately on individual records as different arrangements apply in terms of managing employees' absence for these reasons.

### **2. Notes Relating to Completion of Sections Overleaf**

- (i) **Re (a) overleaf – No. of employees who have taken sick leave during report period:**  
This means the number of employees who have taken any sick leave at all during the report period, i.e. recorded as a half day or more. (Multiple absences by the same employee during the report period are counted once only).
- (ii) **Re (b) overleaf – Total No. of employees employed during report period:**  
There are different ways of defining this figure as turnover may mean there have been different numbers of employees employed at different times. The usual method is a headcount of all those employed during the report period, i.e. if one post has had two different occupants during that period, then the two employees are both counted.
- (iii) **Re (d) overleaf – Total No. of days sick leave taken by all employees during report period (on days they were expected at work):**  
This is a count of all the working days lost due to sick leave during the report period. Therefore, only days on which an employee was due to come in to work will be counted. If a part-timer who is absent is contracted to work for only part of a day, then this is counted as one day lost (because it is, in effect, one day off for that person)
- (iv) **Re (g) overleaf – Total No. of working days available in period:**  
As with the figures referred to in 2(iii) above, a 'day' is counted as such for a part time employee who is contracted to work for only part of a particular day.
- (v) **Re (i) overleaf – No. of employees reaching 'trigger levels':**  
As trigger levels have been established as part of the procedure for managing absence it is important to record how many employees are reaching the triggers. (A note will be added to the report to indicate if any of the trigger levels reached relate to absences due to pregnancy or disability).

**SICKNESS ABSENCE MONITORING REPORT**

SCHOOL: NOTGOODENOUGH SCHOOL

REPORT PERIOD: Academic Year **2015/2016** CATEGORY OF STAFF: **Teachers****Additional Notes Relating to Figures and Calculations Provided.**

*(N.B. – The detailed information set out below may not always be included in reports on absence. The real purpose of including it here is to show how the number of days available for work etc. has been calculated. Comments may be provided below about how absence levels have changed and/or compare over time, differences between staff groups etc.).*

The figures relating to numbers employed total more than the schools FTE establishment because absences, numbers of working days etc. have been counted for all those employed on contracts throughout the academic year including teachers leaving the school part way through the year and others commencing mid-year. The breakdown of all those teachers counted and also, therefore, the total number of days available for work, had there been no absences at all, is as follows:

**Full Time Teachers**

• 70 teachers employed for the whole year:	70 x 195 days =	13,650 days
• 1 teacher employed only until Oct. half term:	1 x 35 days =	35 days
• 2 teachers employed Autumn Term only:	2 x 72 days =	144 days
• 4 teachers employed Autumn & Spring Terms only:	4 x 141 days =	564 days
• 2 teachers employed Spring & Summer Terms only:	2 x 123 days =	246 days
• 1 teacher attended 1 <sup>st</sup> 4 weeks of Autumn Term only, then commenced maternity leave, then resigned:	1 x 20 days =	20 days
• 1 teacher attended up to February half term prior to commencing maternity leave:	1 x 106 days =	106 days

**81 Full Time teachers****14,765 days****Part Time Teachers**

• 13 Part Time teachers employed for whole year:		
- 1 working 4 days per week:	1 x 156 days =	156 days
- 2 working 3 days per week:	2 x 117 days =	234 days
- 4 working 2 days per week:	4 x 78 days =	312 days
- 4 working 5 mornings per week	4 x 195 days =	780 days
- 1 working 5 afternoons per week:	1 x 195 days =	195 days
- 1 working ½ day per week:	1 x 39 days =	39 days
• 1 teacher worked Autumn & Spring Terms only at 3 days per week:	1 x 84 days =	84 days
• 1 teacher worked Summer Term only at 3 days per week:	1 x 33 days =	33 days

**15 Part Time teachers****1,833 days**

Comments (e.g. *how absence levels have changed/compare over time, differences between staff groups etc.*)

Headteacher's Signature: ..... Date: .....

LONDON BOROUGH OF ENFIELD SCHOOLS' PERSONNEL SERVICE

**SICKNESS ABSENCE NOTIFICATION PROCEDURE**

An **employee** who is absent from work due to illness or injury must take action as set out below.  
The **Headteacher/DMS/Line Manager** is responsible for the 'Report on Absence and Return to Work' record.

<b>TIMESCALE</b>	<b>ACTION REQUIRED</b>
<b>1. FIRST DAY</b> of Absence from work.	An <b>employee</b> who is sick must notify the <i>Headteacher/DMS/Line Manager</i> <b>as early as possible</b> , stating reason for absence, day on which sickness commenced (even if this was not a normal working day), estimated return date, if possible, and any other relevant information, e.g. priority tasks needing attention etc. A telephone call from the employee, or from a relative/friend if s/he is unable through illness to make the call, will be sufficient.  The <b>Headteacher/DMS/Line Manager</b> completes Part 1 of the 'Report on Absence and Return to Work' form.
<b>2. CONTINUING ABSENCE – DAILY CONTACT</b>	An <b>employee</b> who remains sick must keep the Headteacher/DMS informed of the position <b>as early as possible on a daily basis</b> , if possible, estimating the likely length of absence. Daily contact will apply unless it is clear on the first day, or at an early stage, that the absence will continue for a certain period of time, e.g. in the event of an accident, hospitalisation, on obtaining a 'Statement of Fitness for Work' (Medical Certificate) etc. In such circumstances, the <b>Headteacher/DMS/Line Manager</b> will confirm that it is not necessary to make contact daily.  The <b>Headteacher/DMS/Line Manager</b> completes Part 2 of the 'Report on Absence and Return to Work' form, as considered appropriate.
<b>3. EIGHTH CALENDAR DAY</b> of Absence (inc. both Saturday and Sunday).	If an <b>employee</b> is unable to return to work after 7 calendar days (i.e. including Saturday and Sunday) s/he must obtain a 'Statement of Fitness for Work' from the Doctor, i.e. <b>on the 8<sup>th</sup> calendar day</b> . This must be forwarded to the Headteacher/DMS without delay. If the absence continues, further Statements must be forwarded, as required, to cover the duration of the absence on a continuous basis (inc. holiday periods).  The <b>Headteacher/DMS/Line Manager</b> should indicate receipt of the initial medical certificate on Part 2 of the 'Report on Absence and Return to Work' form.
<b>4. RETURN TO WORK</b>	In <b>all cases</b> of sickness absence, i.e. for <b>any</b> length of time, Part 3 of the 'Report on Absence and Return to Work' form must be completed by both the <b>employee and Headteacher/DMS/Line Manager</b> .  The <b>Headteacher/DMS/Line Manager</b> is also responsible for completing Part 4 of the form as part of the absence monitoring process. Where a phased return to work /full duties is recommended by a GP on the 'Statement of Fitness for Work', or by the OHS, details will, in addition, be recorded on Part 5 of the form.

