



# Red Hall Primary School

## Absence Management Policy and Procedure

<b>STATUS</b>	<b>DATE</b>
POLICY DATED:	October 2013
REVIEWED BY:	Avec Partnership June 2020
<b>DESCRIPTION OF CHANGES</b>	Amended to reflect correct date for Equality Act GDPR 2018
REVIEWED BY THE GOVERNING BODY:	29 <sup>th</sup> September, 2020
NEXT REVIEW DATE:	

## **The Policy**

1. Red Hall Primary School is committed to providing best value services to the community we serve and recognises that high levels of staff attendance at work together with the provision of a healthy and safe working environment are vital factors in achieving this.
2. The Absence Management Policy and Procedure provide guidance on the management of both long term and short term absence. They aim to provide a fair and consistent framework for supporting staff that are absent due to sickness, and for resolving concerns relating to attendance.
3. This policy aims to:
  - a) Provide a fair and consistent framework for investigating, supporting, and dealing with staff sickness absence, both long and short term.
  - b) Minimise the number of days lost through sickness absence and develop a healthy attendance culture.
  - c) Deal with instances of individual absence in a flexible and understanding manner, which is sensitive to particular circumstances.
  - d) Provide appropriate and reasonable support to employees who are genuinely ill and facilitate an early return to work where possible.
  - e) Ensure that all staff are clear about expected standards regarding levels of attendance

## **Scope**

4. The provisions of this policy will apply to all staff directly employed by Red Hall Primary School.

## **Equality**

5. In applying this policy, the Head Teacher will take into consideration the School's Equality Scheme and will not unlawfully discriminate in respect of any of the protected characteristics as defined under the Equality Act 2010 and specified below:
  - Age
  - Disability
  - Gender reassignment
  - Marriage and civil partnership
  - Pregnancy and Maternity
  - Race
  - Religion or Belief
  - Sex
  - Sexual Orientation

6. Disability under the act covers physical and mental impairments that have a substantial and long term adverse effect on an individual's ability to carry out normal day-to-day activities. If an employee is affected by a disability or any medical condition which affects their ability to undertake their work, they should discuss this with the Head Teacher. Further information in relation to disability is provided later in the policy.
7. The provisions of this policy may be dis-applied or varied where this is reasonable in order to comply with the act and/or to avoid discrimination in respect of any of the protected characteristics specified above.

### **Background and Context**

8. The Head Teacher needs to manage sickness absence proactively to help the School deliver services effectively.
9. Employees will naturally have periods of genuine illness during the course of their employment that may result in some absence from work. However high levels of sickness absence can result in;
  - a) Negative impact on productivity, performance and customer/client satisfaction
  - b) Low morale
  - c) Financial costs to the School in occupational sick pay and additional staff cover
10. By taking a pro-active and early intervention approach organisations can reduce absence levels and help employees get back to work sooner. Improving levels of sickness absence will;
  - a) Improve the School's capacity
  - b) Make the most effective use of our resources
  - c) Improve morale
  - d) Increase productivity and customer/client satisfaction
  - e) Save money

### **Responsibilities**

#### **Governing Body**

11. The Governing Body are responsible for ensuring that the policy and related procedures in this guidance are implemented effectively and that managing absence is given a high priority in their service area.

#### **Head Teacher**

12. The Head Teacher has primary responsibility for managing absence effectively in their teams. In particular the Head Teacher should take a positive and proactive approach by;
  - a) Ensuring staff are informed of, and comply with, the School's Sickness Absence Reporting procedure
  - b) Conducting and recording Return To Work meetings
  - c) Ensuring absence is accurately recorded and reported

- d) Monitoring sickness absence in their designated area and take appropriate action when trigger levels are reached i.e. conduct Absence Review Meetings
- e) Maintaining contact with employees who are absent due to long term sickness

### **Employees**

13. All employees are contractually obliged to attend work in a fit state to carry out their duties. When they are unable to do so, they must report their absence from work, the reasons for it, and the likely duration of their illness to their Head Teacher in accordance with the School's Sickness Absence Reporting procedure as specified in this policy. In addition, all employees will:
- a) Attend work unless unfit to do so or unless leave has been authorised (Employees can come back to work at any time, even if this is before their Fit Note expires)
  - b) Keep in contact with the Head Teacher while absent in line with this policy and service requirements
  - c) Attend appointments with the Occupational Health Nurse or Doctor as required
  - d) Be responsible for their own health, safety and welfare
  - e) Inform the Head Teacher immediately if the sickness absence is work related (e.g. as a result of an incident or accident at work) and complete an Accident Report Form
  - f) Inform the Head Teacher if they become ill or injured whilst at work

### **Human Resources**

14. HR are responsible for advising the Head Teacher on effective case management and attending Case Review Hearings if required

### **Health and Wellbeing**

15. The School will promote the health, safety and well-being of its employees through the following:
- a) Health and Safety Policy and Procedure
  - b) Work Related Stress Policy and Procedure
  - c) Occupational Health provision
  - d) Provision of Counselling and Physiotherapy services, if available
  - e) Health and Well-being site on intranet
  - f) HR Policies such as Time Off For Dependents, Right to Request Flexible Working, Anti Harassment and Bullying Policies etc

### **Grievances**

16. The requirement to attend an appointment with Occupational Health, a Return To Work Meeting, Absence Review Meeting or Case Review Hearing does not constitute a grievance.

