

LEEDS CITY COUNCIL
SICKNESS ABSENCE MANAGEMENT POLICY AND PROCEDURE
FOR SCHOOL BASED STAFF

Adopted by Weetwood Primary School Governing Body March 2011

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1. INTRODUCTION

This policy will apply to all school based staff (except staff employed by DSO) where the Governing Body has agreed its adoption

The underlying principle of the policy is a recognition that the majority of staff have excellent attendance records, and will take time off only where absolutely necessary. It recognises that the vast majority of sickness absence is genuine. The policy is intended to be used in cases involving absence from work due to sickness and is designed to ensure that all staff are dealt with compassionately and equitably and to avoid discrimination.

The procedure applies to all staff including disabled employees (see Appendix 8 for a definition of a disabled person). Additional safeguards have been built into the policy to ensure that specialist advice is sought and reasonable adjustments are considered in respect of disabled employees.

2. AIMS OF THE POLICY

The Policy aims to:

- ensure more effective management of sickness absence and support of staff suffering from ill health;
- improve and maintain the health of staff;
- treat sickness absence from work in a fair, consistent, sensitive and constructive manner;
- monitor sickness absence on a regular basis to identify any job related problems;
- where sickness absence is identified as relating to a disability , this should be managed and dealt with positively as part of the support and management of the employee;
- develop a culture which encourages high attendance levels;
- ensure that all managers receive appropriate guidance and training.

3. PRINCIPLES

- 3.1 Sickness Absence from work is assumed to be genuine. It is recognised that most staff have minimal sickness absence and that in many cases staff attend work when unwell
- 3.2 Head teachers or a person nominated (Nominated Person) by them are responsible for monitoring absence levels and for applying this procedure. Nominated person will normally be a senior staff member e.g. deputy head, head of department or member of the senior management team. In the case of a head teacher's absence, Personnel Division will discuss the matter with the Chair of Governors who will appoint a nominated person e.g. a Personnel Officer. **Guidance should be sought from the LEA Personnel Division before taking any formal action under this procedure**
- 3.3 The head teacher through the nominated person will keep up to date on progress during absence and will arrange home visits, contact and support as appropriate. (See **Appendix 3**) Initial contact will be of an informal nature; formal contact will be established in long-term absence cases when a continuous period of absence exceeds or is likely to exceed 8 weeks (See **Appendix 2**).
- 3.4 Where staff are found to be incapable of continuing their duties because of ill health, the Governing Body will try to find other employment, and where appropriate the Authority will endeavour to offer redeployment.
- 3.5 Where staff have frequent short-term absences, medical advice will be sought and counselling offered where appropriate.
- 3.6 All staff dealing with colleagues who have been absent due to sickness and have access to absence records will have regard to the need for confidentiality and the Access to Medical Reports Act, 1988.

4. COMMUNICATION

- 4.1 The need for everyone to play their role in the management of sickness absence is recognised by the Governing Body. **All staff should be made aware of and provided with a copy of the policy.** A specimen notification procedure is attached at **Appendix 4**. It is expected that schools will have their own procedures for staff to notify the appropriate line manager when they return to work after a periods of absence.
- 4.2 Where the sickness absence of an individual member of staff gives cause for concern school management will discuss with the individual concerned their sickness absence record. This will normally be where trigger points have been reached (See **Appendix 1**).

5. SICKNESS ABSENCE RECORDS

The head teacher should ensure that all instances of sickness absence are documented and countersigned as necessary, and in conjunction with the LEA Personnel Division, ensure that individual sickness records are kept for every member of staff, showing details of absences, reason, and whether they are self certified or medically certified. Individual records should be updated after each absence and reviewed on a regular basis. By maintaining accurate records the scope for dispute when dealing with sickness absence cases under the procedure will be minimised.

The LEA's Personnel Division will be responsible for the maintenance of central sickness records and advising head teachers when employees reach trigger points.

6. WORKING DAYS

For the purposes of giving notice for formal meetings/hearings arranged under this procedure a working day shall exclude Saturday, Sunday, Public and Statutory Holidays, school holidays for teachers and term time only staff and any extra Statutory Holidays or additional days granted by the Governing Body or the Secretary of State for Education.

7. MAINTAINING CONTACT

It is important that regular contact is maintained with staff absent due to sickness.

Any contact with a member of staff should be handled sensitively and should not be intrusive or be seen as harassment. In cases of stress/anxiety related absence or where disciplinary action may/has been taken or in particularly complex situations advice should be sought from Personnel Division before contact is made. Contact should be through the head teacher or a nominated person who knows the member of staff well. (See also **Appendix 3**)

Contact may be by telephoning the member of staff at home, sending a card, arranging for them to visit the school or by visiting them at home (with prior notification). The purpose of such contact is to:

- provide support;
- demonstrate the school's interest/concern;
- ensure reporting procedures are followed and there is no loss of pay or benefits;
- help the head teacher assess the possible length of absence to plan cover.