**ADDITIONAL NOTES**

- (i) The above procedures are those generally required of all employees. However, employees will also be made aware of any reporting procedures in place in the school relating to contact names/numbers, cover etc.
- (ii) Where an employee works for part of the day and has to leave (or arrives late) due to sickness, it will be recorded as:  
**LESS than ½ normal hours worked - 1 day's absence**  
**MORE than ½ normal hours worked - ½ day absence**
- (iii) If an employee currently covered by a medical statement returns to work prior to the date stated, s/he may be referred to the OHS, or other health professional, for further advice at the discretion of the *Headteacher/DMS*.
- (iv) Any absence resulting from an incident or injury sustained at work must also be reported and recorded as required by the Reporting of Injuries, Diseases and Dangerous Occurrences Regulations 2013 (RIDDOR 2013). Incidents involving restraint of a pupil must also be reported. Employees must refer to the Headteacher/DMS/Line Manager in relation to the required reporting procedures. Where appropriate, further advice is available from the London Borough of Enfield's Health and Safety Team based at the Civic Centre, Silver Street, Enfield. (Tel: (020) 8379 3223/3224 or email [SchoolsHealthandSafetyTeam@Enfield.gov.uk](mailto:SchoolsHealthandSafetyTeam@Enfield.gov.uk) ).
- (v) The *Headteacher/DMS* reserves the right, to require a 'Statement of Fitness for Work' prior to the eighth calendar day.

**REPORT ON ABSENCE AND RETURN TO WORK FORM**

To be completed in respect of all employee absence caused by sickness, or by injury sustained at work.

**Part 1: To be completed by the *Headteacher/DMS/Line Manager* on the first day of employee absence**

Name of Employee (CAPS):

Post:

First Day and  
Date of Absence:

Time and  
Date of Contact:

Reason for Absence (indicate illness [if known] or symptoms):

Expected Date of Return:

Tick box if absence is due to accident or incident at work:  
(The appropriate reporting requirements **must** be also be carried out)

☐
**Part 2 - (i) To be completed by the *Headteacher/DMS/Line Manager*, as considered appropriate, where absence continues after first day.**

Time(s)/Date(s) of Contact:

Reason for continuing absence:

Where Doctor has been consulted, state date:

(ii) **To be completed by the *Headteacher/DMS/Line Manager* where employee is unable to return to work after 7 calendar days (employee must obtain 'Statement of Fitness for Work' from the 8<sup>th</sup> calendar day)**

Date First Statement Received: Date/Period of Statement:

Reason for absence stated on Statement:

**Part 3 - To be completed by employee on return to work after absence of any length. To be signed by employee and *Headteacher/DMS/Line Manager*.**

Period unfit for work From:

To:

Reason for Absence:

Was Doctor consulted? YES/NO

Signed (Employee):

Date:

Signed (*Headteacher/DMS/Line Manager*):

Date:

**Part 4 - To be completed by *Headteacher/DMS/Line Manager* for absence monitoring purposes**

No. Days Absent: Reasons:

Dates/length of previous 3 absences

From:	To:	No. Days:	Reasons:
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From:	To:	No. Days:	Reasons:
-------	-----	-----------	----------

From:	To:	No. Days:	Reasons:
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Has trigger level been reached? YES/NO State details:

**Additional Notes** – (i) Where a phased return to work/full duties has been recommended, the details should be recorded in Part 5 overleaf. (Where a phased return is agreed, the above sections should also be completed as a record of actual absence details prior to any phased return). (ii) Pregnancy and disability-related absences will be identified separately from other sickness absence on individual records. In relation to disability-related absence 'trigger levels' will be applied as deemed appropriate, taking account of this information. Pregnancy-related absence will not be taken into account when making a decision about someone's employment.

**Part 5 – To be completed by *Headteacher/DMS/Line Manager* in conjunction with employee where a phased return to work or full duties has been recommended on the 'Statement of Fitness for Work' or by the OHS.**

Recommendation for Return to Work/Full Duties (State details from Statement of Fitness for Work or OHS):

Details of discussion between *Headteacher/DMS/Line Manager* and employee:

Details of Arrangements/Adjustments agreed for phased return, dates and pay (or otherwise state if employee is not to return on a phased basis, but to be deemed 'not fit for work', e.g. if it is not possible to agree suitable adjustments or adaptations to the role or hours):

Date agreed for review of arrangements, if applicable:

Signed (*Headteacher/DMS/Line Manager*):

Date:

Signed (Employee):

Date:

Details of further discussion following review:

Date of Return to Full Duties, if applicable (if further adjustments to hours/role are agreed, a new Part 5 of the Return to Work form should be completed, as above):

Other Comments:

Signed (*Headteacher/DMS/Line Manager*):

Date:

Signed (Employee):

Date:



<b>Employee Name:</b>	<b>Start Date at School:</b>
<b>Post:</b>	<b>State Full Time or Part Time:</b>
<b>Pay No. or Other Info:</b>	<b>If Part Time, State Days Worked:</b>

[illegible]

**FLOWCHART – PROCEDURE FOR MANAGEMENT OF RECURRENT SHORT-TERM AND LONG-TERM ABSENCE**

Employee's absence a cause for concern due to length/number of periods of absence, return to work discussions taken place and/or trigger level reached. Where practical and appropriate to the circumstances, informal measures, e.g. discussions re any underlying causes, consideration given to reasonable adjustments, other support, counselling, flexible working and measures to reduce absence.

**Absence levels improved.**  
Absence monitored under normal absence mgt. and notification procedure.

**Capability Procedure - Stage 1**

Formal Ill Health Capability Meeting to consider a 'First' or 'First and Final' Written Warning

**1. Insufficient Grounds for Further Action.** Absence monitored under normal absence mgt. and notification procedure.

**2. Adjourn Meeting** (e.g. to obtain further info/advice)

**3. 'First' or 'First and Final' Written Warning Issued.** Failure to improve attendance (within time set) or return to work (within reasonable period set) may lead to dismissal.

**Monitoring and Review**

**Absence levels improved.** Absence monitored under normal absence mgt. and notification procedure.

**Insufficient Level of Improvement shown**

**Capability Procedure – Stage 2 (Or Go to Stage 3 if First and Final Warning Issued at Stage 1 or it is otherwise appropriate)**

Formal Ill Health Capability Meeting to consider a 'Final' Written Warning

**1. Insufficient Grounds for Further Action.** Absence monitored under normal absence mgt. and notification procedure.

**2. Adjourn Meeting** (e.g. to obtain further info/advice)

**3. Exceptionally Extend Period and Terms of 'First' Written Warning.** Monitor and Review.

**4. 'Final' Written Warning Issued.** Failure to improve attendance (within time set) or return to work (within reasonable time period set) may lead to dismissal.

