

School Sickness Absence Management Policy, Procedure  
and Toolkit



Please think before printing this document.

Where printing is necessary, please ensure that it is printed double sided and in greyscale.

# Contents

<b>1</b>	<b>Policy Outline</b>	<b>6</b>
1.1	What is the policy about?	6
1.2	Who does the policy apply to?	6
1.3	Responsibilities	6
1.4	Monitoring	6
1.5	Training and monitoring	7
1.6	Support	7
1.7	Confidentiality	7
1.8	Dealing with abuses of the policy	7
1.9	Publicising/distribution of the policy	7
1.10	Reviewing the policy	8
1.11	Equality and Diversity	8
1.12	Alternative formats	8
1.13	Forms	8
1.14	Further information	8
<b>2</b>	<b>Procedure</b>	<b>9</b>
2.1	Core Principles	9
2.2	Roles and responsibilities	9
2.2.1	Head Teachers' Responsibilities	9
2.2.2	Employee Responsibilities	10
2.2.3	Role of Human Resources & Organisational Development	11
2.2.4	Role of the Trade Unions	12
2.2.5	Meetings in the procedure	12
2.2.6	Return to Work Interview	12
2.2.7	Fit Notes	12
2.3	Managing Sickness Absence	14
2.3.1	Types of sickness absence addressed in the procedure	14
2.3.2	Trigger Points	15
2.3.3	Sickness Absence Interview	15
2.3.4	Administration of Sickness Absence Interviews	16
2.4	Managing persistent short-term absence with no principal underlying medical cause	16
2.4.1	First Stage Interview	16

2.4.2	Subsequent Interview .....	16
2.4.3	Final Stage Interview .....	17
2.4.4	Short-Term Absence initially treated as short-term but then determined to have a principal underlying medical cause .....	18
2.5	Managing long-term sickness absence .....	19
2.5.1	First Stage Interview .....	19
2.5.2	Subsequent Interview .....	19
2.5.3	Final Stage Interview .....	20
2.5.4	Phased return to work .....	22
2.6	Sickness record including both long and short-term .....	22
2.7	Alternative Employment on Medical Grounds (To be read in conjunction with the Council's Alternative Employment/Redeployment Policy) .....	23
2.8	Ill Health Capability Hearing .....	24
2.8.1	Procedure .....	24
2.8.2	Right of Appeal .....	25
2.9	Ill Health Retirements .....	25
2.9.1	Local Government Pension Scheme (LGPS) .....	25
2.9.2	Teachers' Pension Scheme (TPS) .....	26
2.10	The Equality Act 2010 .....	26
2.11	Maternity Related Sickness Absence .....	27
2.12	Pre-employment and probation (To be read in conjunction with the Council's Recruitment & Selection Procedure) .....	28
2.13	Employee accompaniment at sickness meetings .....	29
2.14	Medical advice: medical support through the Occupational Health Service (OHS) 30	
2.15	Time off for Medical Appointments (including hospital appointments) .....	31
2.16	Industrial Injury/Disease .....	32
2.17	Sickness Pay (OSP and SSP) .....	32
2.18	Managing Absences Related to Stress .....	33
<b>3</b>	<b>Sickness Absence Management Toolkit. ....</b>	<b>34</b>
3.1	Head Teachers Quick Guide to Managing Sickness Absence .....	34
3.2	School Absence from Work Rules .....	35
3.3	Managing Sickness Absence Flowchart - Short Term Absence .....	37
3.4	Corporate Accident / Incident / Ill Health Report Form .....	38
3.5	Return to Work Interview/Sickness Declaration Form .....	39
3.6	Letter requesting attendance at a Sickness Absence Interview .....	41

3.7	Sickness Absence Interview – Head Teachers Guidance.....	42
3.8	Sickness Absence - First Interview.....	43
3.9	Sickness Absence – Subsequent Interview.....	44
3.10	Sickness Absence - Final Stage.....	45
3.11	Letter Confirming Outcomes of a Sickness Absence Interview.....	46
3.12	Managing a ‘phased return to work’.....	48
3.13	Letter requesting attendance at an Ill Health Capability Hearing.....	50
3.14	Procedure to be followed at an Ill Health Capability Hearing.....	51
3.15	Letter Confirming Outcomes of an Ill Health Capability Hearing.....	52
3.16	Procedure to be followed at an Ill Health Capability Appeal.....	54
3.17	The Occupational Health Service Role in the Management of Long Term Sickness Absence.....	56

# 1 Policy Outline

## 1.1 What is the policy about?

The Sickness Absence Management Policy, Procedure and Toolkit is intended to set out a procedural framework and standards of practice which enable schools to reduce the level of sickness absence amongst employees, taking account of the schools needs, support for sick employees and equalities.

## 1.2 Who does the policy apply to?

This policy applies to all school based employees and the governing bodies are responsible for the management of sickness absence.

Employees absent through industrial injury or disease are subject to this policy and procedure.

It is not the purpose of this procedure to deal with abuse of the self- certification procedure. This should be investigated under the School's Disciplinary Policy.

## 1.3 Responsibilities

All employees have a responsibility to ensure that they comply with this policy and any subsequent processes that are developed to support it.

Everyone involved in implementing this policy and any subsequent processes that are developed to support, are responsible for ensuring that it is implemented in a fair and consistent manner and must ensure that they:

- Do not breach the policy or any related processes;
- Seek advice from Human Resources (HR) if unsure of how to implement the policy;
- Deal with any issues arising equitably without direct or indirect discrimination on grounds of age, disability, nationality, race, religion, sex, sexual orientation, or trade union membership.

For the purpose of this policy, the Head Teacher is responsible for managing sickness absence within the school, although they may delegate this responsibility to the Deputy Head Teacher, Business Manager or relevant appropriate person within the school.

## 1.4 Monitoring

Data will be gathered through the management information systems for recording and reporting sickness absence. This data will be reviewed within school Management Teams to identify the impact of sickness absence within the school and used to develop any further mechanisms to address significant issues.

Reports on the impact of measures related to the policy will be made on a regular basis to the governing body.

### **1.5 Training and monitoring**

The governing body recognises the importance of awareness and training on sickness absence management issues in the school. The governing body's support for effective sickness absence management will include training for Head Teachers and Business Managers as appropriate to support them in their responsibilities under this policy.

The Sickness Absence Management Policy, Procedure & Toolkit will be covered as part of employee induction, training and development.

### **1.6 Support**

All absences should be dealt with in a sensitive, confidential and positive manner to encourage and support employees, in order to facilitate a return to work. It is recommended that employees who are subject to sickness absence procedure contact their trade union representative at the earliest opportunity so that the union can offer them appropriate advice, guidance and support. Support can also be sought from FirstAssist Telephone Counselling Service by calling 0800 716017.

### **1.7 Confidentiality**

All information will be handled sensitively and used only for its proper purpose. However confidentiality cannot be guaranteed as information might have to be disclosed where an issue results in formal proceedings.

Head Teachers must not disclose information to anyone other than to people who need to know as part of operating this procedure. Personal details about an employee's health are confidential and any breach of confidentiality may lead to disciplinary action.

Personal records about an employee's health must be held in accordance with the appropriate legislation. The separate guidance document on the management of personal information in personnel information systems gives more details. This is available from the Human Resources Operations Team.

Under the Data Protection Act 1998 individuals have the right to see their own personal data held subject to the rights of confidentiality of any third parties involved in that information.

### **1.8 Dealing with abuses of the policy**

The procedure must be available to all employees who should be aware of their role and their responsibilities if they are unable to attend work. Employees should be aware of their duty to comply with the sickness absence procedure and the penalties that may be invoked if they do not fulfil the requirements placed on them by the procedure i.e. disciplinary procedures.

### **1.9 Publicising/distribution of the policy**

A copy of this policy is available from the Head Teacher and will be made available to employees on request. A copy can also be viewed via the Extranet.

New employees will be informed of the existence of this policy in recruitment and induction information.

## 1.10 Reviewing the policy

The operation of this policy will be kept under review and such changes will be made to the policy as deemed appropriate following necessary consultation with the trade unions.

## 1.11 Equality and Diversity

The Council's vision is of an Altogether Better Durham comprising two key components of an Altogether Better Place which is Altogether Better for People. Within this vision our three key equality aims set out in the Single Equality Scheme are to provide high quality accessible services to all, be a diverse organisation and work with others to promote equality countywide. These objectives apply both in the delivery of our services and in relation to our employment practice. We are committed to including equalities in everything we do. This includes the elimination of unlawful discrimination, promoting diversity as a positive force and valuing and celebrating our diverse workforce and community.

## 1.12 Alternative formats

Where any alternative format is required, any initial enquiry should be made through your Head Teacher or by following the instructions below:

**Please ask us if you would like this document summarised in another language or format.**

العربية (Arabic)	(中文 (繁體字)) (Chinese)	اردو (Urdu)
polski (Polish)	ਪੰਜਾਬੀ (Punjabi)	Español (Spanish)
বাংলা (Bengali)	हिन्दी (Hindi)	Deutsch (German)
Français (French)	Türkçe (Turkish)	Melayu (Malay)

[hradviceandguidance@durham.gov.uk](mailto:hradviceandguidance@durham.gov.uk)  
**03000 265 367**

 Braille
  Audio
  Large Print

## 1.13 Forms

Forms relating to this policy and procedure will be downloadable from the Extranet.

Sample forms are included at the back of this document for information purposes only.

## 1.14 Further information

If you would like any further advice on this document you can contact Human Resources, Advice and Guidance Team on 03000 265 367.

## 2 Procedure

### 2.1 Core Principles

Effective absence management is important in securing effective service delivery. The school is committed to improving the health of the workforce, which will have major benefits within the school. Not only does sickness absence impact upon service delivery and produce direct costs but it also takes its toll on colleagues within the school.

The basis for the school absence management is to adopt a caring approach with clear and fair procedures. It is emphasised that an employee's sickness absence is not generally an issue where an employee should be treated as being "to blame". However, given the impact on the service and colleagues, it must be recognised that the school has a responsibility to engage with individual employees, acting to support and encourage improvement.

It does have to be recognised that, despite the efforts made, sickness absence may, in some cases, lead to consideration of alternative employment or to termination of employment in due course.

The school values the diversity of its workforce and will ensure consideration of equalities in the management of sickness absence, in individual cases and in its general approach.

The school is required to provide safe places and systems of work under Section 2 of the Health and Safety at Work Act 1974, and is committed to providing a healthy working environment so as to support employee's health and good attendance. The school works to promote workforce health and recognises the importance of a pro-active approach to Health and Safety in the workplace, including the management of stress at work. It is important Head Teachers undertake sickness absence training to improve effective sickness absence management.

The school further recognises that sickness absence may, on occasion, be caused by work-related health and safety issues. Where this is thought to be the case, there should be an investigation and the identification and implementation of appropriate countermeasures to minimise risk.

### 2.2 Roles and responsibilities

#### 2.2.1 Head Teachers' Responsibilities

The primary responsibility for managing and reducing levels of sickness absence is with the Head Teacher. The responsibility to make decisions in connection with managing an employee's absence also rests with the Head Teacher. Human Resources and Occupational Health colleagues may advise the Head Teacher but the decision is theirs. The only exceptions are where there is a decision to recommend ill-health retirement when an external adviser will decide. In cases of Head Teacher sickness absence, the Chair of governors is responsible for managing the process.

It may also be appropriate for the Head Teacher to delegate the role to another officer in particular circumstances. For instance, where it is otherwise appropriate and reasonably practicable, it may be that the role is transferred to another manager of the same gender or ethnic group as the employee.

Head Teachers have responsibility for the health, safety and welfare of their employees. Head Teachers should ensure that risk assessments are carried out and regularly reviewed with the

findings communicated. The hours worked by their employees should be reasonable and comply with Working Time Regulations.

Head Teachers are responsible for monitoring absence and maximising attendance levels to ensure effective service delivery. Employees should be treated consistently and with respect and understanding.