## **Confidentiality**

17. Details of action taken under this policy should be retained on the employee's personal file. The Head Teacher must treat personal information relating to an employee's absence as sensitive, personal information in accordance with the General Data Protection Regulations 2018 and other legislative provisions.

## **Monitoring and Review**

18. The School will keep this policy and the related procedure under review to make sure they are relevant and effective. The School's recognised Trade Unions will be consulted before new or additional rules are introduced across the workforce.

## **Absence Management Procedure**

19. This procedure is designed to provide guidance for the Head Teacher on the management of both short and long term absence. When dealing with both, the Head Teacher should take into account individual circumstances and tailor their approach accordingly, whilst at the same time ensuring consistency and fairness for all employees.

## **Definition of Sickness Absence**

20. Short term sickness absence is absence lasting for less than 20 working days. This may be for absence of an occasional day or for a few days at a time and may be self-certificated or covered by a doctor's certificate. The procedure for dealing with short term absence is outlined at paragraph 48 onwards.
21. Long term sickness absence is absence lasting for 20 working days or more. The procedure for dealing with long term absence is outlined at paragraph 101 onwards.

## **Sickness Absence Reporting Procedure**

22. In order for the education provision to be maintained, it is essential for the Head Teacher to know when an employee is unable to attend work due to illness. In general the procedure outlined below should be followed unless there is a reporting procedure specific to a particular service which relevant employees are made aware of.
23. Employees must telephone the Head Teacher/designated contact point every day of any absence for the first seven days, unless otherwise agreed with their Head Teacher, or until a doctor's note is produced.
24. Employees must telephone before the time they are normally due to start work, to advise that they will not be attending work that day. In exceptional cases (e.g. the employee is receiving hospital treatment/admitted to hospital or physically unable to telephone personally) someone else may telephone on their behalf.

25. The following information should be provided:

- a) The exact day that the illness began, including Saturdays, Sundays, holiday or rest day for Statutory Sick Pay (SSP) purposes. The first working day will be used for absence monitoring purposes
- b) The nature of the illness/absence – unwell is not sufficient
- c) The likely duration of the absence
- d) The address at which they can be contacted during the absence if different from the normal home address and a contact telephone number

<b>Period of absence</b>	<b>Required certification</b>
1st day up to and including 7 calendar days	Return to Work/Self certification form
8 days or more	Medical certificate from GP Fit note showing date fit to return to work if known

### **Certification**

#### **Sick Pay Scheme**

- 26. Occupational sick pay will be paid in accordance with the employee's contract of employment and conditions of service. The School does not extend the of Occupational Sick Pay beyond the standard contractual terms and conditions specified under the National Joint Council for Local Government Service Terms and Conditions of Service payment or the Burgundy Book.
- 27. The School reserves the right to terminate the employment of an employee before the expiry of Occupational Sick Pay in accordance with the procedure for dismissal on the grounds of capability (health).
- 28. Suspected abuse of the Sick Pay Scheme will be dealt with under the School's Disciplinary Procedure as a conduct issue and may result in a disciplinary sanction and/or the suspension of occupational sick pay. The following non-exhaustive list contains some examples of what might be deemed to be abuse:
  - a) Failure to submit medical certificates to cover a period of absence without an adequate reason
  - b) Failure to follow the sickness reporting procedure without an adequate reason
  - c) Engaging in other employment whilst absent due to sickness (unless the nature of the illness prevents the employee from working in one employment contract but not in others)
  - d) Evidence that the employee is absent but not sick

### **Repayment of Sickness Payments in Cases of Accidents**

29. Where an employee is absent as a result of an accident there will be no automatic entitlement to sickness payment if damages may be recoverable from a third party.
30. It is not always possible at the commencement of such absence to determine whether damages will in fact be recoverable and the School will generally advance to the employee a sum equivalent to the normal sick pay to which he/she may be entitled, subject to the employee undertaking in writing to repay the total amount of the advance (or a proportion thereof) represented in the amount of damages ultimately recovered.
31. In cases of the above nature, the School's payroll provider will send the employee a form of undertaking which the employee must complete and return as soon as possible. If the employee refuses to do so, sick pay may be withheld. Employees will also be expected to reclaim associated medical expenses such as Occupational Health, Physiotherapy and Counselling from insurers.

### **Sickness and annual leave**

32. An employee will continue to accrue annual leave while absent due to sickness.
33. If an employee becomes ill whilst on annual leave, then the period covered can be treated as sick leave provided a medical certificate is obtained and completed at the time and place of being ill, confirming the dates they would not have been fit enough to carry out their normal duties. The annual leave will be re-credited and the time off recorded as sickness.
34. In the event that an employee falls sick immediately prior to pre-booked annual leave and does not return to work before the annual leave period starts, then the employee's continued absence will be recorded as annual leave, except on production of a medical certificate, confirming that the employee was not fit for work during the period in question where the case will be reviewed.
35. On returning to work after a period of sickness employees will be entitled to any accrued untaken annual leave. Employees who return to work in a new leave year will be entitled to carry over a maximum of 28 days leave (less any annual leave and bank holidays already taken) and do not need to give notice that they wish to carry leave over. If their employment terminates they will be entitled to be paid in lieu.

