



**Tudhoe Learning Trust**

# **Sickness Absence**

## **Policy and Procedure**

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| <b>Approved by:</b>        | <b>Trust Chief Executive Officer</b> | <b>Date:</b> May 2025 |
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## Introduction

The Trust recognises the contribution that its employees make to ensuring that children receive a high-quality education and a safe learning environment. It further recognises that employees wish to make a consistent contribution to the work of their school, but that, from time to time, they will become ill and be unable to attend work.

The Sickness Absence Policy and Procedure is intended to set out a clear and fair procedural framework which will enable Trust schools to reduce the level of sickness absence amongst employees. The policy takes account of school needs, and any support that may need to be considered for employees with ill health.

This policy applies to all Trust employees irrespective of whether they are employed on a permanent or temporary contract or work part-time. Head Teachers of Schools within the Trust are responsible for the operational management of sickness absence. Employees that are absent through industrial injury or disease are also subject to this policy and procedure.

All absences will be dealt with in a sensitive, and confidential manner to support employees, and to discuss any adjustments and/or support that the school may consider in order to facilitate a return to work and/or improve their levels of attendance as appropriate.

All employees have a responsibility to ensure that they comply with this policy and any subsequent processes that are developed to support it. Where an employee does not meet the requirements of this policy, this may result sick pay being withheld or action being taken in accordance with the Trust Disciplinary Procedure.

Sickness absence data will be monitored to identify the impact of sickness absence within the Trust schools and may be 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 Board of Directors.

In applying this policy, the Trust will not unlawfully discriminate in respect of any of the protected characteristics as defined under the Equality Act and specified below:

- Age
- Disability
- Gender reassignment
- Pregnancy and Maternity
- Race
- Religion or Belief
- Sex
- Sexual Orientation
- Marriage and civil partnership

The operation of this Policy will be kept under review and such changes will be made as deemed appropriate.

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.

## Roles and responsibilities

### Head Teachers' Responsibilities

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. 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 Accident/Incident/ill-Health Report Form available on the Extranet 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 Trust's Stress Management Policy, and Procedure.
- Not set or expect work from employees whilst they are absent from work due to sickness.

## **Employee Responsibilities**

Employees must:

- Attend work when fit to do so unless on authorised leave
- Notify their Head Teacher of sickness absence in person via telephone before 8am on the first day of absence. Employees genuinely unable to telephone personally should arrange for someone to call on their behalf and they should contact the Head Teacher themselves as soon as possible, even if this is not until later in the day. If their Head Teacher is not available, they should contact the Deputy Head Teacher. A text message or a message with a work colleague is not acceptable and this action will disqualify an employee from sick pay. If the sickness absence is work related they should inform their Head Teacher of this.
- Maintain contact with their Head Teacher for every day of sickness absence, unless the Head Teacher agrees other arrangements.
- Attend sickness absence meetings with the Head Teacher and appointments with the Occupational Health Service when required. Release of information from the Occupational Health Service to Head Teachers following 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 with 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, the Deputy Head Teacher, before leaving work.

The completion of a 'Return to Work Interview/Sickness Declaration' form by the employee is required after every sickness absence (see Appendix 1). 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 school 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 the Trust HR Manager.

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 Accident/Incident/ill-Health Report Form (Available on the Durham County Council Extranet). The Head Teacher must investigate, taking advice as appropriate from Health and Safety from the Trust HR Manager.

### **Role of Trust HR Manager**

The management of sickness absence is primarily the responsibility of the Head Teacher. The Trust HR Manager 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.

The Health and Safety Team advises on safe systems of work risk assessments and monitor injury, ill health and diseases notified as work-related.

The Trust Occupational Health Service provides vocational rehabilitation and/or long term adjustment advice based on professional clinical assessment. The service provides an employee assistance programme (Telephone Counselling Service). This is a 24 hour/7 day a week service and is available on a Freephone number of 0800 716017.

### **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 can 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 Meetings.