SHORT TERM SICKNESS ABSENCE

Introduction

Occasional spells of short-term absence are to be expected. It is important that in dealing with short-term absence a sensitive and flexible approach is taken in each case. There may well be underlying domestic, personal or work-related circumstances, which need to be taken into account. An abrasive approach may have a detrimental effect on morale and will not achieve the desired effect, to improve attendance.

It is difficult to define short-term absence but it will normally be absences lasting less than 3 working weeks, which may fall into the following categories:

- Occasional spells of short-term sickness not necessarily related, probably amounting to less than 12 working days per year e.g. colds, stomach upsets.
- Regular spells of short-term sickness, probably amounting to more than 12 days per year e.g. colds, influenza, stomach upsets.
- Regular periods of short term sickness arising from a chronic ailment or condition, which may not be curable but is controllable and should not prevent the member of staff from performing effectively when at work.

Return to work meeting

As a matter of good practice an informal discussion should take place between the head teacher/line manager and a member of staff returning to work after a period of sickness absence. The discussion should normally be an informal exchange to:

- welcome the member of staff back
- update them of developments in school
- identify any continuing health problems
- identify any support needed

See **Appendix 6** for more detailed advice.

The discussion should be carried out:

- in a consistent and uniform way
- without exception
- with sympathy and sensitivity
- without presumption before the discussion

Any matters of particular concern arising out of a meeting should be discussed with the head teacher or a personnel officer

Intervention Levels

Based on general trends within the Authority the following trigger points should initiate formal management intervention in cases of short-term sickness absence:

- Where the member of staff has had four separate absences within a rolling twelve month period, or
- Twelve days of self-certified absence within a rolling twelve month period, or
- Where any unacceptable trend is identified (e.g. repeated absences linked to weekends or other breaks).

Note: An uncertified absence is one of seven calendar days or less. Where an absence extends beyond eight calendar days and a doctor's statement is provided then the entire absence (including the first seven days) is deemed to be certified.

FORMAL INTERVENTIONS

1. STAGE 1

1.1. Where a member of staff has reached one or more of the trigger points described above the head teacher or nominated person should review the employee's sickness absence records. At the return to work meeting the individual should be advised that their absence is giving cause for concern and a further meeting/ discussion may be arranged. (**Appendix 7** Guidance notes on conduct of formal meetings). The member of staff should be advised that if they wish their trade union representative, a colleague or other representative may accompany them at any such meeting.

1.2. The discussion should have regard to a number of factors including:

- the pattern of absence,
- their record and general sickness absence levels,
- identification of any work related factors,
- whether the employee has consulted a doctor.

It may be appropriate to include the line manager/supervisor in any discussion where they are not the nominated person. The member of staff must be given prior notification of any meeting and advised of their right to be accompanied by a friend, colleague, trade union or other representative of his/her choice.

1.3. In the case of the head teacher, the Chair of the Governing Body should consult the Personnel Division who will provide advice on trigger points and a nominated person to deal with the issue.

- 1.4. If a member of staff prefers not to discuss his/her medical condition with the nominated person because of the sensitive or personal nature of the information, they may, if possible, choose instead to be referred to another member of staff e.g. someone of the same sex as themselves.
- 1.5. After reviewing their record, the nominated person will seek to agree with the member of staff an appropriate course of action (where agreement cannot be reached the nominated person will decide the course of action). Some of the options for consideration are: -
- To agree that there is no need for immediate action, but continue to monitor the situation and review after a reasonable period e.g., three months.
 - To attempt to resolve any working difficulties or welfare problems.
 - To advise the member of staff to consult his/her GP.
 - To seek an improvement in the level of absence.
 - To consider reasonable adjustments in line with DDA (See Appendix 8)
 - To obtain advice from the Personnel Division on whether to refer to the Authority's Occupational Health Service and/or a doctor nominated by the LEA who may be their own GP (if this option is chosen the nominated person should give as much relevant background information as possible together with a clear indication of the advice required). At this stage the member of staff will be asked to sign a consent form and will be advised to seek advice from their trade union or other representative. The requirements of the Access to Medical Reports Act, 1988, must be taken into account. Advice on this is available from Personnel Division.
 - To refer the matter to the head teacher and to consider transferring the member of staff to another post within the school. (This option should only be chosen where it is felt that their sickness absence record is specifically attributable to workplace/occupational factors or disability and a suitable alternative vacant post is available).
 - To consider requiring that all future absences are covered by a medical certificate. (Where this option is pursued there may be a charge for medical certificates; this will need to met by the school.)
 - Where there is a need to keep the situation under review the period of the review should be set at this meeting, and should be reasonable in relation to the circumstances.
- 1.6. It is important to recognise that a disabled employee's absence may still trigger intervention. However, care should be taken not to place undue

pressure to reduce their sickness absence levels, as in some instances this requirement may be impossible for a disabled employee to achieve.

1.7. The outcome of any meeting including details of any improvements required, actions to be undertaken and any review period will be confirmed in writing within three working days.