### **Medical Certificates/'Fit Notes'**

36. Medical certificates/'fit notes' must be obtained to cover all periods of sickness in excess of 7 calendar days, without any gaps. All medical certificates/'fit notes' should be sent to the Head Teacher promptly under confidential cover.
37. Fit Notes allow the GP to advise that the patient is either:
  - a) Not fit for work
  - b) May be fit for work

38. A GP will give a 'may be fit for work' statement if they think that an employee's health conditions may allow them to work as long as they receive appropriate support. If a GP uses this option, they will give advice about the effects of the patient's health condition and, if appropriate, some suggestions about the type of adjustments or adaptations that should be considered to help the employee return to work.
39. Although the School will not have to act on the GP's advice, every effort should be made to make the changes necessary to help the employee return to work and so reduce unnecessary sickness absence. Advice and guidance is also available from the School's Occupational Health provider on the employee's medical fitness to be able to perform tasks/duties and help them get back to work.
40. If for any reason the Head Teacher cannot make the changes necessary to support the employee's return to work then, for sick pay purposes, the Head Teacher should consider the statement as if the GP has advised that the employee is 'not fit for work'. The employee does not need to return to the GP for a new statement to confirm this.
41. Employees can come back to work at any time, even if this is before their Fit Note expires, however, this should be agreed with the Head Teacher, who will seek advice from the Occupational Health Unit in advance of their return to work.

### **Return to Work**

42. Upon return to work following sickness absence the Head Teacher should arrange to meet privately with the employee, ideally during the first day back or at least within 2 days of the return to work.
43. These meetings are an essential part of the Absence Management Policy and are important to both the Head Teacher and the employee. They are also needed for the sickness absence to be recorded properly through the School's payroll provider.

The purpose of the meeting is to:

- a) Welcome the employee back to work
- b) Ensure the employee is well enough to return, and identify any ongoing health issues
- c) Identify if any ongoing support is required
- d) Establish whether any work-related and/or personal issues may have contributed to the absence
- e) Bring the employee up to date on any issues relating to their work
- f) Discuss absence levels if appropriate i.e. if patterns of frequent, short term absence are emerging
- g) Consider if a referral to Occupational Health is necessary

44. Before the Return To Work Meeting the Head Teacher should:
- a) Check the facts, such as the amount and periods of sickness absence the employee has had and the reasons for this.
  - b) Check if the employee has hit any “triggers”.
  - c) Consider the impact of the employee’s absence on the service area and if there are any particular problems that need highlighting.

### **Conduct while absent due to sickness**

45. All employees who are absent from work due to sickness have a personal responsibility to do everything in their power to aid their return to full health and fitness and should not undertake any activity which may hinder this objective.
46. It is a requirement that employees co-operate fully with the Head Teacher regarding their absence, and that they make themselves available to attend all meetings or discussions arranged to facilitate an early recovery and return to work.

### **Managing frequent /short term absence**

47. Frequent/ short term sickness absence may consist of days off for different reasons such as tooth ache, colds, upset stomach etc which may or may not be covered by a medical certificate. A pattern may also emerge of odd days off for the same reason i.e. headaches. Sometimes the pattern may be around certain times of the week/month i.e. before or after weekends or before or after annual leave.
48. Frequent absence may indicate general ill health and employees should be encouraged to seek proper medical advice to identify any underlying health problem. Advice can also be sought from the School’s Occupational Health provider.
49. Employees, who are not motivated, are feeling stressed and/or have difficult relationships’ with others at work may also have frequent, short term absence. Identifying such problems early will help the Head Teacher to be aware of these issues and if possible address them. If an employee feels their absence will be noticed and discussed they may be less inclined to take unnecessary time off. Specific advice on dealing with work and non work related stress is available in the Work Related Stress Policy and Procedure.
50. Patterns of absence can also be due to other factors outside of work such as domestic issues around child care/care for relatives etc or personal issues. If such issues are identified the Head Teacher should discuss other HR policies and procedures which may be of benefit e.g. Time off for Dependents, Counselling provision etc. Some flexibility around start/finish times may also be considered on a short term, temporary basis. Such arrangements should always be confirmed in writing, be for a specified time and be monitored.

51. Where there are high levels of frequent/ short term absence which are causing concern the focus will be on the level of attendance at work and the impact that this is having on the educational provision. Where concern arises the matter should be discussed with the individual at the earliest opportunity with a view to resolving the issues in an informal manner in the first instance.

### **Trigger Points**

52. Trigger Points are a useful way of indicating to employees and the Head Teacher when sickness absence levels are becoming a cause for concern and where further action may be necessary. The School has specific “trigger points” which if hit will prompt the Head Teacher to hold an **Absence Review Meeting**. The triggers used by the School are:
- a) Patterns of absence that cause concern i.e. Monday’s, Friday’s, before/after weekends/annual leave etc
  - b) Two absences of any duration in any three-month period
  - c) Seven working days in a rolling year (this may require a pro rata adjustment for part time employees)

### **Absence Review Meetings**

53. While some flexibility may be required dependent on individual circumstances, the Head Teacher should ensure that they have an **Absence Review Meeting** with the employee once the absence reaches one of the ‘trigger points’ as specified above. These meetings are in addition to Return to Work Meetings.
54. The purpose of the meeting is to:
- a) Fully understand the reasons for absence
  - b) Identify any appropriate support that could be put in place which could improve attendance
  - c) Set targets for improvement through an Absence Improvement Plan (AIP).

