

1 Scope

This procedure is recommended for adoption by governing bodies of all schools. Roman Catholic voluntary aided schools may choose to adopt this procedure or the model sickness absence procedure published by the Catholic Education Service (CES).

The procedure applies to short-term or long-term sickness absence of teaching or support staff. Concerns about the attendance of support staff in the first six months of their employment in local government are included in the Probationary Period Policy.

2 Purpose

This policy and procedure aims to encourage an improvement in employee attendance and to provide effective, fair and easily understood systems for dealing with sickness absence. Managers play an important role in the day-to-day counselling and supervision of their staff and, depending on the seriousness of the problem, they should seek initially to rectify problems through informal discussions and return to work interviews without invoking the formal procedures.

3 Policy statement

The governing body recognises that:

- a clear policy and procedural framework will assist employees to understand how sickness absence will be managed;
- the maintenance of high levels of attendance is essential in planning and providing cost effective and high quality services to the public, and in achieving high morale amongst employees;
- low levels of attendance can have an adverse effect on the school's image and effectiveness leading to poor service provision and low morale; and
- adjustments need to be considered and, if reasonable, made for employees where illness or disability prevents them from performing the full range of duties associated with their post. This includes consideration of redeployment to a suitable alternative post where the employee is fit to undertake it. Where the illness is of a serious nature, the governing body will be as supportive as possible.

4 Legal considerations

This policy meets the requirements of the Health and Safety at Work Act 1974 and related regulations, the Employment Rights Act 1996, the Employment Act 2002, the Equalities Act 2010 and the Education (Health Standards) (England) Regulations 2003 (the 2003 Regulations).

The dismissal of an employee for lack of capability due to ill health or for some other substantial reason arising from unacceptable levels of attendance is potentially fair, although the decision needs to be reasonable based on the facts and the employer needs to have followed a fair procedure. The employer will not generally have acted reasonably in dismissing an employee for frequent short-term absence unless they have been given fair warning and a chance to improve.

The duty to make reasonable adjustments under the Equality Act 2010 aims to make sure that a disabled person has the same access to everything that is involved in

getting and doing a job as a non-disabled person, as far as is reasonable. When the duty arises, the employer is under a positive and proactive duty to take steps to remove or reduce or prevent the obstacles a disabled employee faces. What is reasonable for a school to do depends, among other factors, on the size and nature of the organisation. However if a disabled person can show that there were barriers that should have been identified and reasonable adjustments that could have made, they can bring an Employment Tribunal claim at which they can be awarded compensation as well as an order for the employer to make the reasonable adjustments.

5 Roles and responsibilities

Employees are required to:

- attend for work unless unable to do so for genuine reasons;
- inform their head teacher of any medical condition they have which may affect their attendance or performance at work, or which might endanger colleagues, pupils or the public;
- comply with the sickness reporting procedures communicated by their governing body and the provisions of the relevant occupational sick pay scheme;
- not undertake any form of paid alternative employment, self employment or voluntary work if in receipt of sick pay, unless their doctor has deemed they are fit to continue with some form of employment (any breach of this rule would be regarded as gross misconduct which could result in dismissal);
- return to work as soon as possible following a period of ill health;
- co-operate fully with the sickness absence management procedure and the occupational health services used by the school;
- recognise that they need to inform their head teacher of any relevant medical condition which may constitute a disability if they wish the school to make reasonable adjustments under the Equalities Act 2010;
- maintain confidentiality in relation to personal or medical information about their colleagues; and
- be aware that advice and support is also available from their trade union.

Head teacher: The head teacher (or other delegated manager) is responsible for managing sickness absence within their school including conducting return to work interviews, counselling interviews and formal meetings under this procedure. In the case of the head teacher's own sickness absence, this role will be undertaken by the chair of governors.

Responsibilities include:

- maintaining confidentiality when using this policy and procedure and not divulging personal details or medical evidence to any unauthorised person;
- seeking to understand and address instances where sickness absence has become unacceptable. This requires taking a fair, sensitive and constructive approach in such matters and making every effort to meet any reasonable requests which the employee believes will assist them in successfully addressing the issue; and
- monitoring sickness levels and trends and taking action where appropriate to address underlying causes.

Governing body: Under the School Staffing (England) Regulations 2009 for maintained schools the governing body may delegate responsibilities for dismissing

staff to one or more governors, to the head teacher or to one or more governors and the head teacher together. Statutory guidance states that governors should delegate the responsibility for all dismissal decisions to the head teacher, unless there is good reason not to. A committee of the governing body will be responsible for hearing appeals arising from this procedure.

In the event that delegation has been withdrawn from the governing body of a maintained school the local authority will follow this procedure, however a local authority officer with the delegated authority to dismiss will act in place of the head teacher and appeals will be heard by the County Council's Staff Committee.