**Monitoring and Review**

**Absence Levels Improved.** Absence monitored under normal absence mgt. and notification procedure.

**Insufficient Level of Improvement shown**

**Capability Procedure – Stage 3**

Formal Ill Health Capability Meeting to Consider Dismissal

**1. Insufficient Grounds for Further Action.** Absence monitored under normal absence mgt. and notification procedure.

**2. Adjourn Meeting** (e.g. to obtain further info/advice)

**3. Exceptionally Extend Period and Terms of 'First' or 'First and Final' Written Warning**

**4. Dismissal with Notice Issued**

**NB. Notwithstanding the above, in some circumstances, it may be considered pragmatic to move directly to Stage 3 in this procedure (e.g. in cases of serious or terminal ill health or injury)**

**Decision to Dismiss Upheld**

**Appeal to Govs/Mgt. Cttee.** (Employee may appeal at ANY stage of the Procedure)

**Decision to Dismiss Overturned.** Return to Capability Procedure or monitor absence under normal absence mgt. and notification procedure.

## **General Format of Formal Capability Meetings and Appeals**

The general format outlined in (A) and (B) below is written on the basis that the *Headteacher* will hear the case and reach a decision at the first stage (i.e. the formal capability meetings prior to any appeal). However, if this is inappropriate, the formal Meetings will be conducted by one *governor/member of the PRU Management Committee*, as set out under Section A, 7. (a) of this document 'Delegation of Authority' and should, therefore, be substituted for the *Headteacher* in the following text.

### **(A) Formal Capability Meetings**

#### **1. Preliminaries**

The *Headteacher* will make the introductions, identify all those present and explain the purpose of the meeting.

#### **2. Case of Presenting Officer**

- (a) The Presenting Officer will outline the case;
- (b) The employee (and/or their companion if present) may question the Presenting Officer;
- (c) The *Headteacher* may question the Presenting Officer;
- (d) The LA representative and/or HR Adviser, as appropriate, may question the Presenting Officer on issues of a factual nature.

And, if witnesses are being called:

- (e) The Presenting Officer will call, individually, any witnesses;
- (f) Each witness may be questioned by the employee (and/or their companion if present);
- (g) The *Headteacher* may ask questions of each witness;
- (h) The LA representative and/or HR Adviser, as appropriate, may ask questions of the witnesses on issues of a factual nature;
- (i) If the Presenting Officer so wishes s/he may re-examine the witnesses.

#### **3. The Employee's Case**

- (a) The employee (or his/her companion) may outline their case;
- (b) The Presenting Officer may question the employee (and/or his/her companion);
- (c) The *Headteacher* may question the employee (and/or his/her companion);
- (d) The LA representative and/or HR Adviser, as appropriate, may question the employee (and/or his/her companion) on issues of a factual nature.

And, if witnesses are being called:

- (e) The employee (or his/her companion) will call, individually any witnesses;

- (f) Each witness may be questioned by the Presenting Officer;
- (g) The *Headteacher* may ask questions of the witnesses;
- (h) The LA representative and/or HR Adviser, as appropriate, may ask questions of the witnesses on issues of a factual nature;
- (i) If the employee (or his/her companion) so wishes s/he may re-examine the witnesses.

**NB.** In exceptional circumstances the *Headteacher* may wish to recall witnesses to clear up points of uncertainty. Representatives/companions of both parties should also be present in these circumstances and should be given the opportunity to ask questions of the witnesses should they wish in accordance with 2. and 3. above.

At this stage neither party may introduce new evidence.

#### 4. **Summing Up**

At the conclusion of the presentation by both parties the *Headteacher* will invite both parties to:

- (a) Sum up the main points of the case if they wish. No new evidence may be introduced at this stage. The Presenting Officer will sum up first to be followed by the employee (or his/her companion);
- (b) Withdraw during the consideration of the case by the *Headteacher*;
- (c) If the *Headteacher* finds a case proven then s/he will invite both parties to address it further on the question of mitigation and what capability action should be taken. The employee (or his/her companion) will have the final address. (In circumstances where the *Headteacher* considers that s/he will not be able to reach an immediate decision in the matter, s/he will invite the parties to address the question of mitigation in advance).

#### 5. **The Decision**

The representative of the LA, the HR and/or the legal adviser (if one is present) will remain to give advice on procedural or legal matters to the *Headteacher*. The Clerk (notetaker for the *Headteacher*) will also remain.

Both parties will be recalled and the decision will be communicated orally to them. If this is not possible immediately, the decision will be communicated as soon as possible. The decision will be confirmed in writing in accordance with the main body of this document.

## **(B) Formal Capability Appeal Meetings**

The grounds for the appeal and all the prevailing circumstances surrounding the case will determine whether or not the appeal hearing takes the form of a full rehearing or, alternatively, whether the *Headteacher* will attend the appeal to present his/her findings. The Chair of the Appeal Panel will reach a decision on the matter, after seeking HR advice, as appropriate.

Where the Chair decides, after due consideration of the matter, that a re-hearing is unnecessary or would be inappropriate taking account of all the circumstances, the process for the appeal meeting should be conducted as set out below.

In other cases, where the Chair decides that the appeal will be by way of a 're-hearing', the format will be as described in (A) above (with the Chair/Appeal Panel replacing the *Headteacher* in that process).

### **1. Before the Appeal Meeting**

The named contact will advise the employee (or the employee's companion) and the *Headteacher* that they should prepare a written statement in support of their respective cases. (The *Headteacher* may choose to use his/her decision letter from the first Hearing for this purpose either in place of, or in addition to, any other written statement s/he may provide). **These should be sent to the named contact within a timescale determined by the Chair of the Appeal Panel.** Should either party fail to provide a written statement, in accordance with this procedure, they will be limited, at the appeal hearing, to providing an oral statement only.

### **2. Preliminaries**

The Chair of the Appeal Panel will make the introductions, identify all those present and explain the purpose of the hearing.

### **3. Case of the *Headteacher*, as the person responsible for the capability decision**

- (a) the *Headteacher* will present a written statement in support of that decision, in the presence of the employee (and his/her companion if attending)
- (b) the employee (and/or his/her companion) may ask questions of the *Headteacher*.
- (c) the appeal panel may ask questions of the *Headteacher*.
- (d) the LA's representative and/or HR Adviser may ask questions of the *Headteacher* of a factual nature.

### **4. The employee's case**

- (a) the employee will present a written statement in support of his/her case, in the presence of the *Headteacher*.
- (b) the *Headteacher* may ask questions of the employee.
- (c) the appeal panel may ask questions of the employee.
- (d) the LA's representative and/or HR Adviser may ask questions of the employee of a factual nature.