Head Teachers must:

- Continuously review sickness absence levels of employees and take action needed to prevent and reduce it, taking into consideration all circumstances of each case.
- Ensure that everyone they manage understands the rules and procedures and are aware of their responsibilities in relation to sickness absence.
- Determine when to take appropriate action in line with this policy and procedure.
- Ensure that regular contact with absent employees is maintained.
- Undertake return to work discussions on each and every occasion of sickness absence.
- Comply with sickness absence reporting and recording requirements.
- Identify support where appropriate to facilitate employee's attendance.
- Ensure the employee understands the level of performance and attendance required.
- Develop an atmosphere which encourages high attendance, including ensuring employees are aware that their individual contribution to the school is acknowledged.
- Keep employees informed of the sickness absence rate within the school.
- Be prepared to discuss and follow up sickness absence issues with employees.
- Comply with their responsibilities for Health and Safety at Work.
- Take action where employees identify their sickness absence as work related by completing the Corporate Accident/Incident/ill-Health Report Form and resulting actions taken.
- Take action in cases of reported work related stress, completion of the stress questionnaire and action plan should also be considered - this can be found in the School's Stress Management Policy, Procedure & Toolkit.
- Not set or expect work from employees whilst they are absent from work due to sickness.

### 2.2.2 Employee Responsibilities

Employees must:

- Attend work when fit to do so unless on authorised leave
- Notify their Head Teacher of sickness absence in person before their usual start time/prior to the start of the day. Employees genuinely unable to telephone personally should arrange for someone to call on their behalf. If their Head Teacher is not available, they should contact another nominated person within the school team. If the sickness absence is work related they should inform their Head Teacher of this.
- Maintain contact with their Head Teacher during sickness absence, unless the Head Teacher agrees other arrangements.
- Attend appointments with the Occupational Health Service when required. Release of information from the Occupational Health Service to Head Teachers following an employee's clinical assessment will be subject to appropriate clinical and professional conduct guidelines.
- Advise the Head Teacher of the potential effect of any medication which they are using on their capability in the workplace.
- Comply with their responsibilities for Health and Safety at Work.

- Ensure they seek and receive medical advice and treatment in order to facilitate a return to work.
- Not undertake any work/activities, related to or outside of their work, incompatible with their illness or that may delay recovery.

If a problem with the reporting process is anticipated, for instance because the employee lives alone and feels that on occasion this may be an issue in reporting sickness, then alternative arrangements should be agreed in advance by the Head Teacher.

If an employee becomes sick during the working day then for operational and health and safety reasons, they must speak with their Head Teacher, or if they are not readily available, another nominated person, before leaving work.

The completion of a 'Return to Work Interview/Sickness Declaration' form by the employee is required after every sickness absence (see section 3.5 in the toolkit). The school accepts the information provided on this form, which is completed at the Return to Work interview, as a self-certification form. All employees (including those working part time) must provide a fit note for any absence exceeding 7 consecutive calendar days, whether or not these are working days. If a Head Teacher considers that the reasons given for the absence are inadequate and has sufficient evidence to support this, payment may be refused for the period in question.

Employees may have a condition or an impairment that they wish to keep confidential. They are not obliged to disclose these unless it is a condition, which might endanger colleagues, pupils or themselves. In such cases the condition or impairment must be disclosed. In choosing not to disclose information, employees must understand that, when considering appropriate action, the Head Teacher can only take into account the information available to them.

Employees are encouraged to advise Head Teachers if they consider workplace practices are causing or exacerbating sickness levels. Such practices can also be raised with Health and Safety Representatives or Trade Union Representatives. Where employee absence is presented as work-related, for example in a return-to-work interview, the Head Teacher should investigate this, taking advice as necessary from Health and Safety /Occupational Health and/or Human Resources.

Where an employee believes that their sickness absence has been caused by work, they must tell the Head Teacher of this, and they should also report this in accordance with the corporate Accident/Incident/ill-Health Report Form (see section 3.4 in the toolkit). The Head Teacher must investigate, taking advice as appropriate from Health and Safety /Occupational Health and/or Human Resources.

### **2.2.3 Role of Human Resources & Organisational Development**

The management of sickness absence is primarily the responsibility of the Head Teacher. Human Resources can provide Head Teachers with advice, guidance and support to maximise attendance levels, based upon best practice and taking into account school needs, contractual rights and legal obligations.

Human Resources also provides:

- Benchmarking mechanisms.
- Administration of the Council's Redeployment policy.
- Policy support on relevant employee relations and equalities issues.
- Training and awareness updates.

- The Health and Safety Team advises on safe systems of work risk assessments and monitor injury, ill health and diseases notified as work-related.
- Occupational Health Service provides vocational rehabilitation and/or long term adjustment advice based on professional clinical assessment.
- Links to the Telephone Counselling Service provided by FirstAssist. This 24 hour/7 day a week service is available on a Freephone number of 0800 716017. Information is also available on the Extranet.

### **2.2.4 Role of the Trade Unions**

The school believes that addressing both its sickness absence levels and its health and safety arrangements at an organisational level is most effectively done with employee partnership and therefore positively welcomes the involvement of the recognised trade unions in the consideration of these matters.

Trade union representatives are able to advise and support employees upon this policy and related procedures.

Employees have the right to be accompanied by a trade union representative or workplace colleague at Sickness Absence Interviews. Relevant procedural matters are covered at section 2.13.

### **2.2.5 Meetings in the procedure**

These allow the Head Teacher and employee to discuss absences to date, along with any relevant issues. The nature, purposes and potential outcomes of the meetings vary as described.

It is important to note that these meetings provide a framework intended to facilitate discussion about attendance. However where additional, less formal discussion or meetings may be beneficial, there is no restrictions on these in this procedure.

### **2.2.6 Return to Work Interview**

The Head Teacher (or first line supervisor) should conduct a Return to Work Interview on each and every occasion when an employee returns from any sickness absence. This should be a discussion held in a confidential setting, aiming to welcome the employee back to work, update them on work issues, identify reasons for their sickness absence, how their absence has impacted upon the school, other relevant information, and any immediate support or immediate changes to working practices needed. A copy of the 'Return to Work Interview/Sickness Declaration Form' must be completed to record the employee's return, see section 3.5 in the Sickness Absence Toolkit. This should be forwarded to the Human Resources' Operations Team.

Employees do not have the right of representation by trade unions at return-to-work discussions as these are normal management meetings.

### **2.2.7 Fit Notes**

The 'Statement of fitness for work', or 'fit note', is a new medical certificate that GPs issued from 6 April 2010. It replaced the old 'sick note' and gives GP's the opportunity to outline what work an employee may be able to do at work rather than what they cannot do. A fit note will be helpful in the decision as to whether the employee can return to work. This will also help the Head Teacher with their obligations under the Equality Act 2010 (which has repealed and replaced the Disability Discrimination Act 1995) in relation to making reasonable adjustments. Section 2.10 provides more information on the implications of the Equality Act.

On the new form GP's are able to advise if a patient is either 'not fit to work' or 'may be fit for work':

**Not fit for work** – this means that the GP's assessment of the employee is that they have a health condition that prevents them from working for the stated period of time. This is just like on the old 'medical certificate' where the doctor advises the employee to "refrain from work".

**May be fit for work taking account of the following advice** - this means the GP's assessment of the employee is that their condition does not necessarily stop them from returning to work. For example, they could return to work but may not be able to complete all of their normal duties, or they could benefit from amended working hours.

A GP will give a 'may be fit for work' Statement if they think that the employee's health condition may allow them to work if they get suitable support from their employer. They provide more information on an employee's condition and how they might be able to return to work. This might mean discussing.

- **Phased return to work.** A doctor will recommend this where they believe that the employee may benefit from a gradual increase in the intensity of their work duties or their working hours.

For example, agreeing that:

- an employee following an operation could return to work on reduced hours, gradually increasing to their normal hours over an agreed period of time; or
- an employee with a back or shoulder problem, whose job involves lifting, gradually increases the quantity or intensity of their work. This could help them return to work earlier whilst rebuilding their capacity for manual work.  
See section 2.5.4 for further guidance.

- **Altered hours.** A doctor will recommend this where they believe that your employee will benefit from a change to the hours that they work, in order for them to return to work. This does not necessarily mean working fewer hours.

Examples of altered hours:

- Providing the option to start (and/or leave) later could support someone who is unable to drive and struggles with rush hour public transport to continue working.
- Allowing more flexible hours could support someone who is still receiving treatment to return to work and attend treatment sessions during working hours.

- **Amended duties.** A doctor will recommend this where they believe the employee may be able to return to work if their duties are amended to take into account their condition.

Examples of amended duties:

- Removing heavy lifting from the job of someone who has a back injury could help them return to work whilst recovering from their injury.
- Reducing or removing a more pressured part of a job role (such as dealing with complaints), could help someone off work with stress return to work.

- **Workplace adaptations.** A doctor will recommend this where they believe your employee may be able to return to work if their workplace is adapted to take into account their condition.

Examples of workplace adaptations:

- A ground floor workstation for an individual who has problems going up and down stairs (this may occur in cases of arthritis, for example).
- Arranging for a parking space near the entrance to the workplace, could help someone who has reduced mobility post surgery return to work.

The Head Teacher has a duty to consider these suggestions to see if they are reasonable to facilitate a return to work within an acceptable timeframe. In determining what action is able to be taken as a result of advice given on a fit note, the Head Teacher will need to consider whether a revised workplace risk assessment is required and to keep it under review. It may be helpful to discuss this process with the employee and their trade union representative.

If an employee is issued with a fit note stating they 'may be fit for work' and the employee returns to work based on the GP recommendations which are agreed with their Head Teacher, this should be recorded as returned to work and payroll informed if applicable. If the adjustment is in relation to a phased return to work, see section 3.12 in the toolkit for further guidance.

If it is not possible for the Head Teacher to provide the support for the employee to return to work, the Head Teacher and the employee should use the Statement as if the doctor had advised 'not fit for work'. Head Teachers should document why any adjustments are not feasible, the employee does not need to return to their doctor for a new Statement to confirm this. However, if no agreement can be reached, the Head Teacher should refer the employee to the Occupational Health Service for further advice.

If an employee is too ill to work the GP will advise that they are 'not fit for work' on the fit note.

## 2.3 Managing Sickness Absence

The purpose of setting out this defined procedure is to provide a robust structure within which an employee's sickness absence can be managed fairly and equitably with them. Its objective is to support their return to good health and a sustainable level of attendance at work within a fair and reasonable period.

The school aims through this procedure to enable employees who are absent because of illness to receive all appropriate support and consideration, while recognising that maintaining an effective service to the community has to be a prime consideration in managing sickness absence.

### 2.3.1 Types of sickness absence addressed in the procedure

Incidents of sickness absence can generally be treated as falling into one of two categories:

- **Intermittent Short-Term absences**, which have no principal underlying or ongoing medical cause.

- **Long-Term absence** where either absence has exceeded four continuous working weeks or where there is a principal underlying medical cause to intermittent short-term absences.

The Head Teacher needs to consider the employee's sickness record in these terms in order to judge the way forward. Different approaches are appropriate for the two types of absence, though each is managed using the same settings and standards.

It is quite possible, that in particular cases, the absence record will include both types. In this case, the absences should then be managed by using each of the two approaches in relation to the particular incidents that fall into each of the two types (see section 2.6).

In this connection, it is important to note that while short-term absence may be managed through target-setting, where there is a consideration of overall capability prompted by long-term absence, then the number of days attributed to short-term absence will also be included in the absence record for this purpose.

**Please note:** These categories and their benchmarks such as the four working weeks boundary are intended to facilitate, not obstruct, positive absence management, including appropriate support, in the best interests of all parties. Head Teachers may consider the reasonable variation of such boundaries in appropriate cases. For instance, where an absence somewhat exceeds four weeks but is clearly self-limiting in nature, it may be common sense to approach it as short-term absence. Similarly, there may exceptionally be several absences, each extending over four weeks, but with self-limiting causes, rather than one principal underlying medical cause behind them. In this case, it may be reasonable for the Head Teacher, having taken proper account of any disability or other relevant issues, to set improvement targets for the employee.

Again, a brief return to work during an otherwise continuous four working weeks would not, of itself, prevent consideration of the absence as long-term if this would otherwise be appropriate.

### 2.3.2 Trigger Points

Where an employee's level of absence is of concern, it is essential that it is managed appropriately. The Head Teacher should normally convene a Sickness Absence Interview for this purpose when one of the following trigger points is reached:

- 2 incidents of absence in 3 months or 10 days in a rolling year (pro rata for part time employees).

### 2.3.3 Sickness Absence Interview

An initial Sickness Absence Interview is convened when an employee's level of absence gives cause for concern, generally when a trigger point is reached.

The purpose of this interview is to support the employee to attain and maintain the required levels of attendance in future, by offering a time and opportunity to explore their situation, including any factors affecting their attendance. It will also enable assessment and formal review of the sickness absence period.