### **Arranging an Absence Review Meeting**

55. The Head Teacher must confirm the arrangements of the meeting in writing or via e-mail to the employee giving 7 calendar days/5 working days’ notice of the meeting. The employee has the right to be accompanied by their trade union representative, workplace colleague or friend who does not have a conflict of interest. A copy of the letter should be held on the employee’s personal file.
56. The Head Teacher should ensure they have the details of the employee’s absence record and the triggers they have hit and discuss these at the meeting together with any specific work related issues. Any medical reports obtained from the School’s Occupational Health provider should also be discussed if this has not been done so already.
57. Employees are encouraged to be as open as possible about the reasons for absence and any personal/work issues that may be contributing to this. The Head Teacher should be aware that this may be difficult and sensitive. However, it is important so that an Absence Improvement Plan can include any relevant support.

58. An **Absence Improvement Plan (AIP)** may include one or more of the following actions:
- a) A monitoring period during which an improvement in absence levels is specified.
  - b) A stress risk assessment is carried out if it is apparent that there are work related stress issues.
  - c) The employee is required to obtain a medical certificate from their GP for every period of absence (Some GP's may charge for this and the cost would be met by the School).
  - d) A referral is made to the Occupational Health provider for advice on the employee's health if this has not already been done.
  - e) The employee is sign posted to the School's Physiotherapy/Counselling services provider.
  - f) Reasonable adaptations to working practices/procedures are considered and implemented if the employee is disabled and covered by the Equality Act.
  - g) Different working hours/arrangements on a short term, temporary basis are considered and implemented if appropriate i.e. later start/finish times. Such arrangements should not normally last for more than 4 weeks.
  - h) HR policies such as Time Off for Dependents etc and/or unpaid leave arrangements are considered and used where appropriate.
59. Any one, or a combination of the above, may be appropriate depending on each case. The outcome of the meeting must be confirmed in writing by the Head Teacher and should include details of the AIP including:
- a) The situation to date including the number and frequency of absences
  - b) The improvements that are required and the timescales involved (employees must know what is expected of them and how this will be monitored)
  - c) Details of any support or temporary arrangements which have been put in place
  - d) That failure to improve and sustain attendance to the required level could lead to more formal action such as a Case Review Hearing and that the employees continued employment could be at risk
60. A copy of the letter should be held on the employee's personal file.

### **2nd Absence Review Meeting**

61. If there is insufficient improvement in the employee's attendance or the improvement is not sustained a 2nd Absence Review Meeting can be held. The Head Teacher should write or email the employee again giving 7 calendar days'/5 working days' notice of the meeting and that they have the right to be accompanied.

62. This meeting will re-consider the issues previously discussed as well as any additional, relevant information such as the most recent medical advice and explore if there are any further options and/or support which could be put in place which would improve attendance. An amended Absence Improvement Plan may be put in place.
63. The outcome of the 2nd absence review meeting must again be confirmed in writing/e-mail, including the level of improvement required and any support which is to be put in place. The letter should specify that if no improvement is achieved more formal action such as a **Case Review Hearing** could be considered and that the employee's continued employment could be at risk.

### **Case Review Hearing**

64. An employee can be expected to be invited to a case review hearing where:
- a) There are continuing concerns regarding absence and the employee has not achieved and/or sustained the required level of improvement despite the implementation of an Attendance Improvement Plan(s) and relevant support.
  - b) Where a long term period of absence is continuing, there is no indication of a return to work date and the level of absence is such that it appears that it cannot reasonably be sustained.
  - c) Occupational Health advice confirms that an employee is able to return to work and the employee remains absent.
  - d) Where an employee is suffering from health issues, but they are not absent from work and/or the level of adjustment that is required has become unreasonable/unsustainable. Such cases may have already been dealt with under the **School's Capability Procedure** but it may be deemed necessary to a move to a formal hearing. Advice should have been sought from the School's HR provider and the School's Occupational Health provider before a Case Review Hearing is arranged.
65. A Case Review Hearing is a formal hearing where all issues and information relating to an individual's absence record are considered in an objective, fair and consistent manner. The Case Review Hearing will be chaired by the Head Teacher/nominated members of the Governing Body (Committee A), who has not previously been involved in the case. The School's HR Advisor will also attend and advise Committee A.
66. A hearing will consider whether there are any further actions that the School can take to assist the employee in continuing their employment and/or improve their attendance at work. In cases where it is felt that an employee may be able to improve their attendance level formal action in the form of a caution may be issued at a Case Review Hearing. **Cautions are not intended to act as a punishment but rather to give the employee a clear idea of what is considered an acceptable level of attendance, reasonable time to achieve and maintain the required level and provide any relevant support to help them achieve this.** Employee's have the right to appeal against any caution.

67. When taking formal action under the Absence Management Policy and Procedure the underlying premise is that the absence is genuine but unfortunately **higher than the level that can be reasonably sustained by the School**. **Conduct** issues such as abuse of the sick pay scheme, or failure to notify sickness correctly without an adequate reason will be dealt with under the **Disciplinary Procedure**. Further advice is available from School's HR provider on which policy is appropriate.