### **5. At the conclusion of the presentation by both parties the Chair of the Appeal Panel shall:**

- (a) invite both parties to sum up. The *Headteacher* will sum up first to be followed by the employee (or their representative). No new evidence shall be introduced at this stage.
- (b) invite both parties to withdraw during the consideration of the case by the panel.

## 6. Reaching the Decision

The LA's representative, the HR and/or the legal adviser (if one is present) will remain to give advice on procedural or legal matters to the Panel. The Clerk (notetaker for the Panel) will also remain.

Both parties will be recalled and the decision will be communicated orally to them. If this is not possible immediately, the decision will be communicated as soon as possible. The decision will be confirmed in writing in accordance with the main body of this document.

The Panel may confirm, quash or vary downwards the capability decision under appeal (i.e. the Panel may not issue a more severe penalty). For example, the Panel will have the ability to reinstate any employee dismissed at a capability meeting, but will not be able to substitute dismissal for a lesser disciplinary penalty. **The decision of the Appeal Panel in such matters will be final.**

If the appeal has not been determined when the dismissal would otherwise have taken effect, the contract will be deemed to be in suspension, with the employee on nil pay. If any subsequent appeal is successful the employee will be reinstated with effect from the last day of service, as previously notified in the original dismissal letter. Where any subsequent appeal is unsuccessful (or is withdrawn) the last day of service will be as stated in the original dismissal letter.

## **MODEL LETTERS**

**IMPORTANT:** *It should be noted that the attached model letters are intended as a guide only and will need to be adapted according to the particular requirements of each individual case. The models do not cover every eventuality. Additional letters may also be required, depending upon the progression of the case and/or the action decided upon at each stage. The Schools' Personnel Service can provide further advice and guidance on request.*

**Model letter** for use by Headteacher/DMS/Line Manager to send to employee when notified by the Payroll Service that s/he will be **reducing to half or nil pay** – to be adapted according to the circumstances. **(See Section A 6. (i) of this document ‘Employees Reducing to Half or Nil Pay’).**

**PRIVATE AND CONFIDENTIAL**

**To:**

**Dear**

**Sickness Absence and Entitlement to Sick Pay**

I am sorry that you remain unwell/are receiving treatment (*or as appropriate*) and are unable to attend work at present.

I do hope, however, that you are (*still*) making good progress and will be able to return to your duties shortly. In the meantime, please (*continue to*) keep me informed of the situation and do let me know if I can be of any (*further*) help or support at this time. (*This paragraph may need to be adapted according to the circumstances, e.g. if investigations/meetings have been taking place regarding the employee's absence(s).*)

In connection with your absence, I have recently been informed by the Payroll Service that your entitlement to (*full*) sick pay will be coming to an end in the not too distant future, should you remain absent from school. The details I have received from the Payroll Service are as follows:

*(Set out here details of the employee's pay position, as indicated by the Payroll Service. It may be helpful also to refer the employee to brief details of their occupational sick pay scheme and/or attach the relevant pages from the main body of this document [see Section A, 5. of this document ‘Sickness Schemes – Teachers and Support Staff’ on pages 10 and 11]. This section of the document also includes a link to the statutory sick pay scheme).*

If you have any queries about your entitlement to sick pay, the staff in the Payroll Service are probably best placed to help you. The *school/PRU* office can provide you with the relevant contact details. However, if you feel it would be helpful to discuss your pay position with me first, then please do not hesitate to contact me.

I will, of course, remain in contact with you regarding your absence from work. We do need to (*continue to*) discuss the likelihood of your return in the near future, including any help or particular arrangements that we may be able to offer to aid a return, or otherwise agree a way forward. (*This paragraph may also need amendment according to the circumstances, e.g. if investigations/meetings have been taking place regarding the employee's absence(s).*)

With best wishes.

Yours sincerely,

*Headteacher (DMS/Line manager, as appropriate)*



**Model letter** for use in relation to **Section B, 2. Ill Health Capability Procedure** for Dealing with Short and Long-Term Absence, **Stage 1 – Formal Ill Health Capability Meeting to Consider a ‘First’ or ‘First and Final’ Written Warning: ‘Requirement to Attend Formal Capability Meeting’**

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**PRIVATE AND CONFIDENTIAL**

**To:**

Dear

**Ill Health Capability Procedure Stage 1 – Requirement to Attend Formal Capability Meeting**

As you will be aware from the *school's/PRU's* arrangements for managing absence, your recent absence(s) from work mean that you have reached a trigger level requiring further consideration of the situation, including your own health and the impact on service provision.

The current concerns relating to your absence(s) mean that I now have no alternative but to require you to attend a meeting with the *Headteacher* to consider your absence record and the way forward under Stage 1 of the Ill Health Capability Procedure for Dealing with Short and Long-Term Absence.

The meeting has been arranged for *(date)* at *(time)* in *(venue)*.

The records indicate that your sickness absence(s) have *(has)* been as follows:

*(Set out details of relevant absence(s) here – dates/time period, no. of days, reason[s] given etc)*

This means that you have reached the following trigger level that is part of the *school's/PRU's* absence management policy and procedure:

*(State trigger levels here and highlight the particular trigger reached)*

*(Also state details of any previous discussions and/or support provided, if relevant)*

*(Then, as relevant) I am enclosing copies of (as appropriate, for example, statements of fitness to work, any OHS report etc)*

I will attend the meeting to present the case to the *Headteacher*. The *Headteacher* will be accompanied by *(name, title)*. *(Then, if relevant, also state details of any witnesses to be called)*.

You will be given the opportunity to respond to the concerns at the meeting and you will have the right to be accompanied by:

- a local area or regional official of a Trade Union/Professional Association;
- a workplace Trade Union/Professional Association Representative, as long as s/he has been reasonably certified in writing by their union as having experience of, or having received training in, acting as an employee's companion at capability meetings. Certification may take the form of a card or letter; or
- a work colleague.

**I must advise you that the outcome of the meeting could result in you being issued with a ‘first’ or ‘first and final’ written warning in relation to the concerns about your absence(s). Ultimately, this could lead to your dismissal on the grounds of ill health if your attendance continues to fall below expectations.**

Should you fail to attend the Hearing, it may take place in your absence and you will be notified of the outcome. If you are unable to attend through sickness, the *Headteacher* will require medical evidence to that effect.

I am enclosing a copy of the 'Ill Health Capability Procedure for Dealing with Short and Long-Term Absence' and the 'Formal Capability Appeals Procedure – Short and Long-Term Absence' with this letter. (*Attach the relevant procedures from Section B of the main body of this document*).