The meeting will explore issues felt relevant by the Head Teacher and employee. The employee must have the opportunity to participate in the interview and to respond fully to

any points made. The Sickness Absence Interview Form provides a framework for this discussion as outlined in section 3.7 of the toolkit.

### **2.3.4 Administration of Sickness Absence Interviews**

In convening a Sickness Absence Interview, the Head Teacher must write to the employee, giving a minimum of 7 working days notice unless shorter timescales have been agreed by both parties, advising of the purpose of the meeting and the right to be accompanied by a trade union representative or workplace colleague. A draft letter is outlined in section 3.6 in the toolkit. Relevant documentation that will be referred to in the meeting should be made available to the employee.

Key points and outcome of the Sickness Absence Interview should be confirmed to the employee in writing within 7 working days using a Sickness Absence Interview Form. Additional information may also be confirmed in a letter accompanying the Sickness Absence Interview Form, refer to section 3.8 and 3.11 in the toolkit for the documents.

## **2.4 Managing persistent short-term absence with no principal underlying medical cause**

This is generally short-term absence at a level which, taking into account school absence rates and their needs, is unacceptable. The issue may be less whether the absences are “genuine”, but rather the effect of persistently repeated absence on the capacity of the employee to provide a service effectively through their job.

The school’s approach is to support the employee in achieving and sustaining improved attendance through successive periods of monitoring and support. Where improvement is not achieved and sustained, then, in due course, termination of employment may ultimately need to be considered by referral to an Ill Health Capability Hearing.

A flowchart of how to manage short term sickness absence can be found in section 3.3 in the toolkit.

### **2.4.1 First Stage Interview**

Where sickness absence reaches a trigger point of 2 incidents in 3 months or 10 days in a rolling year a Sickness Absence Interview is initiated. Issues about the absence, its causes and effects, the employee’s situation, medical advice obtained, relevant support and equalities issues should be shared and explored in accordance with the issues set out on the First Sickness Absence Interview Form (see section 3.8 in the toolkit). Required improvements should be specified clearly and an attendance target is normally set, usually to have less than 2 incidences of absence in the next 3 months or less than 10 days absence in a rolling year. This should be detailed on the Sickness Absence Interview Form, signed by the employee and a copy provided to them.

### **2.4.2 Subsequent Interview**

Where the employee does not achieve an attendance target, or does not otherwise meet attendance requirements during a monitoring period set following the initial Sickness Absence Interview, the Head Teacher will normally convene a Subsequent Sickness Absence Interview. This interview will take place in accordance with the issues set out on the Subsequent Interview Form (see section 3.9 in the toolkit).

At the Sickness Absence Interview, if an attendance target has not been met, or there has otherwise been insufficient improvement in attendance, over the monitoring period, the Head Teacher should review the reasons for the absence with the employee and consider if there are any further options to support the employee.

Depending on the employee's progress to date under the procedure, the options open to the Head Teacher in managing short-term absence can include in appropriate cases:

- Consider, where appropriate, other support measures. For instance whether the employee's otherwise unrelated absences are felt to be related to their domestic situation.
- The Head Teacher should ask the employee if they believe there is a principal underlying health reason leading to all or most of their absences. If the employee states this is the case the Head Teacher should refer the employee to the Occupational Health Service for assessment. If this is confirmed by the Occupational Health Service, the subsequent occupational health report to management should enable each aspect of absence to be considered separately.
- May require an employee to provide a fit note for absences of less than 7 calendar days. The employee will be reimbursed with any costs on submission of a receipt.

At the Sickness Absence Interview, a further attendance target should be set, normally to have less than 2 incidents of absence in the next 3 months or less than 10 days in the following rolling year. In this case, the Head Teacher may advise the employee that, should they not meet this further attendance target, then a further Sickness Absence Interview will be convened to review progress, and further action may need to be considered in the light of the continuing level of absence. If discretion is exercised not to do this, Head Teachers must note their reason(s) for this.

In some cases targets may be achieved, but the sickness absence record may be of such concern that extended periods of monitoring are required.

### 2.4.3 Final Stage Interview

Although the Head Teacher should continue to provide appropriate support and guidance to the individual throughout the process, a situation may arise, where successive attendance targets have not been met after they have been set at earlier meetings. If, following previous advice given to the employee that further action might need to be considered, the required improvement in attendance has still not been achieved, and if there is also no principal underlying medical cause behind the continuing absences, then this ongoing situation must be considered very seriously. In these circumstances, the Head Teacher should again discuss the employee's situation with them in a sensitive and positive way, looking at what options are open to support improvement, but must also have regard to the ongoing level of persistent absence and the reasonableness and practicality of the school continuing to sustain this in the future. This interview will take place in accordance with the issues set out on the Final Stage Sickness Absence Form (see section 3.10 in the toolkit).

In such a case, a further attendance target may again be set as above. Additionally, on this occasion, the employee may now be advised by the Head Teacher that should they not meet this further attendance target, further action will again need to be considered. Where there are continuing circumstances involving a series of missed attendance targets, this could include referral to an Ill Health Capability Hearing where termination of employment would be considered. When reviewing what further action may be needed, a decision

should only be reached after examining the ongoing level of absence, the history of continuing not to meet successive attendance targets, and the needs of service provision.

If, following successive targets not being met, management discretion is exercised so as not to set a further target then, in the interests of equity, Head Teachers should note the reasons for this. The Head Teacher should advise the employee of the possibility that further action could include consideration of termination of employment.

With short term absences, Occupational Health Service advice on any relevant issues, including the lack of a principal underlying medical cause behind the absences, is required prior to the final review which could potentially result in a referral to an Ill Health Capability Hearing. In completing the Occupational Health Service Sickness Absence/Management Concern Referral Form the Head Teacher must indicate the intention to progress to a final Sickness Absence Interview (see section 4 of the Occupational Health Service Sickness Absence/Management Referral Form – section 3.16 in the toolkit). Should an employee not consent to the release of the Occupational Health Service Report then the Head Teacher can progress the process without it.

A representative of Human Resources, Advice and Guidance Team must be present at the Final Stage Interview. With short-term absence, termination of employment may only be considered when at least three opportunities to reach the required levels of attendance have failed to result in the employee achieving the required level of attendance. It must also be clear that the employee has been advised that further action would need to be considered and then, in due course, that further action including termination of employment would need to be considered, if these levels of attendance were not met.

If an Ill Health Capability Hearing is convened and discretion is exercised to set a further target, for example, perhaps with an extended monitoring period, as an alternative to termination of employment, Head Teachers must note the reasons in the interests of equity.

See section 2.8 for further guidance on Ill Health Capability Hearings.

Alternative employment as outlined in section 2.7 would not normally be considered in relation to absence presenting as short-term unless either:

- The Occupational Health Service confirms that this is principally caused by a single underlying medical condition, when it would then be addressed as a long-term absence or,
- If the employee is 'at risk' of dismissal and it is confirmed by Occupational Health that alternative employment would support the employee in achieving improved attendance the employee will be offered the opportunity to enrol on the Alternative Employment Register.
- In exceptional circumstances where the employee has a chronic progressive health condition earlier enrolment with the Alternative Employment Register will be considered subject to specific recommendation by the DCC Senior Occupational Health Physician.

#### **2.4.4 Short-Term Absence initially treated as short-term but then determined to have a principal underlying medical cause**

Where absence initially presents as short-term, it may become clear, as new medical information becomes available e.g. through Occupational Health, that there is a principal underlying medical cause for repeated absences. If so, it will be appropriate that the relevant absence is managed according to the principles of the long-term provisions covered in section 2.5.

Any attendance target that has been set pending the determination by Occupational Health that there is a principal underlying medical cause will normally no longer apply.

Absences due to “one-off” or self-limiting incidences of cold, flu, simple sports injuries etc are not normally examples of a single or principal underlying cause. Where, exceptionally, such medical reasons result in prolonged absence or are otherwise identified by the employee as related to an underlying medical reason, then Occupational Health advice should be sought to determine that this is so. If this is confirmed, the process relating to long term absence will apply. If this is not confirmed, the absence will continue to be considered under the short-term provisions.

## **2.5 Managing long-term sickness absence**

The school normally considers any continuing absence of more than four working weeks for a medical reason as long-term sickness absence. Additionally, periodic short-term absences, which are determined to have a principal underlying medical cause, should be managed as long-term absences.

### **2.5.1 First Stage Interview**

When trigger points are hit and long term absence is identified, information needs to be gathered and shared through a Sickness Absence Interview about the employee’s position, available support, medical information and the way ahead. Information from the First Stage Sickness Absence Interview should be recorded on a Sickness Absence Interview (SAI) Form referred to in section 3.8 in the toolkit. If there is no indication of a return to work date after the first Sickness Absence Interview, consider a referral to the Occupational Health Service. Additionally if there are any health and safety concerns raised or anticipated in relation to work a referral should be made to the Occupational Health Service.

With long-term absences it is essential that Head Teachers consult regularly throughout the absence management process with employees who are off sick and make every effort to assist their recovery and identify appropriate support.

Arrangements for regular contact with the Head Teacher should also be in place. Exceptionally, the responsibility for maintaining contact may be transferred to another nominated person within the school, but the Head Teacher is still responsible for ensuring that the alternative contact arrangement is effective. Under no circumstances should employees be “left to one side” and isolated from the school, for instance, by contact being allowed to lapse for extended periods. It is important that reasonable and sensitive arrangements are in place to ensure that there is inclusion of absent employees in the circulation of information about school developments.

### **2.5.2 Subsequent Interview**

If following the First Sickness Interview the employee is still absent a Subsequent Interview should be convened. It is advisable that there is a 4 to 6 week gap between Sickness Absence Interviews. If it is not possible to convene Sickness Absence Interviews because of the individual circumstances relating to the employees ill health, it is still the responsibility of the Head Teacher to maintain an appropriate level of contact. Where appropriate, and following discussions with the employee, it may be a practical step to hold a Sickness Absence Interview in the employee’s home. If Sickness Absence Interviews are not undertaken Head Teachers must keep a written note of the reasons why this hasn’t happened.

Information from the Subsequent Sickness Absence Interviews should be recorded on a Sickness Absence Interview (SAI) Form referred to in section 3.9. The aim of the Subsequent Interview is to provide an update on the current state of health and should discuss the advice from the fit note, Occupational Health Service reports and other appropriate sources, to establish an update on a return to work or to identify a clear way forward. Options to support the employee should be considered including reasonable adjustments or other means of support to help the employee return to work or otherwise achieve a sustainable level of attendance and identify whether improvement is expected.

With long-term sickness, in supporting a return to work, it is fundamental to establish what duties the employee can undertake. It is for the Head Teacher then to consider what reasonable opportunity there may be for this to provide the basis of a return, taking careful consideration of the sustainability of adjustments.

Reasonable adjustments always need to be considered and are mandatory where the underlying cause of absence amounts to a disability (see sections 2.5.4 on Phased Return to Work and 2.10 on the Equality Act).

Additional support may, in appropriate cases, also include counselling, physiotherapy, or professional development and training, or manual handling. The Occupational Health Service can advise on the appropriateness of these areas.

Where the absence presents as stress, anxiety, (mental) debility etc or a similar condition, it is important to establish the causes of the absence and follow the guidance in the Stress Management Policy, Procedure and Toolkit.

Where absence presents as being directly related to some form of long-term alcohol, substance or drug misuse, the misuse may be dealt with as long-term absence, depending on the circumstances. In these cases it is appropriate for Head Teachers to discuss whether employees are receiving support, including rehabilitation in appropriate cases, with absence for rehabilitation in such cases being recorded as sickness absence. Dependency is not regarded as a disability, and this should be noted in assessing the reasonability of any adjustment to work. More detailed advice can be found in the School's Drugs, Substance and Alcohol Misuse Policy prior to a referral to Occupational Health.

At the Sickness Absence Interview, any assessment of a person's employment position must be made in an open, sensitive and shared way, and a clear way forward must be identified and communicated to the employee following the meeting. It is not normally appropriate for successive formal attendance improvement targets to be set for long-term absences in the way that these may be applied under the short-term absence provisions. Were these are to be applied to a long-term case the Head Teacher would need to note carefully the reasons.

The school's wish is that the employee can return to a sustainable level of attendance in a fair and reasonable period, with consideration of what the employee can do.