Further advice is available from Personnel Division

1.8. Review Period

Following the initial meeting the nominated person will undertake follow up action and discuss the matter further as necessary. The sickness record will be kept under review with the member of staff and if there has been no satisfactory improvement within a reasonable timescale as determined at the initial meeting the nominated person may then move to Stage 2 of the policy.

2. STAGE 2

2.1. Where absences have continued at an unsatisfactory level despite the actions taken at Stage 1, a further meeting should be arranged to explore the reasons for continuing absence, giving the member of staff at least three working days written notification of the meeting and indicating that the purpose of the meeting is to formally express concern about their sickness absence record. They should again be given the opportunity to be represented by friend, colleague, trade union or other representative of their choice.

2.2. It is recommended that a Personnel Officer should be present to advise the nominated person. It should be explained at the meeting that the instances of sickness absence continue to give cause for concern despite previous efforts at Stage 1 to secure an improvement. The member of staff or his/her representative should be given the opportunity to respond. Notes on the conduct of formal meetings are attached at **Appendix 7**. The following points should be considered at the meeting:

- the overall sickness absence record
- any medical evidence available
- any mitigating factors or explanations presented by the member of staff
- the degree of disruption caused by the absence
- the likelihood of an improvement
- the person's age, length of service and past work record.

2.3. Some of the options available for consideration are:

- (i) to determine whether there is no need for immediate action but to keep the record under review for a specified period e.g. three months;
- (ii) to attempt to resolve any working difficulties;
- (iii) to defer a decision pending a report from the Authority's Occupational Health Facility and/or a Doctor nominated by the Authority (who may be their own GP);
- (iv) to consider transfer to another post;
- (v) to formally notify the member of staff that their attendance record is unacceptable and set a timescale for improvement.

The outcome of the meeting will be confirmed in writing within three working days, indicating when a review will take place. The letter should confirm that failure to improve to an acceptable standard of attendance by the end of the review period may result in the member of staff's record being dealt with at a formal hearing, and that this includes consideration of his/her future employment.

2.4. Stage 2 Review

At the end of any review period or earlier if there has been an increase in the level of absence or it is apparent that there is not going to be the desired improvement, a further meeting will be arranged giving at least three working days written notification. It is recommended that a Personnel Officer be present to advise. The member of staff should be given the opportunity to be represented by a friend, colleague, trade union or other representative.

The review should specifically address all the issues raised at the previous meetings and any new issues that may have arisen or come to light.

In most cases it is expected that the member of staff will have demonstrated an improved attendance record. If attendance is deemed to be acceptable the procedure will end, but if, at any time within a twelve month period, (commencing on the date of the initial meeting) their attendance again falls below an acceptable level, the head teacher or nominated person(s) may reintroduce the formal procedure, commencing at the point which is appropriate in the light of previous action.

3. STAGE 3

IT IS RECOMMENDED THAT IN ALL CASES ADVICE IS SOUGHT FROM PERSONNEL DIVISION BEFORE TAKING ANY ACTION UNDER THIS STAGE OF THE PROCEDURE.

- 3.1. Where an attendance record has not improved significantly, and no acceptable mitigating circumstances have been identified, the member of staff should be told that the matter will be referred to the head teacher, where the head teacher is not the nominated person, who will arrange a hearing where consideration will be given to their future employment. This should be confirmed in writing to the member of staff within three working days. **(Procedure for a hearing on the grounds of ill health capability is attached at Appendix 9).**
- 3.2. Dependent upon the circumstances of individual cases, this may be a matter that should be treated as misconduct and dealt with under the disciplinary procedure

LONG TERM SICKNESS ABSENCE

1. Long term sickness is a continuous absence of eight consecutive weeks or more. Given that many cases of long term sickness involve substantial personal and medical confidentiality it is important that the Personnel Division is involved at the initial stage i.e. approaching the eighth week.
2. Contact should have been maintained during the absence, however, the head teacher or nominated person will make contact with the member of staff as soon as the trigger point of eight weeks continuous absence has been reached (alternatively, the Personnel Division will contact the school at this trigger point) and will arrange a welfare visit to:
 - establish the medical condition and if necessary, report to Personnel Division who may advise that an independent medical opinion is obtained;
 - discuss a possible date for return to work;
 - discuss any adjustments necessary to assist in a speedy return to work;
 - discuss the options available if they wish to consider the alternatives of redeployment or retirement on health grounds.
3. The member of staff will be advised of the right to be accompanied by a friend, colleague, trade union or other representative of his/her choice at any meeting.
4. **Referral to Occupational Health Service/Medical Practitioner**
 - 4.1. Dependant upon the outcome of the visit and any referral to the Personnel Division it may be appropriate to refer the member of staff to the Occupational Health Service or a doctor nominated by the Authority (who may be the employee's own GP) to obtain a diagnosis of the implications of the absence and identify any appropriate support measures. In determining whether this is an appropriate course of action the head teacher /nominated person should have regard to a number of factors including :
 - * the overall sickness absence record
 - * any medical evidence available
 - * any mitigating factors or explanations presented by the member of staff
 - * the degree of disruption caused by the absence
 - * the likelihood of an improvement.