Director of Children's Services: In community and voluntary controlled schools the Director of Children's Services has the right for their representative to attend and give advice at any meeting where dismissal may be considered. Foundation/trust and voluntary aided schools accord these rights to the Director of Children's Services representative.

Local authority: It is the responsibility of the local authority to issue notice of dismissal within 14 days of being notified by the school in the case of staff employed in community and voluntary controlled schools. Providing that the school buys into an appropriate service level agreement, the local authority will issue notice of dismissal on behalf of the governing body of foundation and voluntary aided schools or academies.

Occupational Health: The role of Occupational Health is to provide medical advice to support head teacher and governing bodies to decide how to manage sickness absence cases. Headteachers may request to attend a case conference with the Occupational Health doctor if they wish.

6 Notification of sickness absence

Each school should ensure that it has a clear procedure, which all staff are made aware of, that sets out the arrangements for an employee to report their sickness absence (including the reason, anticipated length of absence, any work to be covered and any medical advice they intend to seek) and maintain contact with the school about their return to work. Failure to comply with this procedure may result in disciplinary action.

7 Certification of sickness absence

If an employee continues to be absent for more than seven consecutive days, regardless of whether or not these are working days, they must consult a doctor and obtain a statement of fitness for work (or "fit note"). The fit note also enables doctors to advise people who are on sick leave for over 7 days whether, with extra support from their employer, they could return to work earlier.

The fit note must be forwarded immediately to the head teacher. Where there is continuing sickness absence, the employee must submit fit notes to cover the whole period of absence including when they are no longer receiving sick pay. Failure to comply with this procedure may result in disciplinary action and/or withdrawal of sick pay.

8 Return to work interview

The head teacher (or the delegated manager) will hold an informal return to work discussion when an employee returns from every period of sickness absence.

9 Trigger points

Where an individual's absence level meets one of the following trigger points (whichever comes first), the head teacher will review the sickness absence level with the employee through a counselling meeting:

- three occasions or 20 working days or more in a rolling twelve month period, as described in section 10.1; or
- a continuous absence of 20 working days or more, as described in section 11.2.

The trigger point of 20 working days should be applied pro rata based on the number of days worked per week for part-time staff with working patterns of less than 5 days.

Although all sickness must be recorded, the head teacher should make reasonable judgements when considering actions arising from absences that are related to disability, pregnancy or gender reassignment.

10 Managing Short Term Sickness Absence

10.1 Stage 1 – Counselling Meeting

The interview should be informal with the emphasis on counselling and support. There is no right for the employee to be accompanied by a trade union representative or work colleague.

The purpose of the interview will be to:

- explain concern about the current absence level;
- explore the reasons for the absences;
- find ways to resolve any problems which might improve attendance and identify areas of support and assistance; and
- seek a commitment from the employee to improve their attendance.

Possible outcomes of the meeting include one or more of:

- introduction of a management support plan that sets a monitoring period and targets for improved attendance;
- referral to Occupational Health to establish any underlying medical condition and identify advice or support that would improve attendance;
- requiring a fit note for every absence (any costs to be met by the school);
- referral for short-term counselling with the Welfare Officer or signposting to telephone counselling services;
- help with physical rehabilitation or adaptations to the workplace;
- oral caution that a lack of improvement in attendance within a reasonable timescale may result in formal action under this procedure.

10.2 Stage 2 - Sickness Absence Meeting (SAM)

If, following the Stage 1 counselling meeting, an employee's sickness absence remains unacceptable, the head teacher shall arrange a formal meeting with the employee. The arrangements will be as follows:

- the sickness absence meeting will be a reasonable period of time after the counselling interview to allow an employee to attempt to improve their sickness absence record;
- the meeting will be confirmed in writing at least five working days in advance, setting out the employee's right to be accompanied by a trade union representative or work colleague and enclosing any relevant documents to be considered at the interview;
- a copy of this procedure will be provided to the employee; and
- the meeting may be postponed by up to five working days if the employee's chosen representative is not available; and
- notes should be taken to provide evidence to support the actions taken.

Possible outcomes of the meeting include one or more of the following:

- continuation of a management support plan that sets out a clear timetable for support and supervision, detailing the targets for improved attendance to be met and the monitoring arrangements;
- a formal caution, which will remain "live" on the employee's file for a period of 12 months, to allow time for improvement before further action is considered (a management support plan must be put in place whenever a formal caution is issued).

Following the sickness absence meeting, the head teacher shall confirm the following in writing within five working days:

- summary of main points raised at the meeting;
- response to any specific points made by the employee/their representative, including any conclusions the head teacher has reached on points of disagreement;
- any management support plan identified including arrangements for further monitoring and review meetings; and
- any sanction, the period of time it will apply for and the right of appeal.