### **2.5.3 Final Stage Interview**

The school will work supportively and sensitively with employees whose ill-health causes long-term sickness absence. However, in cases of continuing long-term absence, the school's ability to sustain this in all the circumstances will need to be assessed. The timing of such an assessment and its communication to the employee will vary between cases, but it should not be unreasonably premature in the light of known information, and must be

informed by available relevant medical advice. Communication to the employee must be sensitive in every way, and Human Resources or Occupational Health can advise on particular issues and situations. The Head Teacher should consider the positive benefit of involving the trade union officer or other support person fully in such communication.

The employee should also be advised as to whether, if they are not able to achieve this level of attendance, possible referral to an Ill Health Capability Hearing might be the outcome at that point.

Where an employee's long-term situation is considered to be sufficiently serious that it may lead to consideration of termination of employment, via an Ill Health Capability Hearing, Occupational Health Service advice must be sought on the employee's situation, including the feasibility of alternative employment, prior to the Final Stage Interview. Up to date medical advice is essential for any cases referred to Ill Health Capability Hearings.

Taking into account available support together with available medical and other advice, the Head Teacher's assessment at the Final Stage Interview may be that the continuing level of absence may not be sustainable by the school and referral to an Ill Health Capability Hearing may be necessary. If this is the case, then the employee should be advised of this carefully and sensitively.

The Head Teacher should ensure that the employee:

- Have the full reasons for the referral to an Ill Health Capability Hearing been carefully explained to them.
- Is given a clear indication of the timescale within which it is anticipated that a return to a sustainable level of attendance would need to be achieved.
- Is advised when any further assessment of their position would be made via a Final Stage Interview.
- Is given the opportunity to enrol on the Redeployment Scheme as outlined in section 2.7.
- Is given the opportunity to review with the Head Teacher any particular needs for support or reasonable adjustments.
- Is aware of their statutory right to be accompanied at Sickness Absence Interviews as detailed in section 2.13.

The feasibility of reasonable adjustments to the job need to be considered prior to an Ill Health Capability Hearing and if discounted the reasons documented. Where an employee's disability as defined under the Equality Act relates to absence which is being considered as part of a possible termination of employment, the Head Teacher must be satisfied that all reasonable adjustments have been thoroughly explored. It does not suffice for an assumption to be made that no reasonable adjustments are possible. The final decision as to whether an adjustment is 'reasonable', taking into account all relevant circumstances and appropriate advice from the Occupational Health Service and/or other agencies on options, is for the Head Teacher. Further guidance is available from the HR Advice and Guidance Team.

Referral to an Ill Health Capability Hearing in the case of long-term absence should only take place once all other options referred to above have been considered and exhausted.

In particular cases, for instance where an employee is suffering from a serious progressive or degenerative disease, managers should give sympathetic consideration to a phased exit from school employment.

After six months of continuous or near-continuous absence in a twelve-month period, Head Teachers should have assessed whether termination of employment is a reasonable option. See section 2.8 in the toolkit for further guidance on Ill Health Capability Hearings.

### 2.5.4 Phased return to work

After long term periods of sickness absence the employee may, if appropriate, benefit from reintegration back into the workplace on a phased return basis. This should be supported by the GP, Occupational Health Service, and only if operationally feasible for the Head Teacher. A phased return to work may include:

- Return to work on a phased basis (e.g. where an employee builds up from reduced hours to the normal contractual hours over an agreed time period in order to facilitate an earlier return to work e.g. part-time, reduced hours). The time period should be agreed by the Head Teacher and would not normally exceed four weeks.
- A mid week return – where an employee returns for two or three days followed by a weekend or other normal rest breaks
- Return to work on light duties or modified workload - where the employee's workload is lightened or eased slightly for an agreed period of time.
- Any other reasonable adjustments following advice from the GP, Occupational Health and discussion with the employee.

During such time the arrangements will be continuously monitored. Payment should be paid in accordance with the phased return to work guidance (see section 3.12 in the toolkit)

i.e. Full pay whilst working less than full time hours during the period of entitlement to full pay

or

when full pay expires payment should be at half pay if working half time or less or if appropriate proportion of full pay if working more than half time hours. In circumstances where an employee returns to work after utilising all of their sick pay entitlement, they should receive a level of payment equivalent to the amount of hours worked.

## 2.6 Sickness record including both long and short-term

Head Teachers may identify, in appropriate cases that an employee's total absence clearly breaks down into distinct periods of long-term absence, but that there are also incidents of short-term absence. In such a case, the approach can be to use Sickness Absence Interviews to progress parallel action under the two headings in respect of absences.

However, it is, of course the employee's overall capability, which is being looked at and supported. It is therefore important to note that while any short-term absence may be being managed in its own right through target-setting, it will also be included in the total absence record for the purpose of considering overall capability where this is prompted by incidence of long-term absence.

For example, an employee may have sporadic absences, some of which are due to a chronic medical condition identifiable as a principal underlying medical condition and/or disability (long-term), and some of which have other self-limiting causes e.g. flu, minor

injuries etc (short-term). At the appropriate meetings under the procedure, the Head Teacher would look at appropriate support and explore with the employee the range of issues and options detailed in sections 2.4 to 2.5 above as appropriate to the types of absence. It is recommended that the Head Teacher generally adopts an approach of successive target-setting in relation to the short-term absences, while at the same time bringing the approach of periodic assessment in relation to the long-term absence(s) attributable to the principal underlying medical cause.

In any assessment of overall capability prompted by the long-term assessments however, the number of days lost through short-term would also be considered in the total sickness absence record along with the number of days actually attributed to long-term absence.

### **2.7 Alternative Employment on Medical Grounds (To be read in conjunction with the Council's Alternative Employment/Redeployment Policy)**

Supporting employees to achieve better attendance and health involves considering what they can do, and this may be facilitated in appropriate cases by doing a different job. Redeployment is an option, which should be considered with long-term sickness absence, or exceptionally with short-term absence when employment is considered 'at risk' and redeployment is supported by the Occupational Health Service.

Redeployment can be an option that may be considered to a dismissal where the employee concerned is unable to carry out the duties and responsibilities of their existing job, but may be well enough to do the duties and responsibilities of another job. With redeployment, employees are given the opportunity to be considered for suitable alternative vacancies before they are formally advertised.

The Head Teacher is required to initiate and lead the process prior to a referral to an Ill Health Capability Hearing and where the Occupational Health Service have confirmed that it is unlikely the employee will return to their substantive post within a reasonable timeframe. In these circumstances all alternative employment should be considered in line with the Corporate Redeployment Policy.

If a decision is taken to terminate employment an employee can be considered for redeployment until the end of his/her statutory or contractual notice period, whichever is the greater. If the employee unreasonably declines an offer of employment to a suitable alternative post, any existing decision to terminate employment will stand (subject to any appeal rights).

In exceptional circumstances where the employee has a chronic progressive health condition earlier enrolment with the Redeployment Register will be considered subject to specific recommendation by the DCC Senior Occupational Health Physician.

In addition to the employee being otherwise established as suitable for a particular alternative post, e.g. through an interview demonstrating the potential to carry out the duties and consideration of reasonable training needs, Occupational Health advice should be sought as to whether:

- The employee is able to carry out the duties of the post, subject to any reasonable adjustments.
- It is anticipated that future attendance levels within the new post will be acceptable.

### 2.8 Ill Health Capability Hearing

The school's intention is that the possibilities for improvement in attendance and all other reasonable options will be explored thoroughly prior to referral to an Ill Health Capability Hearing to consider termination of employment.

A decision to terminate an employee's employment on the grounds of their sickness absence may be taken only by a Head Teacher having the delegated authority to do so or a committee of governors under the remit of an Ill Health Capability Hearing.

#### 2.8.1 Procedure

An Ill Health Capability Hearing will be convened to consider termination of service. The employee will be informed in writing, at least 7 working days prior to the meeting to allow sufficient time to prepare and arrange representation. The letter will be sent recorded delivery and will include:

- Informing the employee that there is to be an Ill Health Capability Hearing;
- The date, time and location of the hearing;
- A copy of the report and supporting documents (The employee has a responsibility to provide his/her representative with a copy);
- The right to be accompanied by a trade union representative or work colleague;
- A copy of the sickness absence management policy, procedure and toolkit;
- A copy of the procedure to be followed at the hearing
- Names of any witnesses that the Head Teacher is requesting to attend;
- Requesting from the employee confirmation of attendance, the name of their representative, the name of any witnesses the employee intends to call and copies of any additional documentation that the employee intends producing at the hearing. (This information should be provided at least 2 working days prior to the hearing);
- Enquiring as to whether the employee has any reasonable adjustments for the hearing venue, for example, accommodating the needs of a person with disabilities.

The letter must include reference that dismissal could be a potential outcome (see section 3.13 in the toolkit for an example letter).

The procedure to be followed at an Ill Health Capability Hearing is outlined in section 3.14 in the toolkit.

In reaching a decision about whether to terminate employment, the Head Teacher or governors must consider the relevance of factors including:

- Sickness record, including length/periods of and reasons for absence.
- Impact of the absence on the school.
- The practicality and reasonableness of providing cover for the absence.
- Responses to requirements to improve where these have been notified.
- Medical advice, including whether the employee can be confirmed by Occupational Health as being likely to give regular and reliable service in the foreseeable future.
- The employee's own wishes and views.
- Whether redeployment is an option and has been explored.
- If reasonable adjustments have been explored where relevant.
- Any other factor deemed relevant to the employee's position.

Employees whose employment is terminated are entitled to contractual or statutory notice (whichever is the longer) of termination of service at full (normal) pay. Employees would normally serve their notice although they will not normally be required to report to work. Employees are entitled to paid leave (which will be added to the notice period for untaken annual leave of up to 28 days, or pro rata) accrued during the leave year in which termination takes place (including bank holidays).

See section 3.15 in the toolkit for an example letter detailing the outcome of an Ill Health Capability Hearing.

### 2.8.2 Right of Appeal

Appeals against the decision to terminate an employee's employment are heard by the relevant Appeals Panel of the governing body. The Appeals Committee has the power to uphold or overturn a dismissal decision. Appeals should be lodged within 10 working days of receipt of the letter confirming the dismissal.

The appeal will be heard by the relevant Appeals Panel of the governing body and a representative from Human Resources. The employee has the right to be accompanied by a trade union representative or workplace colleague. After the employee has put their case, the Hearing Officer will be required to present the case to the Appeals Panel. This will usually be with the assistance of the Head Teacher (see section 3.16 of the toolkit for the procedure to be followed at an appeal).

Where possible, once a decision is reached at the appeal hearing, the employee will be given verbal notification of the decision and the reasons at the conclusion of the hearing. This will then be confirmed in writing by recorded delivery as soon as possible thereafter. The decision made by the Appeals Panel at this stage is final and concludes the Sickness Absence Management Procedure.

## 2.9 Ill Health Retirements

### 2.9.1 Local Government Pension Scheme (LGPS)

Non-teaching staff may qualify for early release of pension benefits on the grounds of permanent ill health if certified by the Independent Registered Medical Practitioner (IRMP).

Head Teachers should not normally seek their employee's referral to the Independent Registered Medical Practitioner until such time as the school has issued notice to terminate the employment contract. However, in exceptional circumstances it may be possible to refer to the Independent Registered Medical Practitioner prior to issuing notice to terminate employment.

Taking into account the opinion of the Independent Registered Medical Practitioner, the employer certifies release of the ill health pension following the expiry of notice of termination.

There are three levels of benefit based on how likely the employee is capable of obtaining gainful employment following termination of employment, these are:

- **If the employee has no reasonable prospect of being capable of obtaining gainful employment before age 65**, ill health benefits are based on the

membership the employee would have had if they had stayed in the Scheme until age 65.

- **If the employee is unlikely to be capable of obtaining gainful employment within 3 years of leaving**, but may be capable of doing so before 65 then ill health benefits are based on the employee's membership built up to leaving plus 25% of their prospective membership from leaving to age 65.
- **If the employee is likely to be capable of obtaining gainful employment within 3 years of leaving**, ill health benefits are based on their membership at leaving. Payment of these benefits will be stopped after 3 years, or earlier if the employee is in gainful employment or become capable of undertaking such employment.

Gainful employment means paid employment for not less than 30 hours in each week for a period of not less than 12 months.

For further information, please refer to the Local Government Pension Scheme website <http://www.lgps.org.uk/lge/core/page.do?pagelid=102182>

Where an employee in membership of the Local Government Pension Scheme is given notice of termination but is deemed not to meet the criteria for early release of benefits on the grounds of ill health, the employee will have the right of appeal to an Independent Arbitrator appointed through the Scheme.