- 4.2. To ensure that a relevant report is prepared the nominated person or Personnel Officer should give as much background information as possible, (e.g. current duties, job description, special characteristics of the post and sickness record) together with a clear indication of the advice required.

It will be necessary to write to the member of staff to obtain their consent, enclosing a consent form and notes regarding their rights under the Access to Medical Reports Act 1988 which includes the right to see the report if they so wish before it is sent to the School/Personnel. Advice is available from Personnel Division

- 4.3. Where a medical report has been obtained but its content is inconclusive, the nominated person should consult the Personnel Division to decide whether a second opinion should be obtained. If so, it will be necessary to write again to the member of staff explaining that a second opinion is required, enclosing a consent form and notes regarding Access to Medical Reports Act 1988. At this stage, the member of staff will again be advised of their right to seek advice from their trade union or other representative.

5. Teaching Staff - Medical Conditions Which May Lead To Suspension

- 5.1. Under the Education (Teachers) Regulations 1993 there are certain medical conditions which may lead to the suspension of a teacher from duty. These include pulmonary tuberculosis, or other infectious diseases likely to infect pupils, epilepsy and psychiatric disorders. If it is believed that the teacher's medical condition is putting pupils and/or staff at risk then further advice should be sought from the Personnel Division.

5.2. Psychiatric Disorders

A teacher who has been absent continuously for a period of more than three months due to a psychiatric disorder, e.g. stress, anxiety, depression, including alcohol or drug misuse, is not allowed to resume teaching duties until they have submitted medical evidence in support of their fitness and Occupational Health and the Governing Body/Authority are satisfied with the evidence.

The Personnel Division will inform the teacher in writing of this requirement after three months has expired.

The teacher must arrange for his GP or Consultant Psychiatrist to submit a report to the Occupational Health Service who must satisfy themselves that the teacher can resume teaching. The teacher cannot take up his/her duties until the Authority receive confirmation by Occupational Health.

6. Options/Actions Available to the School

Where a member of staff is absent from school on long term sickness the following are options that need to be considered by the school :

- (i) Establish the nature and likely duration of any medical condition using the diagnosis from the Occupational Health Service/Medical Practitioner.

- (ii) Establish the support needs of the member of staff, in relation to medical conditions, but also with regard to any working difficulties and any personal or emotional difficulties. Consideration should be given to any reasonable adjustments that could be made to enable the individual member of staff to return to work.
- (iii) Establish a need for alternative employment. If, after consultation with the Occupational Health Service and/or seeking independent medical advice, it becomes apparent that the member of staff is either permanently unfit to return to his/her existing post, or there is no prospect of return within a reasonable timescale, then consideration should be given to finding suitable alternative employment where practicable. Initially, the alternative posts should be sought within the school. Where there are no such suitable posts the Personnel Division will explore alternatives outside of the school
- (iv) Consider the possibility of ill health retirement. Staff who are certified as permanently unfit by their own GP or an independent doctor nominated by the Authority should be retired from employment. The Health and Safety at Work Act places a general duty of care on employers to provide and maintain a safe working environment for employees and other persons using their premises. Therefore when staff are diagnosed as being permanently unfit for their current duties and no suitable alternative work is available or appropriate, steps should be taken to effect medical retirement immediately and under no circumstances should staff be allowed to return to work. Where an employee is not prepared to accept retirement on health ground a formal hearing before governors should be arranged to consider dismissal on health grounds.
- (v) Consider a phased return to work. Where a member of staff has been absent from work on long term sickness the school may consider allowing a return to work on a part-time basis where this would facilitate an earlier return to work than would have otherwise been the case. It may be appropriate to seek guidance via the Personnel Division from the Occupational Health Service on whether or not a phased return to work will be beneficial, but in all cases this should only be agreed where the person's GP has certified him/her as fit to return to work. During any period of phased return unworked time should be regarded as authorised absence rather than sick leave. Staff will receive normal pay during the first four weeks of a phased return to work. Where it is agreed to extend a phased return beyond this period schools will be responsible for determining separate payment arrangements based on the merits of each case.

If, after all the above options have been fully considered and there is no prospect of an early resumption to work the head teacher/nominated person should advise the member of staff that a formal hearing will be held where consideration will be given to their future employment. The school will confirm this, in writing, within three working days. (See Appendix 9 – Procedure for a hearing.)