Yours sincerely,

*(Designated Member of Staff or Line Manager, as appropriate)*

Enc.

**Model letter** for use in relation to **Section B, 2. Ill Health Capability Procedure** for Dealing with Short and Long-Term Absence, **Stage 1 – Formal Ill Health Capability Meeting to Consider a ‘First’ or ‘First and Final’ Written Warning: ‘Outcome of Formal Capability Meeting’ (Formal Written Warning Issued)**

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**PRIVATE AND CONFIDENTIAL**

**To:**

Dear

**Ill Health Capability Procedure Stage 1 – Outcome of Formal Capability Meeting**

I refer to the formal Stage 1 Ill Health Capability Absence Meeting held on *(date)*. I am now writing to you to confirm details of our discussion and my decision in the matter, as well as to set out the requirements for you to *reach a satisfactory level of attendance/make a full return to work (as appropriate to the circumstances)* and to warn you of the possible consequences should these requirements not be met.

The purpose of the meeting was for me to consider concerns in relation to your absence(s) from work and explore the reasons for it, any further help or support that it may be possible to provide, any further action to be taken and to seek a commitment from you to *improve your attendance/make a full return to work (as appropriate, according to the circumstances of the case)*. You were also given the opportunity to respond.

In considering all the evidence, both written and that presented to me orally *(or as appropriate)* by *(state name and post title of Presenting Officer)*, as well as you and your Representative *(as appropriate)*, I found the concerns about your absence(s) to be proven. The reasons for this are:

*(As relevant, state details of absences/trigger levels reached, help and support provided, information received, for example, from the OHS, any other specific actions taken and the outcome etc).*

At the meeting we discussed my expectations for *the improvement needed to your level of attendance/you to make a full return to work* before it will be possible for you to be removed from capability proceedings. These are:

*(State details of requirements, e.g. that the employee has no more than x days absence within the next y weeks/months or makes a full return to work within 4-10 weeks depending on the circumstances of the case).*

*(Then, as appropriate to the circumstances)* To help you achieve the required level of attendance/make a full return to work, the following support will be put in place/actions will be taken:

*(State details of any further support to be put in place or actions to be taken).*

During this time the situation will *(continue to)* be monitored and reviewed by *(state name of DMS/Line manager, as appropriate)*.

**This letter constitutes a formal *(state either ‘first’ or ‘first and final’, as appropriate)* written warning that a failure to *improve/make a full return to work (as appropriate)* within the time period set out above may lead to *(‘a final written warning or to’ – only state this if a first written warning has been issued)* your dismissal on the grounds of ill health.**

You are entitled to appeal against my decision. Any appeal you may make must be lodged, in writing, within 5 working days of the date of this letter. The appeal notice should be sent to *(state name and*

*address of the person to whom the appeal must be sent*). The written appeal notice must state the grounds for appeal.

Yours sincerely,

*Headteacher*

**Model letter** for use in relation to **Section B, 2. III Health Capability Procedure** for Dealing with Short and Long-Term Absence, **Stage 1 – Formal III Health Capability: Outcome of Monitoring and Review Following the Issue of a ‘First’ or ‘First and Final’ Written Warning (Attendance Improved)**

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**PRIVATE AND CONFIDENTIAL**

To:

Dear

**III Health Capability Procedure Stage 1 – Outcome of Monitoring and Review Following the Issue of a ‘First’ or ‘First and Final’ (as appropriate) Written Warning**

I refer to our meeting and discussion on *(date)* in the presence of your Representative *(as appropriate)*.

Further to you being issued with a *‘first’ or ‘first and final’ (as appropriate)* written warning on *(state date of Headteacher’s letter issuing ‘first’ or ‘first and final’ written warning)*, we discussed your attendance during the period of monitoring/return to work *(as appropriate to the circumstances)* as well as the support provided/actions taken to assist you *(state details, as appropriate)*.

I am very pleased that *your attendance has improved/you have made a full return to work (as appropriate to the circumstances)*. As a result, I can confirm that no further action will be taken in relation to your sickness absence(s) at this time and you can now be removed from formal capability proceedings.

I do hope that you can continue to maintain an acceptable level of attendance and that there will be no need to raise any further concerns about your absence(s). May I remind you that the trigger levels that are part of the *school’s/PRU’s* policy for raising concerns about, and potentially investigating, sickness absence are as follows:

*(Set out details of trigger levels here)*

The *school/PRU* is committed to supporting the health and well-being of all employees as far as possible. Therefore, please do let me know if, at any time, you consider that you require any further support in maintaining a satisfactory level of attendance at work or if you are encountering any difficulties in this respect.

Yours sincerely,

*(Designated Member of Staff or Line Manager, as appropriate)*

**Model letter** for use in relation to **Section B, 2. Ill Health Capability Procedure** for Dealing with Short and Long-Term Absence, **Stage 2 – Formal Ill Health Capability Meeting to Consider a ‘Final’ Written Warning (As Outcome of Monitoring and Review Period Following Issue of ‘First’ Written Warning)**

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**PRIVATE AND CONFIDENTIAL**

**To:**

Dear

**Ill Health Capability Procedure - Outcome of Monitoring and Review Following the Issue of a ‘First’ Written Warning: Requirement to Attend Formal Capability Meeting under Stage 2**

I refer to our meeting and discussion on *(date)* in the presence of your Representative (as appropriate).

Further to the issue of a ‘first’ written warning under Stage 1 of the Ill Health Capability Procedure, we discussed the expectations relating to your attendance at work, as set out in the Headteacher’s earlier letter of *(state date)* and the *support provided/actions taken to assist you (state details, as relevant and appropriate)*. A copy of the *Headteacher’s* letter (and, if relevant, any other documentation) is attached again here for your ease of reference.

I regret that it has not proved possible for you to meet the expectations set out by the *Headteacher* and your absence(s) remain a concern in terms of both your own health and service provision. In the circumstances, I now have no alternative but to require you to attend a further meeting with the *Headteacher* to consider the position regarding your ongoing absence under Stage 2 of the Ill Health Capability Procedure for Dealing with Short and Long-Term Absence.

The meeting has been arranged for *(date)* at *(time)* in *(venue)*.

Your absence record indicates the following *(state details of relevant absence(s) here – dates/time period, no. of days, reason[s] given etc)*.

*(Then, as relevant)* I am enclosing copies of *(as appropriate, for example, statements of fitness to work, any OHS report etc)*

I will attend the meeting to present the case to the *Headteacher*. The *Headteacher* will be accompanied by *(name, title)*. *(Then, if relevant, also state details of any witnesses to be called)*.

You will again be given the opportunity to respond to the concerns at the meeting and you will have the right to be accompanied by:

- a local area or regional official of a Trade Union/Professional Association;
- a workplace Trade Union/Professional Association Representative, as long as s/he has been reasonably certified in writing by their union as having experience of, or having received training in, acting as an employee’s companion at capability meetings. Certification may take the form of a card or letter; or
- a work colleague.