## Meetings in the procedure

The nature, purposes and potential outcomes of the meetings that are undertaken as part of this policy can vary. All meetings provide an opportunity for the Head Teacher and employee to discuss absences to date, along with any relevant health concerns of which the school needs to be aware. It is important to note that these meetings provide a framework intended to facilitate discussion around support and/or adjustments that may need to be considered with a view to improving employee wellbeing and attendance at work.

### Return to Work Interview

The Head Teacher (or line manager) should conduct a Return to Work Interview on each and every occasion when an employee returns from any sickness absence. This discussion should be 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 Appendix 1. This should be forwarded to the Trust HR Manager. Employees do not have the right of representation by trade unions at return-to-work discussions as these are normal management meetings.

### Fit Notes

Where an absence exceeds 7 calendar days i.e. on 8<sup>th</sup> day of absence, the employee is required to ensure that their absence is authorised by a Fit Note. The 'Statement of fitness for work', or 'fit note', 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.

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.

**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 this further with the employee.

**Phased return to work.** A GP 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 Appendix 7 for further guidance.

**Altered hours.** A GP 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 GP 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 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 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 GP 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.

## 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 must be a prime consideration in managing sickness absence.



## 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 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 incidents that fall into each of the two types.

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.

## 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 Meeting for this purpose when one or both of the following trigger points is reached:

2 incidents of absence in any 3 month period or 10 days in a rolling year.

Where an employee works part-time, consideration will be given to the number of actual working days lost. However, the principal purpose of the procedure is to ensure that all staff are supported at times when their health is causing them concern and as such a sickness absence meeting may be convened irrespective of the number of working days lost.

## Sickness Absence Meeting

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

The purpose of this meeting is to support the employee, establish whether there are any underlying conditions or factors that may be affecting levels of attendance, of which the Trust needs to be aware and to explore any support or adjustments that may attain and maintain the required levels of attendance in future. 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 will have the opportunity to participate in the interview and to respond fully to any points made. Refer to Head Teacher's Guidance - Conducting a Sickness Absence Meeting (See Appendix 2). The Sickness Absence Record Forms provide a framework for this discussion as outlined in Appendix 3 and 4.

### **Administration of Sickness Absence Meetings**

In convening a Sickness Absence Interview, the Head Teacher must write to the employee, giving a minimum of 5 school working days' notice, advising of the purpose of the meeting and the right to be accompanied by a trade union representative or workplace colleague.

Key points and outcome of the Sickness Absence Interview will be confirmed to the employee in writing as soon as possible after the meeting using a Sickness Absence Record Form.

### **Managing short-term absence**

This is generally short-term absence at a level which, taking into account school absence rates and their needs, is unacceptable due to the impact the repeated absence has on the capacity of the employee to provide a service effectively through their job, the impact on service delivery and colleagues.

The Trust'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.

#### **Initial Stage Sickness Absence/Wellbeing Meeting**

Where sickness absence reaches a trigger point of 2 incidents of absence in any 3 month period or 10 days in a rolling year a Sickness Absence Meeting 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 Initial Stage/Wellbeing Meeting Record Form (see Appendix 3).

Where improvements for attendance are required, these should be specified clearly and an attendance target 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 Record Form, signed by the employee and a copy provided to them.

#### **Subsequent Stage Sickness Absence/Wellbeing Meeting**

Where the employee has an additional absence, does not achieve an attendance target, or does not otherwise meet attendance requirements during a monitoring period set at the initial stage meeting, the Head Teacher will normally convene a Subsequent Stage Sickness Absence Meeting. This meeting will take place in accordance with the issues set out on the Subsequent Stage Sickness Absence Record Form (see Appendix 4).

At the Sickness Absence Meeting, 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 where 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 may 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 all absences (including those of less than 7 calendar days) to ensure that the employee receives regular and appropriate support from their G.P. The employee will be reimbursed with any costs on submission of a receipt.

At the Sickness Absence Meeting, a further attendance target may 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 Meeting 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 and regular monitoring meetings are required.