### 2.9.2 Teachers' Pension Scheme (TPS)

An employee may qualify for early release of pension benefits if they are permanently incapable of teaching, either full or part-time, due to illness or injury.

Unlike the LGPS, the provisions of the TPS are such that it is the member who initiates an application. However, ill health retirement should be a last resort. Head Teachers should ensure that ways of helping the employee return to work have been explored, with the benefit of Occupational Health Service advice. This includes timely consideration or rehabilitation, redeployment, workplace adjustments, flexible working or increased support. This ensures all that can reasonably be put in place to overcome the health related barriers to return to work have been considered, and help ensure compliance with the Equalities Act 2010, prior to any pension application.

It should be noted that the Occupational Health Service is required by the TPS to collate the evidence for an ill health retirement application where possible. This evidence includes action considered by the school to overcome barriers to return to work, and absence of such evidence may make a successful application less likely.

More information regarding, and applications for, ill health retirement is available at [www.teacherspensions.co.uk](http://www.teacherspensions.co.uk)

### 2.10 The Equality Act 2010

From 1 October 2010 the Equality Act replaced most of the Disability Discrimination Act (DDA). However the Disability Equality Duty in the DDA continues to apply.

Disability is one of the protected characteristics within the Equality Act 2010. A person has a disability if they have a physical or mental impairment, which has a substantial and long-term adverse effect on their ability to carry out normal day-to-day activities (such as using a telephone, reading a book or using public transport). Anyone who has HIV, cancer or multiple sclerosis is automatically treated as disabled under the Act.

Some recurring conditions are also covered by the Equality Act, for example, some back injuries and conditions where there are periods of remission. The employee may develop or sustain the impairment during their period of employment with the school.

The school wants to employ and retain more people with disabilities and is committed to supporting people with disabilities in their employment.

The Equality Act places a duty on the school to do all it reasonably can to establish whether an employee has a disability and to make reasonable adjustments to overcome the impact of the disability (or potential disability) on their employment.

If this responsibility is not observed, dismissing a person with a disability on the grounds of sickness absence relating to their disability can be unlawful. The employer would have to show that the treatment was justified. The employee's job may need to be adjusted to support them in carrying it out effectively, and/or to enable them to return to work following a period of sickness absence.

Someone who is no longer disabled, but who met the requirements of the definition in the past, will still be covered by the Act.

Head Teachers should consult with the employee and should seek Human Resources and Occupational Health advice with regard to an employee's attendance or performance at work which is being affected by such a physical or mental impairment and any changes to working arrangements that may be required for an employee to be able to return to work, or to reduce their level of sickness absence to an acceptable level.

Absence directly related to a disability should be identified separately to other absence for recording purposes however the sickness absence interview process still needs to be conducted.

### **2.11 Maternity Related Sickness Absence**

The school is under a legal obligation to take measures to avoid any risk to the health or safety of a pregnant employee and her baby, including carrying out a risk assessment. Where a risk assessment or medical advice shows there to be a significant risk to mother or baby it may be necessary to adjust working conditions temporarily or to move her to another job. Where no suitable alternative employment is available the employee must be suspended on full pay.

Where a number of days of sickness absence are directly related to a woman's pregnancy, that number of days should be discounted for the purpose of any formal action, however the absence should continue to be monitored in line with procedure. Occupational Health advice may be required to establish this.

Head Teachers are strongly advised to seek advice from Human Resources & Organisational Development where they are considering an employee's sickness absence

related to any aspects of the maternity situation. For more information, please refer to the School Maternity and Paternity Policy.

### **2.12 Pre-employment and probation (To be read in conjunction with the Council's Recruitment & Selection Procedure)**

The Equality Act 2010 restricts the type of questions and information relating to a person's health or disability which can be asked or considered during the recruitment and selection process. In most cases questions cannot and should not be asked until the person has been offered a job individually or as part of a pool of candidates. This means that recruitment panels cannot routinely ask for or consider information on sickness absence as part of their decision making. This requirement is intended to make the recruitment fairer by ensuring candidates are considered on their ability to do the job.

Questions in relation to health or disability are only allowed in order to:

- find out about any reasonable adjustments required during the process;
- ensure the health and safety of candidates during the process, for example, to check whether a candidate can safely take part in a physical test;
- monitor the diversity of applicants and candidates;
- ensure that disabled applicants are guaranteed an interview if they meet the essential criteria;
- identify applicants who meet an occupational requirement, for example, if a Deaf support worker is required.

When references are received prior to interview it is essential that the Recruitment Officer removes the tear off portion which details the sickness absence information to prevent the Lead Officer and panel members inadvertently considering previous sickness absence at the short listing stage. The Equality Act has stipulated that the pre employment health questions must not be asked until the candidate has been identified for a position unless circumstances above applies. This will ensure that the panel make the selection decision based strictly on the application form, the job description, the person specification (and testing if applicable) and are not influenced by other factors, such as potentially subjective judgements about a candidate by referees.

It must be made clear to the successful candidate that this is a conditional appointment and subject to receipt of satisfactory references and medical clearance and CRB disclosure information (if applicable), qualifications, proof of Right to Work in this country and subject to continued funding of the post (if applicable).

In the event that the successful applicant returns an unsatisfactory Sickness Absence Information document, the Lead Officer must carefully consider whether the candidate is now unsuitable for the post and if so the reasons why they are unsuitable. It is essential that once this Sickness Absence information has been revealed all reasonable adjustments are made to accommodate any disability to avoid discriminating against an individual. As an employer we must be able to justify why the candidate is no longer suitable for the post to avoid any challenges.

If the medical information simply reveals a poor sickness record with no obvious explanation and the absences are not linked to a disability, consideration should be given to withdrawing the conditional offer. If there is any doubt, the matter should be referred to HR Advice and Guidance Team for further advice.

Employee performance should be considered during probationary periods (for non-teaching staff) with a view to giving the employee an opportunity to demonstrate a satisfactory level of performance within the probation timescale. Attendance at work should be part of this consideration. There should be due consideration by the Head Teacher with the employee of factors associated with any absences which may be causing concern, and of appropriate support. Equalities issues such as disability should be fully and carefully taken into account.

Where it is considered at any stage that an emerging pattern of sickness absence may be of such concern that the probationer's employment may not be confirmed, Human Resources advice should be sought immediately. Support should be offered to the employee through the Sickness Absence process. There should not be a delay until the confirmation of employment is due.

### **2.13 Employee accompaniment at sickness meetings**

Employees have a statutory right to be accompanied by a work colleague, a recognised trade union representative or an official employed by the trade union at a Sickness Absence Interviews or hearing and any appeal. A trade union representative who is not an employed official must have been reasonably certified by their union as being competent to accompany the employee. The individual accompanying the employee must not be someone whose presence would prejudice the hearing or who might have a conflict of interest. The employee should advise who is accompanying them before any hearing.

An employee may ask an official from any trade union to accompany them at an Ill Health Capability Hearing, regardless of whether or not they are a member or the union is recognised.

If an employee makes any request to be accompanied by a legal representative at an Ill Health Capability Hearing, advice should be sought from Human Resources before any decision is made.

The representative (trade union representative or colleague) may play a full part, including addressing the meeting to present and sum up the employee's case, responding on behalf of the employee to any view expressed, asking questions of witnesses, summing up the employee's case and conferring with the employee during the hearing. However, they should not answer questions that are put directly to the employee.

The employee must make all reasonable efforts to attend the hearing. If the employee's chosen representative is not available on the original date for the hearing, or if the employee is unable to attend due to unforeseen circumstances, such as illness, the employee has the right to have one postponement. This should normally be within 5 working days of the original date. This time limit can be extended by mutual agreement in exceptional circumstances.

If the employee fails to attend and a valid reason is not provided, the employee will be informed in writing of an alternative date and that if he/she fails to turn up without a valid reason then the hearing will proceed and decisions taken in their absence.

In exceptional circumstances, an employee may not be well enough to attend for a Sickness Absence Interview. In these circumstances, a Sickness Absence Interview can be held in the employee's absence subject to:

- The employee being advised in writing that the interview may be held in their absence and of the possible outcomes.

- The employee having the right to nominate a trade union representative or colleague to represent them at interview.
- The employee having the right to make a written submission to the interview and/or to submit medical evidence to the manager for consideration at the interview.

Head Teachers are advised that they should give favourable consideration to a reasonable request for the deferral of the interview on medical grounds for a brief period. Occupational Health advice may be sought on an employee's fitness to attend specifically for an interview when they are absent from work.

### **2.14 Medical advice: medical support through the Occupational Health Service (OHS)**

The Occupational Health Service will provide professional advice to Head Teachers in order to support them in making informed decisions and taking appropriate action.

Head Teachers may seek advice in relation to long term sickness absence, also employees experiencing short term persistent absence may also need to be referred, if the employee declares a single or principal underlying medical cause for their recurrent absences. Additionally employee's wishing to seek advice on how their health is being affected by their work or how their work is being affected by their health can request Head Teachers to refer them to the Occupational Health Service at any time.

In relation to 'fit notes', Head Teachers should usually only refer an employee to the Occupational Health Service if the sickness absence is expected to continue beyond four weeks or if they require specific advice resulting from the fit note.

Referral through the Occupational Health Service for psychological counselling support is available, employees should be advised to first contact the Employee Assistance Programme (EAP) provider, 'First Assist' to seek advice in relation to counselling services available.

The Head Teacher will decide the point at which to refer an employee to the Occupational Health Service, however the advice in the Sickness Absence Management Toolkit should normally be followed and in cases of long term absence this should be subject to the first Sickness Absence Interview being completed. The timing of the referral will depend upon the circumstances of each case, for example, when the absence of the employee is impacting upon service levels, work performance is affected or there are other concerns regarding the employee. It should be remembered that there is good evidence that effective occupational health intervention in cases of long term absence is most likely with relatively early Occupational Health Service referral, at around 4-6 weeks following onset of absence, where there is no clear timescale given by the employee for a return to work.

When referring to the Occupational Health Service the employee must be advised that a referral is being made and the reasons for this explained. The standard Occupational Health Service Sickness Absence/Management Concern Referral Form contains a list of appropriate areas around which management may seek advice from the Occupational Health Service (see section 3.15 in the toolkit). Head Teachers should select areas of questioning appropriate to the management of the employees absence. Additional questioning may be included on the form or in a covering letter, but Head Teachers should be aware that relevant issues will be discussed explicitly with employee and all of this documentation, including any letters or emails will form part of the employee's occupational

health record. The standard Occupational Health Service Sickness Absence/Management Concern Referral Form should be completed by the Head Teacher and, where possible, countersigned by the employee.

Employees are entitled to time off to attend appointments with the Occupational Health Service without deduction from pay.

To manage sickness absence effectively, professional, up to date Occupational Health Service advice should be sought and therefore employees are required to attend Occupational Health Service appointments. In the event of consent being declined or of non-attendance, Head Teachers may make subsequent management decisions on the basis of such other information as is available. Where an employee feels that they have good cause not to attend an appointment, they must notify their Head Teacher and the Occupational Health Service in advance and in good time in order that this can be considered. Employees should be aware that failure to attend appointments without good cause may lead to deductions from pay.

When an employee attends an appointment the Occupational Health Service clinician seeks signed clinical consent for the consultation and subsequent production of a management report. If the employee provides consent for the production of a report they have the further option: to agree to the report being released to the Head Teacher and employee at the same time OR to have sight of the report and the opportunity to withdraw consent for release prior to release to the Head Teacher.

Where the employee declines consent for assessment and/or the release of the report the Head Teacher will be informed in writing. Where consent cannot be obtained, Head Teachers may continue the sickness absence management process and make subsequent decisions without the benefit of the Occupational Health Service report.

Where appropriate consent is given and reports are provided, Head Teachers should discuss the report from the Occupational Health Service with employees at the subsequent Sickness Absence Interview. Employees are free to submit additional medical evidence, in the event that Head Teachers are presented with conflicting medical advice they should seek advice from Human Resources, however normally they should rely upon the advice provided by the Occupational Health Service.

All contact by the school with an employee's GP or specialist regarding the employee's health should normally be made through the Occupational Health Service. Such contact will be subject to the informed written consent of the employee.