### **Level and duration of formal action**

68. The following time limits for cautions issued under this policy and the level of Hearing Officer with the authority to impose cautions is shown below:

<b>Level of Caution</b>	<b>Duration/Live</b>	<b>Level of Hearing Officer</b>	<b>Appeal to</b>
1st Written Caution	12 months	Head Teacher	Appointed Governing Body sitting as Committee A
Final Written Caution	24 months	Appointed members of the Governing Body sitting as Committee A	Appointed members of the Management Committee sitting as Committee B
Dismissal		Appointed members of the Governing Body sitting as Committee A	Appointed members of the Governing Body sitting as Committee B

### **Arranging a Case Review Hearing**

69. The employee should be informed in writing or e-mail the employee the details of the hearing giving a minimum of 7 calendar/5 working day's written notice to attend. The employee has the right to be accompanied by their Trade Union representative, workplace colleague or friend who does not have a conflict of interest. The letter will include:
- a) The names of the Governors sitting as Committee A and the Human Resources Adviser supporting them
  - b) The purpose of the hearing
  - c) Details of how to submit any evidence the employee wishes to be considered at the hearing.
  - d) An evidence pack containing all documents to be used at the hearing.
70. The employee is expected to:
- a) Confirm their attendance and who, if applicable, will be accompanying them.
  - b) Provide any evidence to be presented at the hearing to the Hearing Officer at least 2 working days prior to the hearing.

## **Format for conducting a Case Review Hearing**

71. The Chair of the Committee will be responsible for:
  - a) Introducing all parties
  - b) Advising that the hearing will be recorded for transcript purposes
  - c) Stating the purpose of the hearing
  - d) Say how the hearing will be conducted and any time constraints, which may apply
  - e) Confirming that all parties have the same documentation
  - f) Requesting if any points of clarification are required
  - g) Advising of the outcome and confirming in writing
  
72. The Management Team (School) will:
  - a) Present their case
  - b) Respond to questions from the employee or the Trade Union representative, the Hearing Officer and HR Adviser
  
73. The Employee and/or representative will:
  - a) Present their case
  - b) Respond to questions from management, the Committee and HR Adviser
  - c) The Hearing Officer will then ask the management team and the employee/representative to briefly summarise their respective cases. (NB No new evidence should be submitted at this point).
  
74. The management team, the employee and their representative will withdraw from the hearing to allow the Committee and HR Adviser to consider the evidence and determine any action.
  
75. The Hearing will reconvene and the Chair of the Committee will inform everyone (if still present) of the outcome including the right to appeal if appropriate. This decision will also be confirmed in writing.
  
76. The Chair of the Committee may adjourn the proceedings at any stage if this appears necessary or desirable. If adjourning for the purpose of enabling further information to be obtained, the nature of that information will be specified. Any adjournment will normally be for a stated period.
  
77. When considering any further action the Committee will consider such issues as:
  - a) The presentations made by the employee and/or their representative
  - b) The need for the work to be undertaken
  - c) The impact of the employee's absence on the School
  - d) The employee's absence record

- e) What actions/support has been taken to try to enable the employee to improve their absence
- f) Medical advice received
- g) Reasonable adjustments that have not already been considered to the employee's work or working environment if they have a disability covered under the Equality Act.
- h) The likelihood of the employee's attendance improving, taking into account their previous history and any information (e.g. medical reports) regarding the position going forward.
- i) Any mitigating circumstances

78. This list is not exhaustive and the weight attached to each will depend on the circumstances of each case, whilst balancing the needs of the employee and the School.

79. The employee will be informed of the decision and this decision will be confirmed in writing normally within 7 calendar days/5 working days' of the Hearing.

#### **Non attendance at the hearing**

80. Where an employee is unable to attend for an acceptable reason, the hearing may be adjourned to a later date. Where an employee is able to attend but chooses not to, the hearing may proceed in their absence. If the reason for non-attendance is a medical issue, the employee will generally be expected to provide medical evidence that they are unfit to attend the hearing or advice will be sought from the School's Occupational Health provider. In any case, the hearing may proceed where there have been previous requests for adjournments and/or it seems unlikely that the employee will be able to attend within a reasonable period of time.

#### **Possible action following a Case Review Hearing**

##### **A Final Absence Improvement Plan is implemented**

81. The details of this will be confirmed in writing and a copy will be retained in the employee's personal file and can be referred to in the future if any further concern arises regarding their attendance at work. The employee will also be informed of the consequences of any future attendance issues, which could be a written/final caution and that their employment could be at risk. **There is no right of appeal against a final absence improvement plan.**

##### **1st Written Caution and continuation of monitoring.**

82. Where it is considered that a written caution is appropriate, the employee will be made aware of the School's expectations for their future attendance. The written caution will be retained on the personal file but disregarded after **12 months** from the date of the hearing, subject to achieving and sustaining satisfactory attendance. The employee will also be informed of their right of appeal and the consequences of any future attendance issues, which could be a final caution or dismissal.

## **Final Written Caution and continuation of monitoring**

83. Where there is a failure to improve attendance at work following a written caution or where the employee's absence record is considered to justify a final written caution in its own right, the employee will be made aware of the School's expectations for their future attendance. The written caution will be retained on the personal file but disregarded after **24 months** from the date of the Hearing, subject to achieving and sustaining satisfactory attendance. The employee will also be informed of their right of appeal and the consequences of any future attendance issues, which could result in their dismissal.

## **Dismissal with notice**

84. Where there is a failure to improve attendance at work following a final written caution or where the circumstances are considered to justify dismissal, the employee's employment will be terminated with appropriate statutory notice by the Director of Children & Adult Services. The employee will be informed of their right of appeal.

## **Alternatives to Dismissal**

85. Depending on the individual circumstances in any case, it may (subject to the nature of the position and the employee's ability to properly undertake it) be reasonable to offer the employee redeployment, if available. Alternatively reasonable adjustments to the employees existing role may also be considered where the person has a disability covered under the Equality Act.