GUIDANCE FOR CONDUCTING A HOME VISIT

1. Any home visits must be undertaken in a supportive context and should not be regarded in any way as threatening or 'policing' the situation. Information regarding change in work practice, developments in school or news bulletins may be given which will keep the member of staff up to date and involved with the work situation. The value is in encouraging staff to think positively about a future return to work and any special arrangements that might need to be made.
2. A member of staff who prefers not to discuss his or her medical condition with the nominated person because of the personal or sensitive nature of the illness may choose instead to be referred to another person, e.g. of the same sex as themselves.
3. The nominated person should contact the absent member of staff either in writing or by telephone, (where the contact is by phone any arrangements should be confirmed in writing) to propose a convenient date and time for a home visit and giving them the opportunity to have, if they wish, a friend, colleague, trade union or other representative present.
4. It is advisable that either the line manager of the member of staff or a Personnel Officer accompanies the nominated person on the visit.
5. For the nominated person to carry out the interview successfully, preparation prior to the visit should be carried out, gathering facts about:-
 - medical evidence/background
 - financial considerations for the member of staff.
 - alternatives available for them to consider.
 - arrangements for medical assessment, if appropriate.
 - booking diary appointments for subsequent visits.
6. The visit should take the format of establishing the health and welfare of the employee and for the nominated person to assess the possible time of absence.

NOTIFICATION AND CERTIFICATION OF SICKNESS ABSENCE

If you are unable to attend work as a result of sickness you must comply with the following procedures to avoid loss of pay:

1. You should normally notify your *school* on the first day of your absence by **a specified time and to a designated person, which will be determined by the school**. A representative may make the notification on your behalf if your illness prevents you from doing so.
2. You (or your representative) will be required to provide the following information:-
 - a) the nature of the illness
 - b) the date on which you expect to be fit for work
 - c) your present home address or contact address
 - d) whether you are claiming industrial injury.

If you or your representative do not know when you expect to be fit to return to work you must contact school **each day that you are absent** - the same time limits apply as if it were the first day.

3. If you are unable to return to work on the expected day, you or your representative must contact your place of work again by the specified time on that day to give them a revised date of return. In any event you should make contact with your *school*, not later than the seventh calendar day, to either confirm that you will be returning to work as previously notified or that you will be arranging to see your Doctor with a view to obtaining a 'Doctor's Statement.
4. Following your return to work after an absence of more than three days, you will be required to certify that the information that you gave concerning your absence was correct in order to claim the appropriate allowances. (Form CF/39).
5. If you are absent for more than seven calendar days you must produce a Doctor's Statement. This should reach your place or work on or before the eighth day otherwise Occupational Sick Pay may be delayed. You are advised to see your Doctor as soon as possible so that your Doctor's Statement can be produced on time. Doctor's Statements that are not received by the eighth day will only be accepted for payment of Occupational Sick Pay from the date of receipt at the place of work. Only in exceptional circumstances will discretion be applied.
6. Prior to the expiry of your Doctor's Statement you must contact your *school* to inform *the designated person* whether you expect to return to work on the expiry of the present statement or whether you anticipate that a further period of sick leave will be necessary for your recovery. All continuation Doctor's Statements must be received at the place of work within three working days of the expiry of the previous Statement where practicable. Doctor's Statements that are not received within three working days will only be accepted for

payment of Occupational Sick Pay from the date of receipt at school. Only in exceptional circumstances will discretion be applied.

7. Where you have to submit more than one Doctor's Statement, you must ensure that you are covered for the whole period of your absence so that there is no gap between the expiry date of one Statement and the Doctor's date of signing of the next Statement.

Note: that the Doctor's date of signing is regarded as day one for calculating the period covered by the Statement.

8. Doctor's Statements which do not specify the date of return, or the period of absence will only be accepted as valid for the Doctor's date of signing.
9. If your certified absence is for more than 14 calendar days, you must produce a final Statement, which shows that you are fit to return to work on a specified date.
10. When you return to work you should ensure that your line manager is aware that you have returned.
11. When you return to work after a certified absence you will still have to sign the declaration on the self certification form to claim benefit for the initial period of your absence. (Form CF/39).
12. Where a Doctor's Statement is produced to cover a period that has been authorised as annual leave, the employee will be regarded as being on sick leave from the date of signing of the Doctor's Statement.
13. It is the *school's* policy to keep in contact with employees who are absent from work due to ill-health and if for any reason you propose to be away from your home during a period of sick leave you should inform the Department in writing.
14. You may be required to undergo an examination by a Medical Practitioner nominated by the Local Authority at any time during a period of sickness absence.
15. **FAILURE TO COMPLY WITH THE PROCEDURE FOR NOTIFYING ABSENCES AND PRODUCING DOCTOR'S STATEMENTS WILL AFFECT YOUR ENTITLEMENT TO OCCUPATIONAL SICK PAY.**

15 You should retain this information for future reference.

THESE NOTES ARE FOR GUIDANCE ONLY AND DO NOT CONTAIN ALL THE REGULATIONS RELATING TO SICKNESS ABSENCES. IF YOU ARE UNCERTAIN ABOUT ANY OF THESE INSTRUCTIONS OR NEED FURTHER INFORMATION, PLEASE CONTACT YOUR SCHOOL OR THE PERSONNEL SECTION.

OCCUPATIONAL HEALTH SERVICES

Through the Service Level Agreement with the LEA's Personnel Division, schools have access to the Council's Occupational Health Service (OHS). The OHS offers a wide range of services including:-

Advising on health issues either in relation to staff or the workplace.