### **Final Stage Sickness Absence/Wellbeing Meeting**

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 Meeting will take place in accordance with the issues set out on the Final Stage Sickness Absence Record Form (see Appendix 5).

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, 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 must be sought on any relevant issues, including the lack of a principal underlying medical cause behind the absences, prior to the final review which could potentially result in a referral to an Ill Health Capability Hearing. In completing the Occupational Health Service Referral Form the Head Teacher must indicate the intention to progress to a final Sickness Absence Interview. (A referral Form is available from the Trust HR Manager). Should an employee not consent to the release of the Occupational Health Service Report then the Head Teacher can progress the process using the information available.

The Trust HR Manager must be present at the Final Stage Meeting. 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 Appendix 6 for Ill Health Capability Hearing Procedure.

Alternative employment 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 considered for any suitable alternative roles that are available in schools across the Trust.

In exceptional circumstances where the employee has a chronic progressive health condition suitable alternative employment will be considered subject to specific recommendation by the Trust's Occupational Health Service Provider.

### **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 management of long-term sickness absence. 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.

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

The Trust 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.

### **Initial Stage Sickness Absence/Wellbeing Meeting**

When trigger points are met and long term absence is identified, information needs to be gathered and shared through a Sickness Absence Meeting about the employee's position, available support, medical information and the way ahead. Information from the Initial Stage Meeting should be recorded on an Initial Stage Sickness Absence Record (SAR) Form see Appendix 3. If there is no indication of a return to work date after the first Sickness Absence Meeting, 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 have little or no contact 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.

### **Subsequent Stage Sickness Absence/Wellbeing Meeting**

If following the Initial Stage/Wellbeing Meeting the employee is still absent a Subsequent Stage Meeting should be convened. It is advisable that there is a 4 to 6 week gap between Sickness Absence Meeting unless agreed otherwise. If it is not possible to convene a Sickness Absence Meeting because of the individual circumstances relating to the employee's 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 Meeting in the employee's home. If Sickness Absence Meetings are not undertaken Head Teachers must keep a written note of the reasons why this hasn't happened.

Information from the Subsequent Stage Sickness Absence Meeting should be recorded on a Subsequent Stage Sickness Absence Record (SAR) Form see Appendix 4. The aim of the Subsequent Meeting 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.

Additional support may, in appropriate cases, also include counselling, 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 and Procedure.

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 Trust's Drugs, Substance and Alcohol Misuse Policy prior to a referral to Occupational Health.

At the Sickness Absence Meeting, 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.

### **Final Stage Sickness Absence/Wellbeing Meeting**

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 handled sensitively and the Trust HR Manager or Occupational Health can advise on particular issues and situations. The Head Teacher will 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, it is possible that 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 Meeting. 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 Meeting 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:

- Has the full reasons for the referral to an Ill Health Capability Hearing and this has 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 Meeting.
- Is considered for any suitable alternative employment that is available.
- 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 Meetings.

The feasibility of reasonable adjustments to the job needs 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', considering 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 Trust HR Manager. 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 Appendix 6 for further Ill Health Capability Hearing Procedure.

### **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 Appendix 7) 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.

### **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 Meeting 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 a range of issues and options 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.

## **Suitable Alternative Employment on Medical Grounds**

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 to any suitable alternative posts that are available is an option which could 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 as an alternative 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 any 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 where this is available.

If a decision is taken to terminate employment an employee can be considered for redeployment until the end of their 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 consideration of any suitable alternative employment that is available will be given subject to specific recommendation by the Trust's Occupational Health Provider.

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 can 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.

## **Ill Health Capability Hearing**

The Trust'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 the Trusts Chief Executive Officer having the delegated authority to do under the remit of an Ill Health Capability Hearing.

### **Procedure**

An Ill Health Capability Hearing will be convened to consider termination of service, and the case will be heard by the Trust Chief Executive Officer and the Trust HR Manager. The employee will be informed in writing of the arrangements for the hearing and provided with at least 5 school 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 their representative with a copy);



- The right to be accompanied by a trade union representative or work colleague;
- A copy of the sickness absence 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 school 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.