## **Dismissal**

86. **When the decision is made to dismiss the reason will either be on the grounds of medical capability where the employee is currently not medically capable of performing the duties of their post and is unlikely to be able to do so (or that of another one in the School) or for 'Some Other Substantial Reason' (SOSR).**
87. SOSR may be relevant in cases where there has been frequent intermittent absence. In these cases, the primary reason for dismissal is not related to the employee's incapability on health grounds but more on the grounds that the employee's absence levels are higher than that can be reasonably sustained by the School despite being given the opportunity to improve their attendance.
88. Decisions to dismiss are managerial, not medical decisions, although they should be informed by medical advice. The School needs to be very clear about the reason for absence and the consequent reason for dismissal. As in all cases of dismissal the School needs to ensure that the decision to dismiss is fair and non discriminatory. The dismissal letter will be sent by the Director of Children's & Adults Services.
89. The School must consider alternatives to dismissal, such as reasonable adjustments/and or redeployment before making a final decision to dismiss. It is very important that the Head Teacher follow the School's procedure and ensure that there has been adequate consultation with the employee and their representative.

90. When determining whether a dismissal is fair and non discriminatory the following points need to have been considered by the School:
- a) The nature of the illness
  - b) The likelihood of it recurring or some other illness arising
  - c) The length of the absences and the periods of good health between them
  - d) The School's need for someone to undertake the work
  - e) The impact of the absence on other workers
  - f) The adoption and implementation of the School's policy and procedure
  - g) An assessment of the individual case, on its own merits
  - h) The extent to which the employee is aware of how serious the School views the absence and what the potential implications are for the School should their absence continue
  - i) Relevant employment legislation

### **Right of appeal against cautions and dismissal**

91. An employee has the right to appeal against a caution issued at a Case Review Hearing and against dismissal. Employees must advise that they wish to appeal in writing, clearly stating the grounds for their appeal, within 7 calendar days'/5 working days' of receipt of the letter giving the decision of the caution issued. Appeals should be submitted to the clerk to the Governing Body.
92. The employee will be given preferably at least 7 calendar days'/5 working days' notice of the date of the appeal hearing in writing. They have the right to be accompanied to the hearing as specified previously. The basic principles in terms of the format of the appeal hearing are the same as for the Case Review Hearing. The Committee (depending on the level of caution issued) will impartially review the sanction imposed at the hearing. The outcome of the appeal will replace the record of the original decision on the personal file of the employee.
93. The employee will normally be informed in writing of the results of the Appeal Hearing within 7 calendar days'/5 working days' of the hearing.

### **Suspension on Medical Grounds**

94. The School may suspend an employee on health grounds. This allows the School to remove the employee from any health and safety risk where there is concern about the employee's health and their ability to carry out their duties. Advice should be sought from the School's Occupational Health Doctor that the employee is unfit to carry out their normal contracted duties and the employee may need to be absent until the medical advice is received.
95. The Head Teacher/Chair of the Governing Body is responsible for taking any such decision and while the suspension can be verbal it must confirm to the employee in writing. Suspensions will be on full pay and will not normally last more than 28 calendar days.

## Disciplinary Issues

96. Some cases may be appropriate to be dealt with under the School's **Disciplinary Procedure**. These are where the issue is around the employees **conduct** as opposed to their health.
97. Some examples are given below, these are not exhaustive:
- a) Failure to follow the sickness reporting procedure without an adequate reason
  - b) Failure to attend absence review meetings/case review hearing without an adequate reason
  - c) Engaging in other employment whilst absent due to sickness (unless the nature of the illness prevents them from working in one employment contract but not in others)
  - d) Abuse of the sick pay scheme i.e. evidence that the employee is absent but not sick
98. Advice should be sought from the School's HR provider before moving to the Disciplinary Procedure.

## **Dealing with long term sickness absence**

99. Long-term sickness absence is classed as continuous absence of over 20 working days. When an employee is absent from work due to long term absence it is important that contact is maintained between the School and employee. This is to ensure that the employee does not feel isolated, vulnerable or out of touch and ensure that the Head Teacher is able to make arrangements to ensure continued service delivery.
100. Where an absence is going to continue beyond 20 days, the Head Teacher should arrange to meet with the employee at a suitable venue. The details of the meeting should be confirmed in writing or via e-mail. The purpose of the meeting is to;
- a) Obtain up-to-date information with regards to the reason for absence and any medication that has been prescribed and/or treatment received.
  - b) Discuss relevant support - e.g. Physiotherapy, Counselling etc.
  - c) Update the employee on any changes at work that have occurred whilst the employee has been absent.
  - d) Discuss a timescale for a return to work.
  - e) Agree how contact will be maintained and the frequency of the contact. In general it is advised that the Head Teacher meets with the employee on a regular basis and **at least every four weeks** while they remain on long term absence. However flexibility may be needed depending on the individual circumstances including length of sick note, nature of illness and likely return to work date.