Advising on sickness absences and whether referral to any other agency or body is advisable.

Undertaking confidential health investigations on staff referred and to advise both the employee and school of appropriate courses of action.

Arranging specific medical examinations where appropriate with occupational health physicians/medical practitioners and advise outcomes accordingly.

Advising managers when absences or other factors affecting work performance are deemed to be attributable to the work environment.

Recommending and co-ordinating arrangements for physiotherapy and other manipulative treatment in cases of back/muscular problems.

Assessment of reports from specialist on teaching staff absent over three months with specified illnesses

Provision of access to professional counselling service for staff with health problems/personal difficulties.

Coronary Risk Profiling via the appropriate external agencies.

Support for staff linked to the Alcohol and Drug Misuse Policy.

Schools requiring more information on the services which can be provided should contact the Personnel Division

INFORMAL RETURN TO WORK DISCUSSION

The return to work discussion should be a brief 5 - 10 minute chat, it should take place with all staff returning from sickness and wherever possible should be conducted in a private office. The purpose of such a discussion is to show staff that they are missed, to encourage a culture of good attendance and highlight any potential problems or difficulties. The discussion should take place as soon after return to work as is possible. It is important that this is carried out for all staff to ensure consistency and to avoid accusations of harassment or discrimination. However, the method of approach and the nature of the discussion should be mediated by common sense. The discussion should follow a consistent format covering the following areas:

Welcome back - This gives the opportunity to remind the member of staff that the discussion is standard practice after any period of absence, to welcome them back to work and to talk about things they have missed whilst they were absent.

Enquire about health - When a member of staff returns from a period of sickness, the head teacher or other senior member of staff should gently explore the reason for their absence, whether they are now fit to resume their duties and any preventative action the school or the member of staff need to undertake to ensure continued attendance.

Consequences and Observations - By using the attendance records members of staff can be made aware of previous absences e.g. within the past 6 months, any pattern of absence. Depending upon the circumstances it may be necessary to inform the member of staff that their absence rate now represents a problem and that a formal meeting will be arranged to discuss it further.

Future Attendance - At the end of the informal discussion it should be made clear that the school expects the highest levels of attendance and that the school and member of staff should look at ways of achieving this fairly and with sensitivity. Where appropriate the member of staff should be advised that further prolonged or regular absences may result in a more formal approach.

Disabled Employees - Where an employee is disabled it is important to identify whether the absence was related to the disability and if so whether any action is required to assist the employee.

**GUIDANCE ON CONDUCTING A FORMAL INTERVIEW
ON A SICKNESS ABSENCE PROBLEM**

1. The first formal meeting to be convened after a problem over sickness absence has been identified shall comprise:
 - the member of staff
 - a friend, colleague, Trade Union or other representative of his/her choice
 - a nominated person designated by the head teacher
 - if appropriate, the line manager (if they are not the nominated person)
 - wherever possible a Personnel Officer should be present to advise the nominated person.

2. The purpose of this meeting is to:-
 - i) explain the problem regarding sickness absence i.e. that their level or pattern of absence is unacceptable and the reasons why it is unacceptable;
 - ii) provide the monitoring information, which supports the identification of the problem;
 - iii) ask them to respond to this and explain the situation from their perspective;
 - iv) establish whether there is any support which management can provide to resolve the problem;
 - v) establish a course of action to remedy the problem.

3. The member of staff must be reminded at this stage of the possible outcomes of this meeting (these are identified in the procedure).

4. In terms of conducting the meeting, the following guidelines should be observed:-
 - i) Whilst a formal interview should be arranged as promptly as possible if it is required under the procedure, it should not be arranged so quickly that no preparation time is catered for, from both the member of staff's and nominated person's perspective.
 - ii) The meeting should be convened in school in a private office free from interruptions or disturbance.

- iii) Whilst the meeting is formal, it should not be dealt with in an excessively formal manner which could be construed as threatening or intimidating. A rough time limit for the meeting should be agreed between the nominated person and the member of staff and representative. There is no reason why the meeting should be particularly lengthy.
 - iv) The member of staff should be advised of the purpose of the meeting and its possible outcomes. But emphasis should be placed upon the paramount reason for the meeting, which is to establish a **solution** to sickness absence problem.
 - v) A rough 'agenda' should be set for the meeting. Both the nominated person and the member of staff can place points for discussion on this. The meeting should not develop into a disciplinary meeting.
 - vi) The member of staff and their representative may wish to adjourn briefly before making any response.
 - vii) All relevant monitoring information should be shared with the member of staff.
5. The meeting should be concluded when all the points which the nominated person and the line manager (if present) and the member of staff wished to raise have been discussed.
 6. At the conclusion of the meeting the nominated person should clearly indicate the course of action which is proposed including any need for review meetings.
 7. Notes should be taken and agreed. One copy will be provided to the member of staff and another retained by the nominated person dealing with the case.
 8. The outcome of the meeting will be confirmed in writing and the member of staff will be advised when a review will take place. The letter should confirm that any further absences due to sickness may result in the employee's record being dealt with under the procedure for Ill Health Capability.