The employee must submit any appeal to the chair of governors within five working days of receiving the letter setting out the grounds of their appeal. The arrangements for an appeal hearing are set out in the Procedures for Conducting Hearings and Appeals.

If following the first sickness absence management meeting, concerns persist and a satisfactory level of attendance is not achieved within a reasonable timescale, the head teacher should arrange a second sickness absence meeting using the procedure described above.

Possible outcomes of the second sickness absence meeting include one or more of the following:

- continuation of a management support plan that sets out a clear timetable for support and supervision, detailing the targets for improved attendance to be met and the monitoring arrangements;
- a final caution, which will remain "live" on the employee's file for a period of two years, to allow time for improvement before further action is considered;

- redeployment, where it is considered that the employee is suitable for another existing post where acceptable attendance is more likely (with or without reasonable adjustments).

A management support plan must be put in place whenever a final caution is issued or the employee is redeployed.

In cases where the employee's sickness absence record remains unsatisfactory and appropriate action has been taken under the earlier stages of this procedure, it will be necessary to appoint a Nominated Officer and an Investigating Officer to refer the matter to a hearing body which could result in a decision that the employee ceases to work at the school (or be dismissed in the case of foundation and voluntary aided schools), as described in section 12.

11 Managing Long-Term Sickness Absence

11.1 Maintaining contact

Sickness absence will be considered as long-term if it continues for longer than four weeks continuous absence.

Both the employee and head teacher (or other delegated manager) have a duty to keep in touch about the employee's health, their progress and major developments in the workplace (unless medical advice is that this would be detrimental to the employee's recovery). The regularity and method of maintaining contact should be agreed wherever possible and may depend on the circumstances of the case. Absent employees must be informed of significant developments in the workplace that may affect them, such as proposed redundancies, review of the school staffing structure or transfer to a different employer.

11.2 Stage 1 – Counselling Meeting

An informal counselling meeting, either in person or by telephone, should be held after four weeks. If the employee is too ill to participate a note should be made and a conversation held at the earliest possible date thereafter.

The discussion should be informal with the emphasis on counselling and support. There is no right for the employee to be accompanied by a trade union representative or work colleague.

The purpose of the meeting will be to:

- explore the reasons for the absence, any treatment being undertaken and the likely timescale for recovery; and
- identify areas of support and assistance and find ways to enable the employee to return to work.

Possible outcomes of the meeting include one or more of:

- referral to Occupational Health to establish medical advice about the employee's condition and identify advice or support that would support a return to work;
- referral for short-term counselling with the Welfare Officer or signposting to telephone counselling services;

- help with physical rehabilitation or adaptations to the workplace.

11.3 Stage 2 - Ill health management meetings (IHMMs)

Formal meetings should be held throughout the long-term absence to discuss the prospects for the return to work of the employee. The content of these meetings should be informed by up-to-date medical advice.

The arrangements will be as follows:

- the meeting will be confirmed in writing at least five working days in advance, setting out the employee's right to be accompanied by a trade union representative or work colleague, and on the first occasion enclosing a copy of this procedure;
- the meeting may be postponed by up to five working days if the employee's chosen representative is not available;
- ill health management meetings may involve a member of the school support team (this is optional depending on the complexity of the case);
- notes should be taken to provide evidence to support the actions taken; and
- the head teacher shall confirm the key points and any agreed actions in writing within five working days of the meeting.

Possible outcomes of the meeting include the following:

- planning the employee's return to work including consideration of any comments by their doctor on their fit note about support needed;
- referring the employee back to Occupational Health for further medical advice as the employee's health or prospects for recovery have changed since the last appointment;
- making arrangements for reasonable adjustments to the employee's current job (for example, working hours, duties, working environment or equipment on a permanent or temporary basis) to remove barriers that prevent a disabled employee returning to work;
- redeployment, where it is considered that the employee is suitable for another existing post (with or without reasonable adjustments);
- exploring the prospects for ill health retirement if the employee is a member of the Teachers' Pension Scheme or Local Government Pension Scheme;
- appointing a Nominated Officer and an Investigating Officer to refer the matter to a hearing body which could result in a decision that the employee ceases to work at the school on the grounds of lack of capability due to ill health, as described in section 12.

11.4 Trial of work and phased return

In some instances it may be appropriate to consider a trial of work before the employee returns to work on either a phased or full basis. This should be approved in advance by Occupational Health. During a trial of work the employee continues on sick leave, attends their place of work as a visitor and is not responsible for completing tasks. The trial of work allows the employee to prepare for a return to work by meeting colleagues, being made aware of any new policies and procedures etc. The employee should be encouraged to see the trial of work as an information collection exercise which will help inform their return to work and discussions relating to reasonable adjustments.