101. There may be times where a meeting is impracticable or not appropriate due to the nature of the employee's illness, however the Head Teacher should still maintain contact with the employee and agree how contact will be maintained e.g. frequency, place etc. Face to face meetings are always recommended as they enable both the employee and the Head Teacher time to fully discuss relevant issues in an informal and supportive way.
102. Once an employee has been absent **continually for 4 weeks** the Head Teacher should consider making a referral to the Council's Occupational Health Service as outlined at paragraph 114, if they have not already done so. There may be circumstances where the referral may not be appropriate at that stage such as the nature of illness or medical treatment which is underway but the **Head Teacher should not delay the referral unnecessarily**.
103. Once a medical report has been received the Head Teacher should make arrangements to meet with the employee and discuss it. Under the Access to Medical Reports Act the employees have the right to see the report before it is sent to the Head Teacher, Occupational Health will advise the employee of this and issue the necessary form.
104. Where long term absence reaches **four months** and there is no indication of a return to work date a Case Review Hearing should be arranged and conducted in accordance with the advice specified in this policy.
105. A Case Review Hearing (where relevant and depending on the employee's health) should also be held to confirm that the School's Occupational Health Doctor has issued a certificate of Permanent Ill Health.

### **Phased Return to work**

106. In order to facilitate an employee's return to work a "phased return" may be appropriate. This enables employees to return to work initially on reduced hours and/or restricted duties to ease the transition and facilitate an early return. Medical advice on the suitability of a phased return can be obtained from Occupational Health.
107. Any advice outlined by the GP on the Fit Note should also be taken into account. Consideration should also be given to the possibility of working in another area of the School for a short time if restricted duties are not available in their own area of work. The phased return should not usually exceed **four weeks**, however, in exceptional circumstances this can be extended beyond four weeks if this is supported by Occupational Health.
108. Once on a phased return the employee is signed off the sick and therefore they should be well enough to be able to perform the duties they will be undertaking to a reasonable level and for a reasonable amount of time per day i.e. 50% of their contracted hours. This should be increased during the phased return period until they are working their full contracted hours.

109. There may be some exceptions to this and each case will be looked at on an individual basis. The Head Teacher will need to consider reasonable adjustments within a phased return for an employee who has a disability covered by the Equality Act. The amount of time and/or level of work that a disabled employee can undertake on a phased return may need to be less than that specified above.
110. In some cases a phased return may not yet be appropriate but the employee would benefit from some time in the working environment to help them re-adjust and prepare for coming back to work either on a phased return or full time. This may be appropriate if employee has had a long period of illness or is particularly anxious or concerned about returning to work. In such cases the employee could spend some time visiting the work place for very short periods i.e. a maximum of 1 hour a day but would not be required to undertake any work as they are still covered by a medical certificate. They can attend team meetings, spend time talking to colleagues about work related subjects or read work related information.
111. The Health and Safety team should be notified of cases where a phased return to work is implemented after an accident at work.

### **Pay during a phased return**

112. Employees will not receive less pay than they would have if they had remained absent from work due to sickness.
113. For example, if an employee is on half pay and absent due to sickness and they return to work on a phased return they will be paid half pay as a minimum (providing the required number of hours are worked) but will also receive pay for any additional hours they work above this.
114. If an employee is on nil pay and absent due to sickness and they return to work on a phased return they will be paid for the actual hours worked.

### **Occupational Health Referrals**

115. The School's Occupational Health provider provides up-to-date, professional medical advice to the Head Teacher to help them make informed decisions about an employee's health in relation to their work. Referrals can be made for both employees who are absent due short and long term absence. The Head Teacher do not need to wait until an employee is absent from work or has reached a trigger point before they make a referral to Occupational Health if there are concerns about an employee's health. An employee can also ask for a referral to be made for them through the Head Teacher.
116. Occupational Health can:
- a) Advise on how best to manage the case from a medical perspective
  - b) Give an indication of a likely return to work date
  - c) Advise whether the employee has a disability under the Equality Act and recommend reasonable adjustments as appropriate
  - d) Advise whether the employee would benefit from a referral to Physiotherapy services or Counselling

- e) Advise whether a phased return to work, temporary alternative work, reduced duties or adjustments would be appropriate
- f) Ask the employee for permission to access information from their doctor or specialist and for permission to disclose relevant information to appropriate management

117. There are medical confidentiality issues which mean that the employee has to give their consent to any specific details relating to a current or previous medical condition being released to their employer. However Occupational Health will provide a medical opinion on the case in as much detail as they can. Management should then consider this information along with any other relevant information such as the nature of the illness, length of absence, ability to provide service delivery while absence continues etc in order to consider any appropriate action.

118. The Head Teacher should arrange Occupational Health appointments through the School's HR provider/School Business Manager. They must then complete the referral form and send this to Occupational Health at least 24 hours prior to the appointment with an up to date job description.

### **Support Available**

119. Employees who are ill will some times need help and support both while they are absent from work and when they return. The School is committed to taking all reasonable steps to ensure that staff are offered support when they need it, this approach will not only help employees who are sick get back to work but will also help to prevent some staff going off sick in the first place. Dealing with any absence concerns early on in a sensitive manner should ensure that situations are dealt with informally and do not escalate into more serious issues.

120. The School provides a number of employee assistance services which are outlined below.

### **Counselling Service (if available)**

121. The School provide employees with an external, free, confidential service offering face to face counselling sessions for a variety of issues such as:

- a) Work related – including work load, relationships with colleagues, the Head Teachers, change in role etc
- b) Personal difficulties – including anxiety, bereavement, relationship problems, and alcohol/drug misuse etc.

122. The service is entirely confidential. The employee does not need to let anybody at work know that they are receiving counselling. Staff should be able to make appointments in their own time, however reasonable time off with pay will be provided for employees to attend sessions if it is required.