SICKNESS ABSENCE AND THE DISABILITY DISCRIMINATION ACT

The sickness absence procedure applies equally to all staff including disabled employees (see below for definition). Additional safeguards have been built in to the procedure for disabled employees to ensure that specialist advice is sought and reasonable adjustments are considered at all stages of the procedure.

The trigger points and formal interventions will apply equally to disabled employees. Any action taken under Appendix 1 Short term Absence in relation to disabled employees should take account of the following:

1. Where a disabled employee's absence record is reviewed following reaching a trigger point, it should be clarified whether the time off was attributable to the employee's disability. This information should be taken into account when deciding whether to instigate a Stage 1 interview.
2. If any clarification is required to determine whether the absence is related to disability medical evidence may be required from either GP or Occupational Health. (Schools should seek advice from Personnel Division).
3. Where a stage 1 review is initiated and the absence relates to an employee's disability "reasonable adjustments" should be considered. This may also be advisable even if it is decided that a Stage 1 meeting is not required.
4. Where reasonable adjustments can not readily be identified then further advice should be sought from the Personnel Division.
5. Once advice has been obtained the Stage 1 interview should be resumed. Where a reasonable adjustment has been made sufficient time should be allowed to action, monitor and evaluate any adjustment(s).
6. Where the situation does not improve and it is decided to proceed to Stage 2 reasonable adjustments must again be considered. Where there is no readily identifiable adjustment or course of action further advice should be sought from Personnel Division.
7. Where all possible adjustments have been considered and tried as appropriate and no improvement has been demonstrated, further advice should be sought from Personnel Division.
9. Before progressing to Stage 3 advice must be obtained from Personnel Division.

DDA – Definition of a Disabled Person

Any reference to a disabled employee within the policy and this appendix will apply to those employees who:

- declare themselves as disabled and this is accepted by the school management;
- meet the DDA definition of a disabled person;
- where it is reasonable for the school management to assume from the evidence available that the individual is disabled in accordance with DDA.

The definition of disabled in DDA includes the following criteria:

- A disabled employee is one who has a physical or mental impairment. (This includes people with a visual or hearing impairment) For example heart disease, mobility impairment, disfigurement, speech impairment, progressive conditions such as cancer, multiple sclerosis, aids, learning difficulty or a mental illness.
- The impairment must be substantial i.e. it must be more than minor or trivial.
- It must have a long term effect i.e. it should have lasted or is likely to last more than 12 months.
- It must affect normal day to day activities such as mobility, manual dexterity, physical co-ordination, continence, ability to lift, carry or move every day objects, speech, hearing, eyesight, memory or ability to concentrate, learn or understand, perception of the risk of physical danger.

This list is not a definitive guide as other impairments will also meet this definition.

Notes on Reasonable Adjustments

It is the duty of employers to consider adjustments for disabled job seekers and employees where necessary. This includes:

- Alterations to premises
- Allocation of duties to another person
- Altering working hours
- Transfer to another location
- Modifying procedures for assessment or testing
- Acquiring or modifying equipment
- Providing a reader or sign language interpreter
- Redeployment
- Time off for rehabilitation, assessment or treatment
- Training
- Modifying reference or instruction manuals
- Providing supervision

This list is not exhaustive.

PROCEDURE FOR A HEARING ON GROUNDS OF ILL HEALTH CAPABILITY

1. The Governing Body will appoint a panel of three Governors to hear cases in accordance with this procedure; and where required a separate panel of three Governors to hear any subsequent appeal

2. NOTIFICATION OF A FORMAL HEARING

- 2.1. The Director of Education (Personnel Division) will appoint a clerk to the hearing who will be responsible for convening a hearing to consider the employee's future employment.
- 2.2. The employee will be given at least seven working days notice in writing of the date, time and place of the hearing. **(A working day shall exclude Saturday, Sunday, Public and Statutory Holidays, school holidays for teachers and term time only staff and any extra Statutory Holidays or additional days granted by the Governing Body or the Secretary of State for Education).** The letter will explain the purpose of the hearing is to consider the employee's sickness record and inform the employee of his/her right to be accompanied by a representative. The letter must advise the employee of the possibility of dismissal at the conclusion of the hearing. Copies of any documentation to be considered at the hearing and details of any witnesses to be called will be enclosed with the letter together with a copy of the Sickness Absence Policy and procedure.
- 2.3. If the employee wishes to present documentary evidence to the hearing, or call any witnesses, details of these should be provided to the Clerk to the Hearing at least three days in advance of the hearing.
- 2.4. The hearing will be before a Panel of Governors who will be advised by the Director of Education (Personnel Division) and will follow the format detailed in 12.4 below. Detailed notes of the hearing will be made.