**I must advise you that the outcome of the meeting could result in you being issued with a ‘final’ written warning in relation to the concerns about your absence(s). This may lead to your dismissal on the grounds of ill health if your attendance continues to fall below expectations.**

Should you fail to attend the Hearing, it may take place in your absence and you will be notified of the outcome. If you are unable to attend through sickness, the *Headteacher* will require medical evidence to that effect.

You have already received a copy of the 'Ill Health Capability Procedure for Dealing with Short and Long-Term Absence' and the 'Formal Capability Appeals Procedure – Short and Long-Term Absence'. However, please let me know if you require a further copy.

Yours sincerely,

*(Designated Member of Staff or Line Manager, as appropriate)*

Enc.

**Model letter** for use in relation to **Section B, 2. III Health Capability Procedure** for Dealing with Short and Long-Term Absence, **Stage 2 – Formal III Health Capability Meeting to Consider a ‘Final’ Written Warning - Outcome (Extension of Period and Terms of First Written Warning)**

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**PRIVATE AND CONFIDENTIAL**

To:

Dear

**III Health Capability Procedure Stage 2 - Outcome of Formal Capability Meeting**

I refer to the formal Stage 2 III Health Capability Absence Meeting held on *(date)*. I am now writing to you to confirm details of our discussion and my decision in the matter, as well as to set out the requirements for you to *reach a satisfactory level of attendance/make a full return to work (as appropriate to the circumstances)* and to warn you of the possible consequences should these requirements not be met.

The purpose of the meeting was for me to consider the ongoing concerns in relation to your absence(s) from work and explore the reasons for it, any further help or support that it may be possible to provide, any further action to be taken and to seek a commitment from you to *improve your attendance/make a full return to work (as appropriate, according to the circumstances of the case)*. You were also given the opportunity to respond.

In considering all the evidence, both written and that presented to me orally *(or as appropriate)* by *(state name and post title of Presenting Officer)*, as well as you and your Representative *(as appropriate)*, **I have decided, exceptionally, to extend the period and terms of the ‘first’ written warning issued to you in my previous letter of *(state date)***. The reasons for this are:

*(As relevant, state details of reasons for the extension which may include some improvement in attendance, further medical evidence/information, mitigating circumstances etc.).*

Taking into account all the information and circumstances, my expectations for *the (continued) improvement needed to your level of attendance/you to make a full return to work* before it will be possible for you to be removed from capability proceedings, are:

*(State details of requirements, e.g. that the employee has no more than x days absence within the next y weeks/months or makes a full return to work within 4-10 weeks depending on the circumstances of the case).*

*(Then, as appropriate to the circumstances)* To help you achieve the required level of attendance/make a full return to work, the following support will be put in place/actions will be taken:

*(State details of any further support to be put in place or actions to be taken).*

During this time the situation will *(continue to)* be monitored and reviewed by *(state name of DMS/Line manager, as appropriate)*.

**This letter constitutes a formal ‘first’ written warning that a failure to *improve/make a full return to work (as appropriate)* within the time period set out above may lead to a ‘final’ written warning or to your dismissal on the grounds of ill health.**

You are entitled to appeal against my decision. Any appeal you may make must be lodged, in writing, within 5 working days of the date of this letter. The appeal notice should be sent to *(state name and*



*address of the person to whom the appeal must be sent*). The written appeal notice must state the grounds for appeal.

Yours sincerely,

*Headteacher*

**Model letter** for use in relation to **Section B, 2. III Health Capability Procedure** for Dealing with Short and Long-Term Absence, **Stage 2 – Formal III Health Capability Meeting to Consider a Final Written Warning: ‘Outcome of Formal Capability Meeting’ (Final Written Warning Issued)**

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**PRIVATE AND CONFIDENTIAL**

**To:**

Dear

**III Health Capability Procedure Stage 2 – Outcome of Formal Capability Meeting**

I refer to the formal Stage 2 III Health Capability Absence Meeting held on *(date)*. I am now writing to you to confirm details of our discussion and my decision in the matter, as well as to set out the requirements for you to *reach a satisfactory level of attendance/make a full return to work (as appropriate to the circumstances)* and to warn you of the possible consequences should these requirements not be met.

Following the issue of a first written warning in my letter of *(state date)*, the purpose of this further meeting was for me to consider ongoing concerns in relation to your absence(s) from work and the reasons for it, any further help or support that it may be possible to provide, any further action to be taken and to seek a renewed commitment from you to *improve your attendance/make a full return to work (as appropriate, according to the circumstances of the case)*. You were also given the opportunity to respond.

In considering all the evidence, both written and that presented to me orally *(or as appropriate)* by *(state name and post title of Presenting Officer)*, as well as you and your Representative *(as appropriate)*, I found the concerns about your continuing absence(s) to be proven. The reasons for this are:

*(As relevant and appropriate, state details of absences/trigger levels reached, help and support provided, any information received, for example, from the OHS, any other specific actions taken and the outcome etc).*

At the meeting, we discussed my expectations for *the improvement needed to your level of attendance/you to make a full return to work* before it will be possible for you to be removed from capability proceedings. These are:

*(State details of requirements, e.g. that the employee has no more than x days absence within the next y weeks/months or makes a full return to work within 4-10 weeks depending on the circumstances of the case).*

*(Then, as appropriate to the circumstances)* To help you achieve the required level of attendance/make a full return to work, the following support will be put in place/actions will be taken:

*(State details of any further support to be put in place or actions to be taken).*

During this time the situation will *(continue to)* be monitored and reviewed by *(state name of DMS/Line manager, as appropriate)*.

**This letter constitutes a formal ‘final’ written warning that a failure to *improve/make a full return to work (as appropriate)* within the time period set out above may lead to your dismissal on the grounds of ill health.**

You are entitled to appeal against my decision. Any appeal you may make must be lodged, in writing, within 5 working days of the date of this letter. The appeal notice should be sent to *(state name and address of the person to whom the appeal must be sent)*. The written appeal notice must state the grounds for appeal.

Yours sincerely,

*Headteacher*

**Model letter** for use in relation to **Section B, 2. III Health Capability Procedure** for Dealing with Short and Long-Term Absence, **Stage 2 – Formal III Health Capability: Outcome of Monitoring and Review Following the Issue of a ‘Final’ Written Warning (Attendance Improved)**

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**PRIVATE AND CONFIDENTIAL**

To:

Dear

**III Health Capability Procedure Stage 2 – Outcome of Monitoring and Review  
Following the Issue of a ‘Final’ Written Warning**

I refer to our meeting and discussion on *(date)* in the presence of your Representative *(as appropriate)*.