Occupational Health Service reports may contain advice on possible durations of absence, functional restrictions and rehabilitation opportunities within the workplace. Whether such advice should be actioned is a management decision, based upon considerations such as available resources and operational feasibility. Advice on these issues can be sought from Human Resources.

### **2.15 Time off for Medical Appointments (including hospital appointments)**

Employees should try to arrange medical appointments outside of working hours, if this is not possible leave of absence should be requested. Where an employee has to attend a number of hospital appointments during school hours (for example, a significant course of

treatment over a period of time), the Head Teacher may wish to consider whether an adjustment is appropriate. Time off during working hours for medical appointments directly related to an employee's disability or antenatal treatment should be granted with pay.

In the case of employees with disabilities who are covered by the Equality Act and have supporting medical evidence then leave of absence with pay for personal hospital appointments will be awarded.

Paid time off is granted to employees for the purposes of Occupational Health Service appointments or school-supported Health initiatives such as cancer screening.

In ordinary circumstances leave of absence for medical appointments related to elective cosmetic surgery will usually be without pay. Where there is medical evidence to suggest that the surgery would alleviate significant psychological or physical problems this may be given as paid leave of absence. Head Teachers should reasonably consider requests for paid and unpaid time off of this nature.

In all of the above circumstances, the employee should approach the Head Teacher to request time off, giving as much notice as possible. The Head Teacher may request confirmation of the appointment, by way of an appointment card, or a statement from the employee to confirm the nature and period of absence.

Head Teachers are advised to contact Human Resources and/or the Occupational Health Service for further guidance or advice.

### **2.16 Industrial Injury/Disease**

Sickness absence resulting from an injury, illness or disease considered to be work-related is included in considerations of absence under this policy. It should, however, be identifiable from other sickness absence in absence records.

Further information for teaching staff in relation to the entitlement to full pay for a maximum of 6 calendar months relating to accident, injury or assault at work can be found in the Burgundy Book. This is in addition to sickness pay detailed below.

### **2.17 Sickness Pay (OSP and SSP)**

Sickness payments are based on a working year, for non-teaching staff their entitlement is as follows:

During 1 <sup>st</sup> year of service	1 months' full pay and (after completing 4 months' service) 2 months' half pay
During 2 <sup>nd</sup> year of service	2 months' full pay and 2 months' half pay
During 3 <sup>rd</sup> year of service	4 months' full pay and 4 months' half pay
During 4 <sup>th</sup> and 5 <sup>th</sup> years of service	5 months' full pay and 5 months' half pay
After 5 years' service	6 months' full pay and 6 months' half pay

Teachers' national sick pay entitlements, set out in the Burgundy Book for teachers directly employed by DCC are detailed below. See section 2.16 in relation to Industrial Industry/Disease pay entitlement.

During 1 <sup>st</sup> year of service:	Full pay for 25 working days and, after completing four calendar months' service, half pay for 50 working days.
During 2nd year of service:	Full pay for 50 working days and half pay for 50 working days.
During 3rd year of service:	Full pay for 75 working days and half pay for 75 working days.
During 4 <sup>th</sup> year and successive years:	Full pay for 100 working days and half pay for 100 working days.

Employees who have exhausted their entitlement to SSP currently may be eligible for state benefit. A form SSP1 is required by the employee in order to claim sickness benefit if entitled, available from payroll.

Sickness payments are paid in accordance with the relevant national Conditions of Service.

Corporate Directors of Children and Adults Service may extend the above allowances subject to any request being approved with the Head of Human Resources, for example, in very exceptional financial hardship cases.

When an employee is considered medically fit to return to work they will resume normal duties at the pay/spinal column point they would have reached if not absent on sickness.

Where an employee remains absent through ill-health over a period which extends from one annual leave year to the next, or a lengthy absence may stretch between the two leave years, the position relating to statutory annual leave provisions should be discussed during the sickness absence management process. Where possible, the employee is encouraged to take these holidays within the current leave year, even if this is within the period of sickness.

Where an employee has been prevented or not taken their statutory annual leave, they must be allowed to take that annual leave at another time, even if that means carrying the annual leave forward into a new leave year. The individual must make a request in writing within three months of the last date of the leave year that any outstanding statutory annual leave entitlement is carried over to the next leave year. This carry over entitlement is based on the statutory provisions of the House of Lords ruling allowing a carry over of a maximum of 28 days (including eight bank holidays) excluding any other contractual provision.

### **2.18 Managing Absences Related to Stress**

Where an employee feels they are suffering from stress or they are absent from work because of a stress-related absence, support and assistance can be found within the School Stress Management Policy, Procedure and Toolkit. If any absence is work-related, this must also be recorded through the Corporate Accident/Incident/Ill-Health Report Form (see section 3.4 in the toolkit).

Where a Head Teacher is aware of any stress related concerns, they should use the tools within the above document to assist with a risk assessment – this involves the use of a Stress Management Questionnaire and generating an Action Plan.

On occasion the Head Teacher may have reason to believe, or the employee may have explicitly indicated that the relationship between them is perceived as a cause of stress by the employee. In this situation the Head Teacher should provide the employee with the option of attending a Sickness Absence Interview with a work colleague or trade union representative, however in some circumstances the Head Teacher may wish to ask another nominated person or colleague to conduct the Sickness Absence Interview on their behalf.

Where stress is identified as a factor in absence the Stress Toolkit should be completed. This may enable resolution of relevant issues without referral to the Occupational Health Service – see the School Stress Management Policy, Procedure & Toolkit for further information.

### **3 Sickness Absence Management Toolkit.**

#### **3.1 Head Teachers Quick Guide to Managing Sickness Absence**

Return to Work Interview:

- Undertake return-to work interview after each and every sickness absence
- Welcome, identify any immediate support, identify if trigger hit or other concerns
- Unless absences are clearly Long Term or Occupational Health are involved, treat as Short Term initially.
- If triggers are hit, convene a Sickness Absence Interview.
- For Sickness Absence Interviews:
  - Give 7 working days' notice in writing.
  - Allow accompaniment by trade union or other colleague.
  - Confirm outcome in writing using Sickness Absence Interview Form.

Short Term Absences:

- Explore reasons and support, set attendance target (or if discretion used, record reason), and advise outcomes in writing on the Sickness Absence Interview Form.
- Convene further Sickness Absence Interviews if target not met – content as above, set further target, advise employee of possibility of further action (if discretion used record reason).
- Where there is improvement, thank the member of staff and inform them that the situation will continue to be monitored, which may be through the formal process.
- Where, in due course, successive targets have not been met, advise that further action could include termination of service.

Long Term Absences:

- Seek Occupational Health advice, including confirmation of long term absence situation. Assess initial position and support needed.
- Convene regular further Sickness Absence Interviews (recording on SAI Form). Continue to assess position and support, get medical advice as needed, consider what employee CAN do which is practical for the school, options including phased return considered, reasonable adjustments and/or alternative employment explored as appropriate.

- Consider impact on service delivery and sustainability of absence.
- Advise employee of interview outcomes in writing.
- Consider option of termination of employment after six months of continuous or near-continuous absence in a twelve-month period – ensure up to date medical advice is available and other options explored properly.

### Mix of Long Term and Short Term Absences:

- Manage in parallel, distinguishing those incidents of absence, which fall into each type, and managing as above. While any Short Term absence may be managed in its own right through target-setting, it will also be included in the total absence record for the purpose of considering overall capability where this is prompted by incidence of Long Term absence.
- Always recognise the role of support in helping the employee to return to an acceptable level of attendance.
- Always give appropriate consideration of whether absence is caused by disability/pregnancy or maternity.
- Always maintain confidentiality.
- Always follow H&S procedure on accident/incident/ill-health reporting if work-related absence is claimed at any point.
- Always keep in touch and keep an absent employee advised of workplace developments.
- In all cases, the decision on terminating employment can only take place at a formal Ill Health Capability Hearing.
- The decision on whether, following termination, the criteria for ill-health retirement is met is the decision of an independent adviser, not the governors.

## 3.2 School Absence from Work Rules

Employees must co-operate fully to enable complete and accurate records to be kept in respect of all absences from work.

1. The employee must notify their Head Teacher or nominated person of their absence by telephone before their usual start time/prior to the start of the day.
2. Statements and declarations on lengths of absence and reasons for absence must be completed and signed by all employees on return to work, or otherwise as required by the Head Teacher.
3. Failure to follow the notification and/or declaration procedures will normally result in the withholding or loss of pay or benefit.
4. No person may sign a Sickness Declaration other than the employee to whom the absence relates, although assistance may be sought in completion of a statement.
5. Employees must co-operate in the provision of relevant documents, assistance with enquiries and fulfilment of health and safety duties such as medical tests, examinations and other precautions.
6. Making of knowingly fraudulent, misleading or improper statements and failure to adhere to the absence from work rules are serious disciplinary offences.

7. All periods of sickness lasting more than seven calendar days must be supported by a doctor's statement.

### **PROCEDURES**

The following procedures should be adopted in all cases of absence due to sickness:

**A. What to do if you cannot attend.**

Notify your Head Teacher or nominated person before your usual start time, giving your name, payroll reference number, details of the nature of your illness (including if the absence is work related) and the expected date of your return to work. If your Head Teacher is not available you must contact another nominated person within the school. By doing this you can be sure you have complied with the school requirements through the proper notification of your absence. You may be required to notify your Head Teacher of your continuing ill health during the first week of any absence, in accordance with the existing procedures within your school.

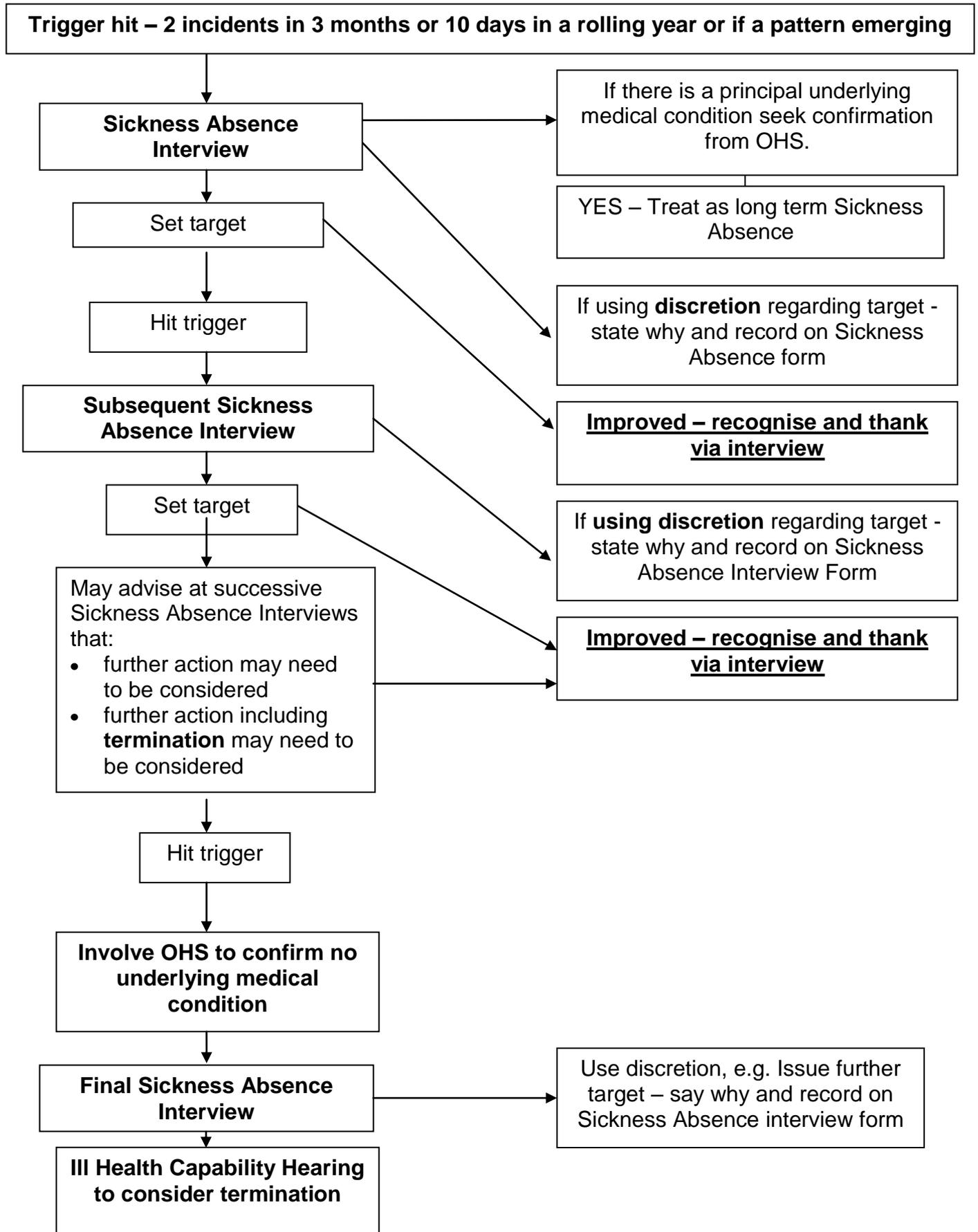
**B. What to do if you have to leave work early because of illness or injury.**

In normal circumstances you should consult your Head Teacher before leaving the school.