3. PERSONS INVOLVED IN THE HEARING

- 3.1. A Panel of three governors decide the appropriate action.
- 3.2. Nominated Person - presents information on the employee's attendance and health record to the hearing. This could be the person who has been involved in the stages leading up to the hearing, another senior member of staff, the head teacher or an officer of the Personnel Division.
- 3.3. Personnel Officer - who will advise the panel. **(Note** the Personnel Officer acting as adviser to the panel can be the same person who acted as clerk to convene the hearing)

- 3.4. Witnesses - either party may call witnesses to present relevant information.
- 3.5. The employee and his/her representative.

4. CONDUCT OF THE HEARING

- 4.1. The Nominated Person who may call witnesses will present the case for the School / refer to documentation, if appropriate.
- 4.2. The employee or his/her representative may question any witnesses called.
- 4.3. The Nominated Person may re-examine the witnesses.
- 4.4. The Panel may ask questions of the witnesses.
- 4.5. The Personnel Officer advising the panel, may through the Chair of the Panel, seek to clarify points made in evidence.
- 4.6. In giving evidence to the panel, the Nominated Person may be questioned by the employee or his/her representative and questioned by the Panel and Personnel Officer, as above
- 4.7. The employee or his/her representative will then respond, calling witnesses and referring to documentation, if appropriate.
- 4.8. Witnesses may be questioned by the Nominated Person, re-examined by the employee or his/her representative and questioned by the panel and Personnel Officer as above.
- 4.9. The Nominated Person, then the employee or his/her representative, will sum up.
- 4.10. Both parties will withdraw while the Panel considers what action should be taken. In the event that further information or clarification is required by the panel then all parties should return to the meeting whilst such information is obtained. An opportunity should be given to each party to question or comment on this additional information.
- 4.11. Parties recalled to hear the decision. Member of staff informed of right of appeal.

5. ACTION AVAILABLE TO THE GOVERNORS PANEL

- 5.1 In deciding what action to take the Governors Panel will take account of:
 - the overall sickness absence record;
 - all records of discussions with Nominated Person/Personnel Officer;
 - the employee's age, length of service and past work record;
 - the likelihood of a change in the attendance record;

- the availability of suitable alternative work;
- whether any reasonable adjustments could be made which would enable the employee to return to work
- the degree of disruption caused by the absence;
- any medical evidence available;
- any mitigating domestic circumstances.

5.2. In the light of the evidence available and the above considerations the Panel may decide on one of the following options:

- (i) To take no action but to keep the record under review for a specified period.
- (ii) To take any other action as may be appropriate in the circumstances.
- (iii) To withdraw the facility for the member of staff to self certify subsequent absences and thereby require production of a Doctor's statement to cover all subsequent periods of sickness absence (if this option is chosen they will be reimbursed the cost of the private Doctor's statement). Where this option is chosen the Panel should specify for how long this facility will be withdrawn and when the situation will be reviewed, this should not normally be a period in excess of six months. Failure to provide a Doctor's statement in these circumstances will result in loss of pay for any days of uncertified absence.
- (iv) To defer a decision pending further investigations/medical report.
- (v) To consider transfer to another post within the school.

(This option should only be chosen where it is felt that the employee's sickness absence record is specifically attribute to workplace/occupational factors and a suitable alternative vacant post is available). Where the post is on a lower grade the employee will be entitled to protection of earnings and it will be necessary to secure the employees consent before implementing this course of action.

- (vi) To recommend to the Director of Education that the employee's contract of employment is terminated. Or, where the Panel believes that the grounds for termination have been made out, the employee may be offered an alternative post within the School if one is available. Where the post offered is on a lower grade there will be no entitlement to protection of earnings or other conditions of employment. It will be necessary to secure the employee's consent before implementing this course of action.

5.3 The outcome of the meeting will be confirmed in writing within three working days. If it is decided to terminate the employee's contract of employment the full contractual period of notice will be given (although the School may, at its discretion give pay in lieu of notice) and details of the employee's rights of appeal to the Governing Body and to an Employment Tribunal, within three months of the date of termination, will be set out. The letter should state the reason for termination, i.e. as a consequence of the employee 's unacceptably high incidence of sickness absence, which renders them incapable of fulfilling the contract of employment.

6. RIGHT OF APPEAL

Any appeal must be made to the Clerk to the Hearing within ten working days of receipt of written notification of the Panel's decision.

The appeal hearing will be held within 20 working days of receipt of the letter of appeal, but at least five working days notice of the appeal will be given.

The appeal hearing will take place before a panel of three governors (none of whom sat on the hearing panel) and will follow the same format as used in the formal hearing.

In the light of the facts and evidence presented the Appeal Panel may:

- (i) confirm the original decision
- (ii) uphold the appeal and take no further action
- (iii) in the case of dismissal uphold the appeal and take some other course of action as might be deemed appropriate in the circumstances
- (iv) take any other course of action as may be appropriate in the circumstances; but without increasing the penalty

The decision of the Appeals Panel will be conveyed to the employee in writing within three working days of the appeal hearing, and, where appropriate, remind the employee of his/her further right of appeal to an Employment Tribunal.