Further to you being issued with a final written warning on *(state date of Headteacher’s letter issuing final written warning)*, we discussed your *attendance during the period of monitoring/return to work (as appropriate to the circumstances)* as well as the *support provided/actions taken to assist you (state details, as appropriate)*.

I am very pleased that *your attendance has improved/you have made a full return to work (as appropriate to the circumstances)*. As a result, I can confirm that no further action will be taken in relation to your sickness absence(s) at this time and you can now be removed from formal capability proceedings.

I do hope that you can continue to maintain an acceptable level of attendance and that there will be no need to raise any further concerns about your absence(s). May I remind you that the trigger levels that are part of the *school’s/PRU’s* policy for raising concerns about and potentially investigating sickness absence are as follows:

*(Set out details of trigger levels here)*

The *school/PRU* is committed to supporting the health and well-being of all employees as far as possible. Therefore, please do let me know if, at any time, you consider that you require any further support in maintaining a satisfactory level of attendance at work or if you are encountering any difficulties in this respect.

Yours sincerely,

*(Designated Member of Staff or Line Manager, as appropriate)*

**Model letter** for use in relation to **Section B, 2. Ill Health Capability Procedure** for Dealing with Short and Long-Term Absence, **Stage 3 – Formal Ill Health Capability Meeting to Consider ‘Dismissal’ (As Outcome of Monitoring and Review Period Following Issue of ‘First and Final’ or ‘Final’ Written Warning, as appropriate)**

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**PRIVATE AND CONFIDENTIAL**

To:

Dear

**Ill Health Capability Procedure - Outcome of Monitoring and Review Following the Issue of a ‘First and Final’ or ‘Final’ (as appropriate) Written Warning:  
Requirement to Attend Formal Capability Meeting under Stage 3**

I refer to our meeting and discussion on *(date)* in the presence of your Representative (as *appropriate*).

Further to the issue of a *‘first and final’ or ‘final’ (as appropriate)* written warning under *Stage 1 or Stage 2 (as appropriate)* of the Ill Health Capability Procedure, we discussed the expectations relating to your attendance at work, as set out in the Headteacher’s earlier letter of *(state date)* and the *support provided/actions taken to assist you (state details, as relevant and appropriate)*. A copy of the Headteacher’s letter is attached again here for your ease of reference.

I regret that it has not proved possible for you to meet the expectations set out by the *Headteacher* and your absence(s) remain a concern in terms of both your own health and service provision. In the circumstances, I now have no alternative but to require you to attend a further meeting with the *Headteacher* to consider the position regarding your ongoing absence under Stage 3 of the Ill Health Capability Procedure for Dealing with Short and Long-Term Absence.

The meeting has been arranged for *(date)* at *(time)* in *(venue)*.

Your absence record indicates the following *(state details of relevant absence(s) here – dates/time period, no. of days, reason[s] given etc)*.

*(Then, as relevant)* I am enclosing copies of *(as appropriate, for example, statements of fitness to work, any OHS/Fit for Work Plan etc)*

I will attend the meeting to present the case to the *Headteacher*. The *Headteacher* will be accompanied by *(name, title)*. *(Then, if relevant, also state details of any witnesses to be called)*.

You will again be given the opportunity to respond to the concerns at the meeting and you will have the right to be accompanied by:

- a local area or regional official of a Trade Union/Professional Association;
- a workplace Trade Union/Professional Association Representative, as long as s/he has been reasonably certified in writing by their union as having experience of, or having received training in, acting as an employee’s companion at capability meetings. Certification may take the form of a card or letter; or
- a work colleague.

**I must advise you that the outcome of the meeting could result in your dismissal on the grounds of ill health.**

Should you fail to attend the Hearing, it may take place in your absence and you will be notified of the outcome. If you are unable to attend through sickness, the *Headteacher* will require medical evidence to that effect.

You have already received a copy of the 'Ill Health Capability Procedure for Dealing with Short and Long-Term Absence' and the 'Formal Capability Appeals Procedure – Short and Long-Term Absence'. However, please let me know if you require a further copy.

Yours sincerely,

*(Designated Member of Staff or Line Manager, as appropriate)*

Enc.

**Model letter** for use in relation to **Section B, 2. III Health Capability Procedure** for Dealing with Short and Long-Term Absence, **Stage 3 – Formal III Health Capability Meeting to Consider ‘Dismissal’ - Outcome (Extension of Period and Terms of ‘First and Final’ or ‘Final’ Written Warning)**

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**PRIVATE AND CONFIDENTIAL**

To:

Dear

**III Health Capability Procedure Stage 3 - Outcome of Formal Capability Meeting**

I refer to the formal Stage 3 III Health Capability Absence Meeting held on *(date)*. I am now writing to you to confirm details of our discussion and my decision in the matter, as well as to set out the requirements for you to *reach a satisfactory level of attendance/make a full return to work (as appropriate to the circumstances)* and to warn you of the possible consequences should these requirements not be met.

The purpose of the meeting was for me to consider the ongoing concerns in relation to your absence(s) from work and explore the reasons for it, any further help or support that it may be possible to provide, any further action to be taken and to seek a commitment from you to *improve your attendance/make a full return to work (as appropriate, according to the circumstances of the case)*. You were also given the opportunity to respond.

In considering all the evidence, both written and that presented to me orally *(or as appropriate)* by *(state name and post title of Presenting Officer)*, as well as you and your Representative *(as appropriate)*, **I have decided, exceptionally, to extend the period and terms of the ‘first and final’ or ‘final’ (as appropriate) written warning issued to you in my previous letter of (state date)**. The reasons for this are:

*(As relevant, state details of reasons for the extension which may include some improvement in attendance, further medical evidence/information, mitigating circumstances etc.).*

Taking into account all the information and circumstances, my expectations for *the (continued) improvement needed to your level of attendance/you to make a full return to work* before it will be possible for you to be removed from capability proceedings, are:

*(State details of requirements, e.g. that the employee has no more than x days absence within the next y weeks/months or makes a full return to work within 4-10 weeks depending on the circumstances of the case).*

*(Then, as appropriate to the circumstances) To help you achieve the required level of attendance/make a full return to work, the following support will be put in place/actions will be taken:*

*(State details of any further support to be put in place or actions to be taken).*

During this time the situation will *(continue to)* be monitored and reviewed by *(state name of DMS/Line manager, as appropriate)*.

**This letter constitutes a formal (state either ‘first and final’ or ‘final’, as appropriate) written warning that a failure to improve/make a full return to work (as appropriate) within the time period set out above may lead to your dismissal on the grounds of ill health.**

You are entitled to appeal against my decision. Any appeal you may make must be lodged, in writing, within 5 working days of the date of this letter. The appeal notice should be sent to *(state name and address of the person to whom the appeal must be sent)*. The written appeal notice must state the grounds for appeal.