**C. What to do whilst absent.**

You must submit a fit note to your Head Teacher by the 8<sup>th</sup> calendar day of any sickness absence.

### 3.3 Managing Sickness Absence Flowchart - Short Term Absence



### **3.4 Corporate Accident / Incident / Ill Health Report Form**

This form is available via the Health and Safety page on the Extranet (click on the 'Corporate Risk Assessment Forms' icon to download this form) or direct from the Corporate Health and Safety Unit on 03000 263430. Guidance notes on how to complete this form is also available from the Corporate Health and Safety page on the Extranet.

This form should be completed if an employee is suffering from work related stress (see the School's Stress Management Policy, Procedure and Toolkit for further information).

If you require any further clarification on completing the form or its circulation please contact the Corporate Health and Safety Unit on 03000 263430.

### 3.5 Return to Work Interview/Sickness Declaration Form

(The interview should take place within 2/3 days after the employee has returned to work with the form normally completed in the presence of the employee)

#### NAME & DETAILS

Employee's name: ..... D.O.B: ...../...../.....

Current post: ..... School: .....

Payroll number.....

Interview conducted by: ..... Post held: .....

Telephone interview: Yes / No  
(If yes, employee signature still required)

Interview date: ...../...../.....

#### SICKNESS ABSENCE INFORMATION

Absence: Commenced:- ...../...../..... Last Day of illness:- ...../...../.....

**If you work part-time: Please circle the days you would have worked during your absence.**

**Sunday Monday Tuesday Wednesday Thursday Friday Saturday**

Reason for absence:

.....

(Statements such as 'unwell' or 'sick' will not be sufficient)

**GP consulted: Yes / No Previous history of this type of illness: Yes / No**

Possible areas for discussion:

- The employee should be invited to express any concerns that he/she may have which might have caused the absence including any long-term disability issues.
- In the opinion of the employee are there any health issues that he/she feels may affect his/her ability to do their job?
- Is the illness caused or made worse by his/her work duties? (If so, ensure the Corporate Accident / Incident / ill Health or Near Miss report form has been completed)
- Has the information on the fit note been discussed and undertaken (if appropriate)

#### SUMMARY OF DISCUSSION & ACTION PLAN

Current state of health, other issues, action plan (if appropriate) etc: (Continue on reverse if required)

.....  
.....  
.....  
.....

Information disclosed to your Supervisor will be confidential. Any breach of confidentiality in respect of Sickness Declarations will be regarded as a disciplinary matter.

#### DECLARATION

I declare that the above statement is true and accurate to the best of my knowledge. I understand that to give false or misleading details may result in disciplinary proceedings, which can lead to dismissal.

Signed .....(Employee) Date ...../...../.....

Signed .....(Head Teacher / Supervisor) Date ...../...../.....

**Completed forms to be sent to HR Operations Team**

### RETURN TO WORK INTERVIEWS – GUIDANCE NOTES

The return to work interview **must** take place after each period of absence within 2/3 days following an employee's return to work, regardless of the duration of the absence.

- The interview should be performed by the employees Head Teacher or immediate line manager but, if this is not practicable, it should be delegated to an appropriate deputy
- The interview should be performed in a suitable environment with full consideration given to confidentiality.
- The interview should be carried out at a time and place convenient to both parties
- The interviewer should ensure that the employee understands that the purpose of the interview is to encourage future attendance through appropriate support and assistance.
- The interview should neither be an inquisition nor a medical cross examination, but the interview should allow the person to give an account of the reason for absence and questions may be asked about the medical condition to consider for example, whether any reasonable adjustments are required.
- Employees do not have rights of representation by Trade Unions during these discussions.

#### The purpose of the interview will be to:

- Welcome the employee back into the workplace
- Provide an appropriate forum to discuss the employees state of health including
  - Current state of health
  - Reason for absence
  - Length of absence
  - Was the absence related to a previous absence?
  - Has a doctor/specialist been consulted?
- Show interest and support to the person who has been absent
- Provide an appropriate forum to review the employees attendance record
  - Did the staff member comply with the notification procedure?
- Provide an appropriate forum to discuss any issues that may affect the employees state of health
  - Is there a likelihood of recurrence?
  - Is further medical treatment needed?
  - Is underlying personal/work/domestic problem contributing to the absence?
- Has a fit note been issued? If so, discuss the adjustments which the GP is recommending.
- Update the person on any work issues

#### The outcome of the interview may be:

- To record the information and take no further action
- To implement the recommendations on the fit note
- To arrange a further support meeting
- To agree a referral to Occupational Health
- To agree a referral to the Physiotherapy Service
- To provide the person with further information on the staff counselling service
- To take action where work-related issues contribute to the absence
- To schedule a Sickness Absence Interview
- To take further advice from Human Resources

The interview must be recorded on the **RETURN TO WORK INTERVIEW / SICKNESS DECLARATION FORM** (see over the page) and must be signed by both parties as an accurate account of the interview.

### 3.6 Letter requesting attendance at a Sickness Absence Interview

Contact tel. no.

E-mail

(Date)

#### Strictly Personal and Confidential

(Name)

(Address)

Dear

According to our records it would appear that your sickness absence record indicates that \*you have been absent since ..... / you have had ..... absences in .....

To enable us to consider your sickness and attendance, I am arranging a Sickness Absence Interview to discuss this with you. The interview will explore any ways that we may be able to support you and also how best we can address the situation in the future.

*(If relevant – ‘At the interview we will need to discuss whether a target for your improved attendance will be set for you.’)* The meeting has been arranged at .....

on ..... in .....

You may be accompanied at this meeting by a trade union representative or other workplace colleague. It may be useful to advise your trade union as early as possible if you intend them to accompany you, to enable them, to make the necessary arrangements.

If you are unable to attend because of a substantial reason, or because you need more time to make arrangements for you to be accompanied on the date above, then please advise me as soon as possible to agree an alternative date. This alternative date should fall within five working days of the above original date.

In addition if you have any special requirements, which you would wish to be met to enable you to attend this meeting, then please advise me upon receipt of this letter.

If you are unsure about any of the above or if I can assist you with any further information, then please don't hesitate to contact me.

Yours sincerely,

#### Notes for Head Teacher

\*Use appropriate trigger mechanism.

This is designed as a model letter to assist in the preparation for a sickness absence interview. However, it is recognised that there may be particularly sensitive circumstances in individual cases where a more personally prepared letter may be more appropriate.

When convening a sickness absence interview, you must write to the employee giving a minimum of 7 working days' notice.

If possible, the Head Teacher or relevant manager should conduct the sickness absence interview process for any particular case. Where an Ill Health Capability Hearing is convened, it should be heard by a committee of governors who has the appropriate delegated power for dismissal. In

most cases, the Head Teacher or relevant manager who has been involved in the sickness process will present the facts at any such hearing.

### 3.7 Sickness Absence Interview – Head Teachers Guidance

The following questions should help to inform the discussion and help with completion of the forms/letters:

- Set the scene and explain what you are going to talk about at the meeting.
- Check notification procedures have been followed? If not establish the reason, discuss any action taken to resolve and ensure that the employee now knows the procedure.
- Discuss reason for absence.
- Clarify the absence length/likely length (if known).
- Was the absence related to a previous absence? Is there a principle underlying medical cause? Should/are Occupational Health be involved?
- If Long Term also discuss any days within time span under consideration attributed to Short Term Absences.
- Is there a likelihood of recurrence?
- Did the member of staff consult a doctor/specialist?
- Has Occupational Health been involved?
- Is further medical treatment needed?
- Has the employee been given any medical advice about her/his work?
- Is an underlying personal/work/domestic problem related to the absence?
- Advise the employee of the impact of their absence and bring them up to speed with what is happening in the workplace.
- Are there any reasonable adjustments that can be made to assist in return to work/prevent any future absence including advice on the fit note?
- Set and agree targets if appropriate.
- Close on a positive note.
- The key points and outcome of the interview should be confirmed in writing using the pro-forma letter in this pack with the appropriate suggested paragraph and/or interview forms. This confirmation should be supplied to the employee within 7 working days of the interview.

### 3.8 Sickness Absence - First Interview

DATE.....

NAME.....

DATE OF BIRTH.....

ADDRESS .....

POST HELD.....

.....

SCHOOL.....

PAYROLL NUMBER .....

Meeting to review and monitor situation and decide action to help.

Attended by:

#### DISCUSSION DETAILS

Reason for absence and advice as recorded on the fit note:	ABSENCE - LAST 12 MONTHS		
	FROM	TO	DAYS
Is the absences related to a disability (please state):			
Is the absence due to an Accident/Incident/Work Related Ill Health? (If yes, complete the Report Form):			
Return to Work timetable:			
What are the barriers to a return to work?			
Help offered to overcome these barriers (consider feasibility of advice on fit note):			
Non-Medical Problems Contributing:			
Occupational Health Involvement:			
<b>SUMMARY/TARGETS/FURTHER REVIEW DATE</b>			
<b>Continue on additional sheet/letter if necessary</b>			

Signed:..... (Head Teacher/Manager)

Signed:..... (Employee)

Copy sent to Employee  (please tick)



### 3.10 Sickness Absence - Final Stage

DATE..... NAME.....  
 DATE OF BIRTH.....

ADDRESS ..... POST HELD.....  
 .....  
 ..... SCHOOL.....  
 PAYROLL NUMBER .....

Meeting to make a decision regarding a return to work/continuation of employment.

Attended by:

NB A member of Human Resources must attend.

#### MEDICAL DETAILS

Matters arising from previous reviews:

**ABSENCE - LAST 12 MONTHS**

FROM	TO	DAYS
------	----	------

Current position :

Occupational Health Involvement:

Arrangement / Adjustments to help return - including any adjustments related to any disability-related absences:

Alternative options to a return:

#### SUMMARY AND COMMENTS

Signed: ..... (Head Teacher/Manager)

Signed: ..... (Employee)

Copy sent to Employee  (please tick)

### 3.11 Letter Confirming Outcomes of a Sickness Absence Interview

Contact tel. no.  
E-mail  
(Date)

#### Strictly Personal and Confidential

(Name)  
(Address)

Dear

#### Outcomes of your Sickness Absence Interview

I write further to our meeting on ..... when we discussed your sickness absence record. A summary of those discussions is included on the attached form.

I thought that it would also be useful to set out in more detail the issues that we covered and also to update you on (*e.g. contacted OHP for referral, obtained more information regarding options to support return to work*).

[key points of discussion including as appropriate--

--particular issues of support/adjustment

--personal issues

--service issues

--H&S issues

--any long-term underlying medical cause or disability and the period(s) of absence to which it applies]

**[suggested paragraphs set out overleaf cover a range of issues that may be relevant.]**

As discussed/I would like to meet with you again on ..... to review the situation further.

If you are in any way unclear about the content of the above letter, please do not hesitate to contact me.

#### Notes for Head Teacher

**Nothing should be included in the letter that wasn't discussed at the meeting unless it is an update about something the Head Teacher has said that they will consider and would let the employee know in writing.**

This pro-forma letter provides the model for confirming arrangements and outcomes to any Sickness Absence Interview. However, in some instances, especially where a first interview has been held and there appear to be no specific complications, a Head Teacher may feel that most of the important points are included within the accompanying Sickness Absence Interview form. Therefore, discretion can be used in these examples to restrict the detail within the confirmation letter.