In situations where the employee's GP or Occupational Health has recommended a phased return to work, the head teacher should take reasonable steps to facilitate the process and make a judgement about whether they require additional medical advice before making suitable arrangements with the employee. A phased return to work should be for no longer than a three week period, other than in exceptional circumstances decided by the head teacher or other manager on a case-by-case basis. During the first week of the phased return the employee's working pattern should be at least 50% of their normal working hours and will increase in terms of hours and/or duties over the remainder of the phased return with a return to full duties and hours by the fourth week. In exceptional circumstances the phased return may be extended beyond the initial three-week period agreed if it is considered by the head teacher or other manager that a short extension is reasonable before the employee resumes full duties and hours.

If the school is a member of the County Council's Supply Scheme, a period of three weeks funding (exceptionally up to six weeks) will be provided to facilitate the phased return where it has been agreed in advance by Occupational Health or the County Council's HR Manager for Schools/Academies.

In the event that an employee requires a further period of working reduced hours beyond the phased return then this should be agreed with the employee as a temporary variation to their contract of employment and their pay will be adjusted accordingly.

Managers should support employees during their return and review how they are coping in the workplace. Health and safety issues may also need to be addressed: for example, an employee with a temporary mobility impairment may require adjustments to their tasks at work or fire evacuation procedures.

12 Stage 3 – Hearing Body Meeting

The arrangements for the meeting will be as set out in the Procedures for Hearings and Appeals.

In the event of a decision that the employee ceases to work at the school and is issued with notice of their dismissal, full pay for the contractual notice period must be given and they will also have the right of appeal.

The employee must submit any appeal to the chair of governors within five working days of receiving the letter setting out the grounds of their appeal. The arrangements for an appeal hearing are set out in the Procedures for Conducting Hearings and Appeals.

13 Specific situations

13.1 Work related injuries

An industrial injury is an injury (or prescribed disease) to an employee that occurs in connection with work. This would include any injury arising from an accident or violent incident which occurs whilst an employee is at work.

Sickness absence resulting from an industrial injury will be treated in the same way as other sickness absence in the operation of this policy and procedure.

There is a statutory duty for managers to report major injuries and over seven day injuries to the Health and Safety Executive. Any industrial injuries should also be reported on the appropriate accident or violent incident form.

Consideration should be given to taking additional steps to ensure that the employee is fit to resume normal duties and advice may be sought from Occupational Health.

13.2 Sickness absence arising in the context of the Managing Underperformance Procedure

If long-term sickness absence appears to have been triggered by the commencement of the managing underperformance procedure, the case should be referred immediately for medical advice to assess the person's health and fitness for continued employment. A considerate and sympathetic approach should be taken but in general the medical advice will influence the length of time to wait for a person's health to improve before considering whether to terminate employment on health grounds.

13.3 Annual leave and sickness

There will be occasions when an employee who is absent from work proposes to take a holiday during the absence. This may have been booked prior to the commencement of sick leave or during the period of absence. If an employee is considering taking annual leave whilst on sickness absence it must be discussed with their manager; the manager will take a view as to whether there is any conflict between the cause of the absence and the holiday being proposed. If it is considered that a conflict exists the employee should be referred to Occupational Health for a view. If an employee goes on a holiday which is inappropriate and which may well impair their recovery, the withholding of sick pay should be considered together with the possibility of disciplinary action. Having already paid for a holiday is not an acceptable reason in itself for going.

In many cases, taking a holiday during sickness absence will not be inconsistent with the medical condition and may even be beneficial and have been recommended by their GP.

For full year support staff with an annual leave entitlement, sickness absence is not considered to constitute exceptional circumstances justifying the carry over of outstanding leave from one leave year to the next. There may be exceptions where an employee having returned to work before the end of the leave year is prevented by the operational requirements from taking all or some of the outstanding leave. In these circumstances only the amount that could otherwise have been taken before the end of the leave year can be considered for carrying forward.

Where annual leave has been approved during absence it will be deducted from the employee's annual leave entitlement, therefore leave will be paid at salary rate and the manager must inform their payroll provider to ensure employees are paid correctly.

Managing Sickness Absence Policy and Procedure

Revision Record of Issued Versions			
Author	Creation Date	Version	Status
School Support (IH)	13 May 2011	1.0	Final version agreed with Joint Unions
Changed by	Revision Date		
School Support (SH)	22 September 2011	1.1	Minor text corrections made.
School Support (SH)	6 March 2012	1.2	Minor changes to refer to academies following consultation with Joint Unions.
School Support (SH)	19 March 2012	1.3	Minor changes to appeals arrangements to be consistent with revised Procedures for Hearings and Appeals.
School Support (SH)	5 July 2012	1.4	Changes to phased returns/trials of work and additions for industrial injury and annual leave.
Northumberland HR for Schools (SH)	30 October 2012	1.5	Clarification of wording in section 9 regarding trigger points for part-time employees.