### **Physiotherapy Service (if available)**

123. The School also provides employees with free physiotherapy sessions subject to the appropriate self referral form being completed. Musculoskeletal problems which will benefit from physiotherapy include:

- a) Back and neck pain
- b) Muscle or joint problems
- c) Postural problems
- d) Post – surgery rehabilitation

124. Staff should be able to make appointments in their own time, however reasonable time off with pay will be provided for employees to attend sessions if it is required.

### **Work Related Stress**

125. If the Head Teacher is concerned that an employee's absence may be due to stress they should refer to the School's **Work Related Stress Policy and Procedure** which outlines the School's approach to work related and non work related stress. This includes detailed guidance for the Head Teacher on conducting a stress risk assessment. While primarily concerned with stress arising from the working environment it also recognises that events occurring in an employee's personal life may lead to stress and impact on their performance and attendance at work.

### **Equality Act**

126. The Equality Act protects employees with disabilities from discrimination and places employers under an obligation to make reasonable adjustments where any provision, criterion or practice places individuals under a substantial disadvantage in comparison to non-disabled employees. Given that the nature and effect of a disability can be very different for individual employees, it is difficult to produce a general policy which caters for every situation. However, the duty under the Act means that, in considering any action under the terms of the Absence Management Policy and Procedure, account needs to be taken of any disadvantage that the employee concerned may suffer because of his or her disability.

127. The definition of 'disability under the Equality Act 2010 is as follows:

A person has a disability if:

- a) they have a physical or mental impairment
- b) the impairment has a substantial and long-term adverse effect on their ability to perform normal day-to-day activities

128. If an employee's attendance issues are related to a disability, then the Head Teacher should consider the position carefully and seek advice from HR and Occupational Health in order to determine the most appropriate action to be taken.

## **Reasonable Adjustments**

129. The duty to make **reasonable adjustments** under the act arises where a provision, criterion or practice applied by the School places a disabled person at a substantial disadvantage compared with people who are not disabled.
130. The following are examples of reasonable steps an employer may have to take:
- a) Making physical adjustments to the workplace, or adjustments to the employee's duties/workload
  - b) Transferring the disabled employee to another vacant post, with or without reasonable adjustments being made
  - c) Altering the disabled employee's working hours through, for example, part-time working, job sharing or other flexible hours arrangements
  - d) Providing special equipment to help a disabled employee to perform his or her tasks and giving training on how to use the equipment.
131. In determining whether it is reasonable for an employer to have to take a particular step in order to comply, regard shall be had to:
- a) The extent to which taking the step would prevent the effect in question
  - b) The extent to which it is practicable for the employer to take the step
  - c) The financial and other costs which would be incurred by the employer in taking the step and the extent to which taking it would disrupt activities
  - d) The extent of the employer's financial and other resources
  - e) The availability to the employer of financial or other assistance with respect to taking the step
132. Any adjustments need to be implemented as soon as possible and should be agreed with the employee before they are made. It is important that the Head Teacher record and review any adjustments.

## **Routine/Non-Urgent Medical/Dental Appointments etc.**

133. **Routine and non-urgent** appointments are those that are not part of ongoing treatment and where employees have control as to when the appointment can be made i.e. dental check up, eyesight test at opticians.
134. Generally, such appointments to doctors, dentists, hospitals etc should be made in the employees own time applies.

## **Urgent and Continuing Medical Appointments/Treatment**

135. Where the timing of appointments/treatment is outside an employee's control, they should discuss the situation with the Head Teacher and complete the School's 'Application to Attend Appointment Form' attaching supporting medical evidence of the appointment (e.g. Letter/appointment card for reasonable time off with pay to be considered).

## **IVF Treatment**

136. Undertaking IVF treatment may be a stressful and difficult time and the Head Teachers should be sensitive to this. The treatment is not deemed incapacity for Statutory Sick Pay purposes, however some employees may feel ill as a result of the treatment and if they are unable to attend work they will be regarded as sick in line with this policy, subject to the usual sickness absence reporting procedure. There is no statutory right for an employee to receive time off, with or without pay, during normal hours to undertake a course of IVF treatment.
137. When they have been notified that an employee will be undertaking IVF treatment the Head Teacher should discuss the implications of what will be involved in terms of time off required for the treatment. The Head Teachers can approve requests for reasonable unpaid leave subject to confirmation of appointments etc (letter from GP/hospital appointment card etc) and/or annual leave/flexi time can be approved.
138. Requests for paid leave should be approved by the Head Teacher/Chair of the Governing Body again subject to confirmation as previously mentioned. Arrangements should be discussed and agreed before the start of the course of treatment where possible.

## **Pregnancy**

139. A risk assessment should be carried out by the Head Teacher as soon as they become aware that an employee is pregnant.
140. Pregnancy related illness should be treated separately from other kinds of illness and should not count towards an employee's total sickness record. Absence relating to pregnancy should also not be taken into account when making decisions regarding redundancy or dismissal. Information can also be found in the **School's Maternity Provisions**.

## **Elective Surgery/Dentistry**

141. Elective surgery or dentistry treatment is not considered to be medically necessary unless this has been recommended for medical reasons by the employee's doctor/specialist. Where an employee chooses to have elective surgery or dentistry within normal working hours, they should seek authority for authorised unpaid leave.

## **Gender Reassignment**

142. Under the Equality Act transsexual people who are absent from work because they propose to undergo, are undergoing or have undergone gender reassignment should not be treated less favourably than they would be for absence because they are ill or injured