Yours sincerely,

*Headteacher*



**Model letter** for use in relation to **Section B, 2. III Health Capability Procedure** for Dealing with Short and Long-Term Absence, **Stage 3 – Formal III Health Capability Meeting to Consider ‘Dismissal’ - Outcome (‘Dismissal’)**

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**PRIVATE AND CONFIDENTIAL**

**To:**

Dear

**III Health Capability Procedure Stage 3 - Outcome of Formal Capability Meeting**

Further to the Formal Capability Meeting held under Stage 3 of the III Health Capability Procedure on *(date)*, I am writing to you to confirm details of our discussion and my decision in the matter.

Following a *(final)* opportunity for you to improve your attendance, the purpose of the meeting was to consider the concerns relating to your *sickness absences and levels of attendance/continuing absence from work (as appropriate)*, to afford you the opportunity to respond and for me to reach a final decision in the matter.

In considering all the evidence, both written and that presented to me orally by *(state name and post title of Presenting Officer)* as well as you and your companion, I found that the concerns remain and that your level of attendance has continued to fall short of expectations and is unsustainable for the *school/PRU*.

*(Specify here details of absences and rationale to confirm the decision, together with trigger levels and any other relevant information, for example, from medical statements and/or reports, as appropriate to the circumstances).*

*(Then, as appropriate and relevant)* Despite providing you with support in the form of *(state details)* in order to seek *an improvement in your attendance levels/a full return to work, (as appropriate)* your attendance has remained unsatisfactory/absence has continued without a realistic likelihood of a return to full duties in the near future *(as appropriate)*.

In these circumstances, I now have no alternative but to inform you that my decision in the matter is that you be dismissed from your post at *(name of) School/PRU* on the grounds of your incapability due to ill health. *(In the case of **Community Schools and PRUs**, where the Authority is the employer in law, the letter should go on to state that it is for the relevant Local Authority Director to issue formal notice within 14 days of the date of this letter. **Voluntary Aided and Foundation Schools**, as the employer in law, issue notice themselves and should state that the letter constitutes formal notice of the termination of employment and also the date on which the employee’s employment will cease, i.e. his/her last day of service).*

You are entitled to appeal against my decision. Any appeal you may make must be lodged, in writing, within 5 working days of the date of this letter. The appeal notice should be sent to *(state name and address of the person to whom the appeal must be sent)*. The written appeal notice must state the grounds for appeal.

You should be aware that the date of your dismissal will be put into effect even if you decide to lodge an appeal. Payment of remuneration for any period of time after the effective date of dismissal will only be made if the appeal against your dismissal is successful.

Yours sincerely,

*Headteacher*

**Model letter for use in relation to Section B, 3. Formal Capability Appeals Procedure –Short and Long-Term Absence – Invitation to Attend an Ill Health Capability Appeal Meeting**

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**PRIVATE AND CONFIDENTIAL**

To:

Dear

**Invitation to Attend a Capability Appeal Meeting**

Further to your letter of *(date of employee's letter requesting an appeal)*, I am writing to advise you that an Appeal Meeting has been arranged to take place as follows:

*(State date, time and venue for Appeal Meeting)*

The Appeal will be heard by three *(or as appropriate)* members of the *Governing Body/PRU Management Committee (as appropriate)*. The Chair will be *(state name)* and the other Panel Members will be *(state names)*. The Panel will be advised, on behalf of the relevant Local Authority Director by *(state name and title as appropriate)*.

As applicable to the circumstances, state **EITHER**:

*The appeal will take the form of a hearing with both parties providing a written statement in support of their respective cases. In these circumstances, you are required to provide your written statement to (state details of person to whom statement should be sent) by no later than (state date/time). Should you fail to provide a written statement, you will be limited to providing an oral statement only at the Appeal Hearing.*

**OR**:

*The appeal will take the form of a re-hearing, including all the evidence previously presented and (if relevant) the witnesses called (as appropriate to the circumstances).*

You are again entitled to be accompanied at the Appeal meeting by:

- a local area or regional official of a Trade Union/Professional Association;
- a workplace Trade Union/Professional Association Representative, as long as s/he has been reasonably certified in writing by their union as having experience of, or having received training in, acting as an employee's companion at capability meetings. Certification may take the form of a card or letter; or
- a work colleague.

Should you fail to attend the Appeal Meeting, it may take place in your absence and you will be notified of the outcome or, your non-attendance may be interpreted as a withdrawal of your appeal. If you are unable to attend through sickness the panel will require medical evidence to that effect.

You have already received a copy of the Ill Health Capability Procedure, including the Capability Appeals Procedure. However, please let me know if there is anything about which you are unclear.

Yours sincerely,

*Headteacher (or as appropriate)*

**Model letter** for use in relation to Section B, **4. Formal Capability Appeals Procedure –Short and Long-Term Absence – ‘Outcome of Ill Health Capability Appeal Meeting’** *(Note that this letter assumes that the employee’s appeal was at Stage 3 of the Procedure, appeal against dismissal. If there is an appeal at an earlier stage of the process, the letter will need to be adapted accordingly).*

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**PRIVATE AND CONFIDENTIAL**

**To:**

Dear

**Outcome of Capability Appeal Meeting**

I am writing to confirm the Panel’s decision following the Capability Appeal Meeting held at *(venue)* on *(date)*.

The Appeal *against the sanction/procedure/findings (as appropriate)* took the form of a *hearing/re-hearing (as appropriate)*. The Panel had full access to all the relevant evidence *(state details, as applicable)*.

After careful consideration, the Panel has found that, despite providing you with appropriate support throughout the formal ill health capability procedure, your *level of attendance/continued absence from work/return to full duties (as appropriate)* has remained unsatisfactory and is unsustainable by the school/PRU. *(Specify details of absence(s) to confirm decision, as appropriate, together with trigger levels and any other relevant information)*.

*(Then, as appropriate and relevant) Support has been provided to you on the basis of (state details).* However, expectations regarding *your levels of attendance/a full return to work (as appropriate)* have not been met. *(Also state any other specific findings of the appeal panel, as applicable)*.

In these circumstances, the Appeal Panel upholds the original decision taken to dismiss you from your post on the grounds of your incapability due to ill health. Therefore, your employment is terminated as previously notified .... *(state details of previous correspondence terminating service and re-confirm last day of service)*.

You have now exercised your final right of appeal under the *School’s/PRU’s Ill Health Capability Procedure*. The decision of the Appeal Panel in the matter is, therefore, final.

Yours sincerely,

Chair of Capability Appeals Panel

(90)

**SPS**  
Schools' Personnel Service

6,000