### Long Term Absences

- It is accepted that all/much of your absence from work has resulted from a long-term underlying cause.
- As we discussed I do hope that you will be able to return to full health and regular full attendance at work within a reasonable period.
- I have decided that in respect of your overall absence, we will keep the situation under general review, including any support which I can consider, to help alleviate your situation.
- I am pleased to hear that you are improving and expect to return/have returned to work on the basis of ..... (e.g. phased return/other adjustment). I would like to make sure that you have the support that you need, so please let me know of any issues that you would like me to consider.
- Having considered your situation, I will continue to keep your absence under review with you and will continue to meet with you regularly to listen and discuss your progress. It is important that we are in regular contact and that we consider any support and reasonable adjustments to alleviate your situation.
- I am obliged to consider the extent and nature of your absence, together with the medical advice available to me and our organisational ability to sustain the present and likely level of absence. As we discussed the consequence of this is that I will meet with you again in .....time when we will need to consider further the options available including referring the matter to an ill health capability hearing to consider termination of employment.
- As we discussed at our meeting, it appears that a return to a normal and regular level of attendance at work is not possible and we have not been able to identify any reasonable or practical ways of supporting your return to work. I will refer the matter to a formal Ill Health Capability Hearing to consider whether your employment can be continued. You will receive a copy of my report along with details of the hearing itself in due course.
- With respect to those periods of your overall absence which are not directly related to an underlying medical cause and/or disability, I am also making additional provision through the requirements below:

### Short Term Absences

- In looking at your overall sickness record, your period(s) of absence do not appear to relate directly to any principal long-term underlying medical cause. An immediate and sustained improvement in the incidence of short-term absences of this nature is required.
- Should you feel, following our earlier consideration of your sickness absence, that some of these absences do in fact relate directly to a long-term underlying medical cause or disability, please tell me so that I can arrange for the Occupational Health Service to advise further.
- To support you in achieving this improvement, I will monitor your future attendance, and I would advise you that if you have ..... short-term absences of this nature, then I will need to convene a further Sickness Absence Interview so that we can consider your attendance further.
- I am pleased to note that your attendance has improved since your last Sickness Absence Interview. This improvement is very much appreciated. It is also important that you understand that you must now sustain this improvement. I will continue to monitor your attendance, and will consider any support that you feel will help you sustain your improved attendance, if you will let me know what this might be.
- Your period(s) of absence do not appear to relate directly to a long-term underlying medical cause. An immediate and sustained improvement in the incidence of short-term absences

of this nature is required. I have previously advised you of the need for improvement in your attendance but, unfortunately, this has not been achieved.

- To support you in achieving this improvement, I will continue to monitor your future attendance, and I would also advise you that if you have ..... short-term absences of this nature, then I will need to consider further action, and will convene a further Sickness Absence Interview for this purpose.
- Your period(s) of absence, from.....to....., do not appear to relate directly to any long-term underlying medical cause. An immediate and sustained improvement in the incidence of short-term absences of this nature is required. I have previously advised you more than once of the need for improvement in your attendance but, unfortunately, this has still not been achieved.
- To support you in achieving this improvement, I will continue to monitor your future attendance. However, as we discussed, I would also advise you that if you have ..... short-term absences of this nature, the consequence of this is that I will meet with you again in .....time. I will then need to consider further the options available including referring the matter to a hearing to consider termination of your employment.

**DISCRETION not to require an improvement for short-term absence is available to Head Teachers under the Policy but the reasons for this need to be recorded. These reasons should be communicated to the employee in the interests of clarity and equity but it is a matter of judgement as to whether they are also conveyed in writing.**

### 3.12 Managing a 'phased return to work'

The school promotes a supportive approach to the return to work of colleagues who have suffered long term absence. Such absences may be as a result of various circumstances and might include post operative recovery, stress related conditions, post viral syndrome, development of a recognised disability etc.

Whilst supportive approaches are to be encouraged they must take account of the school's legal, financial and duty of care responsibilities in relation to its employees.

The following issues need to be carefully considered before embarking on any discussions regarding 'phased return to work'.

Phased return to work programmes should only be implemented where the GP certifying the illness is prepared to fully endorse such a course of action on a fit note and is supported by the Occupational Health Service and considered reasonable by the Head Teacher.

The GP will indicate on the fit note the amendments and adaptations which they think are suitable and the Head Teacher needs to consider whether they are operationally feasible.

Any arrangements need to have a clear time scale placed around them and be the subject of regular review with the employee concerned during the phasing in period (usually no longer than four weeks).

Where the GP provides a fit note related to a 'phasing in programme' and charges the employee a fee for that purpose, the school will normally refund the cost incurred on production of a receipt.

Previous guidance regarding payment during phasing in remains pertinent. Payment should be in relation to the employee's status in terms of entitlement in relation to the sick pay scheme

i.e: Full pay whilst working less than full time hours during the period of entitlement to full pay  
or

When full pay expires payment should be at half pay if working half time or less OR an appropriate proportion of full pay if working more than half time hours. In circumstances where an employee returns to work after being out of pay, they should receive a level of payment equivalent to the amount of hours worked.

If during a phased return to work the employee's period of entitlement to full pay extends into half pay or half pay into no pay, the employee's salary will be adjusted accordingly.

It is also vital during a 'phased return to work' that Head Teachers ensure that payroll is kept fully informed and that advice is sought from Human Resources regarding individual cases.

### 3.13 Letter requesting attendance at an Ill Health Capability Hearing

Contact tel. no.

E-mail

(Date)

#### Strictly Personal and Confidential

(Name)

(Address)

Dear

#### Invitation to an Ill Health Capability Hearing

Further to the decision made at the final stage review on (insert date) and in line with the school's sickness absence procedure I am writing to invite you to an Ill Health Capability Hearing with a Committee of governors on (date, time, venue).

Copies of all documents to be presented at the Ill Health Capability Hearing are enclosed, along with a copy of the procedure to be followed at the hearing.

You have the right to be accompanied at the hearing by a trade union representative, an official employed by the trade union or work colleague. Please advise me at least 2 working days before the hearing as to who will accompany you.

If you wish to submit a written statement or other documentation to me prior to the hearing, or if you arrange for any witnesses to attend in support of your statement of case, please ensure that this information is supplied to me at least 2 working days before the hearing.

At this hearing you should be aware that options will be considered which include dismissal due to your continuing ill health. You should be aware that this may be an outcome of this meeting.

Please confirm that you will be attending the hearing by signing the attached copy of this letter and returning it in the envelope provided.

If you require any special arrangements at the hearing i.e. accessible venue, please let me know by **(date)**.

I can advise that you can also contact FirstAssist, the Council's telephone counselling service, for support, they can be contacted on 0800 716017.

If you have any queries about this, please do not hesitate to contact me on the above contact details.

Yours sincerely

### 3.14 Procedure to be followed at an Ill Health Capability Hearing

#### Statement by the School

1. The Presenting Officer/ Head Teacher will make a statement and refer to the report in the presence of the employee, and the representative. The Presenting Officer/Head Teacher may call witnesses at this stage.
2. The employee (or their representative) will have the opportunity to ask questions of the Presenting Officer/ Head Teacher (and any witnesses called) on the evidence given, including that of any witnesses.
3. The Members of the Committee and Officers of the Local Authority attending in an advisory capacity will have the opportunity to ask questions of the Presenting Officer/ Head Teacher and any witnesses.

#### Statement by the Employee

4. The employee (or their representative) will make a statement relating to issues in the presence of the Presenting Officer/ Head Teacher, and may call any witnesses at this stage.
5. The Presenting Officer/ Head Teacher will have the opportunity to ask questions of the employee and any witnesses.
6. The Members of the Committee and Officers of the Local Authority attending in an advisory capacity will have the opportunity to ask questions of the employee and any witnesses.

#### Summing Up

7. The Presenting Officer/ Head Teacher and the employee (or their representative) will have the opportunity to offer a summary of their statements if they so wish. No new evidence may be offered at this stage.

#### Parties to Withdraw

8. The Presenting Officer/ Head Teacher and the employee and their representative will then withdraw from the meeting.

#### Consideration

9. Members of the Committee with those Officers of the Authority acting in an advisory capacity will deliberate, in private, only recalling the Presenting Officer/ Head Teacher or the employee to clear any points of uncertainty on evidence already given. If recall is necessary, both parties will return to the meeting notwithstanding only one is concerned with the point given rise to doubt.

#### Decision

10. When the Committee has arrived at a decision, all parties will be recalled to the meeting and informed of that decision.
11. The Officers of the Local Authority attending in an advisory capacity will then outline how and when the decision will be conveyed in writing to the employee, and give any further details in relation to appeal or process.

### 3.15 Letter Confirming Outcomes of an Ill Health Capability Hearing

Contact tel. no.

E-mail

(Date)

#### Strictly Personal and Confidential

(Name)

(Address)

Dear

#### Outcome of the Ill Health Capability Hearing

I write to confirm the outcome of the governors meeting held on *(insert date)*. As you know, the purpose of the hearing was to consider the report presented by *(insert name)*, Head Teacher, regarding your continued absence from school due to your ill health. A copy of this report had previously been sent to you.

Governors have given careful consideration to the submissions made to them today and to the issues raised by both you and *(insert name of union rep)*, a representative of your union.

Following such consideration, governors have concluded that: *(insert details of the report, for example)*

- Details of absence
- Issues discussed during Sickness Absence Interviews i.e. adjustments/alternative employment
- Advice from Occupational Health Service
- Operational problems which the absence has caused

As a result of the above and in light of submissions made today:

(1) Governors concluded that, as an alternative to dismissal, your employment would continue with *(name of school)*, dependent on the following conditions:

- that your medical condition continues to be manageable and your attendance continues to improve.
- over the next six month period your attendance will be monitored and you will be offered further support from your Head Teacher via the usual supervision process to help you maintain regular and effective service.
- should the usual sickness absence trigger be hit, then a Final Stage Review will be held and if appropriate a referral made to the Occupational Health Service.
- if your attendance doesn't improve during this time then a further Capability Hearing will be reconvened.

(2) It is therefore, with regret, that governors have determined your employment with *(place of work)* should cease due to ill health.

Relevant officers of Durham County Council will be informed of this determination and you will receive a letter from them giving you appropriate notice in line with legislation.

You have the right of appeal against this determination to the Appeals Committee of the governing body. If you wish to exercise this right, please write to (insert name), within ten working days of receipt of this letter, providing the grounds of the appeal.

Please contact me if you require any further information on this matter.

Yours sincerely

(Name)

(Job title)

Cc: Human Resources, Advice and Guidance

### **3.16 Procedure to be followed at an Ill Health Capability Appeal**

#### **Introduction**

Members of the Committee will invite all parties present to introduce themselves and their role in the hearing. A representative from Human Resources will be in attendance. The purpose of the hearing, how it will be conducted and the powers of the Committee should be explained.

#### **Statement by the Employee**

1. The employee (or his/her representative) will put the case in the presence of the Presenting Officer/ Head Teacher and will call any witnesses (if appropriate).
2. The Presenting Officer/ Head Teacher will have the opportunity to ask questions of the employee and his/her witnesses.
3. The Members of the Committee and Officers of the Local Authority attending in an advisory capacity will have the opportunity to ask questions of the employee and his/her witnesses.

#### **Statement of case by the School**

4. The Presenting Officer/ Head Teacher will put the case in the presence of the employee and his/her representative and will call witnesses.
5. The employee (or his/her representative) will have the opportunity to ask questions of the Presenting Officer and his/her witnesses.
6. The Members of the Committee and Officers of the Local Authority attending in an advisory capacity will have the opportunity to ask questions of the Presenting Officer/ Head Teacher and his/her witnesses.

#### **Summing Up**

7. The Presenting Officer/ Head Teacher and then the employee (or his/her representative) will have the opportunity to sum up their cases if they so wish.

#### **Parties to Withdraw**

8. The Presenting Officer/ Head Teacher and the employee (and his/her representative) withdraw from the hearing.

#### **Consideration by the Committee**

9. The Members of the Committee and Officers of the Local Authority attending in an advisory capacity will deliberate in private, only recalling the Presenting Officer/ Head Teacher and the employee (and his/her representative) to clear points of uncertainty on evidence already given. If recall is necessary, both parties are to return notwithstanding only one is concerned with the point giving rise to doubt.

### Decision

10. When the Committee has reached a decision the employee (and his/her representative) and the Presenting Officer/ Head Teacher will be invited back in and informed of that decision.
11. The Officers of the Local Authority attending in an advisory capacity will then outline how and when the decision will be conveyed in writing to the employee.

### 3.17 The Occupational Health Service Role in the Management of Long Term Sickness Absence

#### Long Term Sickness Absence Trigger Point