The procedure to be followed at an Ill Health Capability Hearing is outlined in Appendix 6.

In reaching a decision about whether to terminate employment, the Trust Chief Executive Officer 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 will be written to within 5 school working days of the hearing to confirm the decision taken at the meeting and they will be provided with formal notice of their dismissal as appropriate. Employees will also be advised of their right of appeal against the decision taken and how to exercise their right.

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. Where appropriate, employees are entitled to paid leave (which will be added to the notice period for untaken statutory annual leave of up to 28 days, or pro rata) accrued during the leave year in which termination takes place (including bank holidays).

## **Right of Appeal**

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

The appeal will be heard by the relevant Appeals Panel of the Trust Board of Directors and the Trust HR Manager. The employee has the right to be accompanied by a trade union representative or workplace colleague. After the employee has put their case, the Trust Chief Executive Officer as 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 Appendix 8 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 Policy and Procedure.

### Ill Health Retirements

#### Local Government Pension Scheme (LGPS)

Trust Support staff may qualify for early release of pension benefits on the grounds of permanent ill health if certified by an 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.

#### 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)

## **Disability Related Sickness Absence**

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 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 advice from the Trust HR Manager and Occupational Health 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.

## **Maternity Related Sickness Absence**

Trust schools are 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 the Trust HR Manager where they are considering an employee's sickness absence related to any aspects of the maternity situation. For more information, please refer to the Trust's Maternity, Adoption, Paternity, Parental and Shared Parental Leave Policy.

## **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 Trust Stress Management Policy, and Procedure. If any absence is work-related, this must also be recorded through the Accident/Incident/Ill-Health Report Form available on the Extranet.

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 Meeting 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 Meeting 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 Trust's Stress Management Policy, and Procedure for further information.

## **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 Meeting 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 meeting or 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 the Trust HR Manager 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 will normally be within 5 school 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 they fail to turn up without a valid reason then the hearing may proceed in their absence and any decisions will be made based upon the information that is available.

In exceptional circumstances, an employee may not be well enough to attend for a Sickness Absence Meeting. In these circumstances, a Sickness Absence Meeting 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.

## **The Trust's Occupational Health Service (OHS) Provider**

The Occupational Health Service will provide professional advice to Head Teachers 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 HR Manager 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 Policy should normally be followed and in cases of long-term absence this should be subject to the first Sickness Absence Meeting 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 Referral Form contains a list of appropriate areas around which management may seek advice from the Occupational Health Service. The Trust HR Manager will complete a referral form as required and will select areas of questioning appropriate to the management of the employee's 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 this documentation, including any letters or emails will form part of the employee's occupational health record. The standard Occupational Health Referral Form should be completed by the Trust HR Manager 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 and/or consideration will be given to disciplinary procedures.

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 Meeting. 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 the Trust HR Manager.

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 the Trust HR Manager.

## **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 the Trust HR Manager and/ or the Occupational Health Service as appropriate for further guidance or advice.



## 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.

### Sickness Pay (OSP and SSP)

Support staff sick pay entitlements, set out in the Green Book for support staff directly employed by the Trust are detailed below.

|                                                                                                                                   |                                                                                |
|-----------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------|
| Sickness payments are based on a working year, for non-teaching staff their entitlement is as follows: During 1st year of service | 1 months' full pay and (after completing 4 months' service) 2 months' half pay |
| During 2nd year of service                                                                                                        | 2 months' full pay and 2 months' half pay                                      |
| During 3rd year of service                                                                                                        | 4 months' full pay and 4 months' half pay                                      |
| During 4th and 5th 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                                      |

The period during which sick pay shall be paid, and the rate of sick pay, in respect of any period of absence shall be calculated by deducting from the employee's entitlement on the first day the aggregate of periods of paid absence during the twelve months immediately preceding the first day of absence.

Teachers' national sick pay entitlements, set out in the Burgundy Book for teachers directly employed by the Trust are detailed below.

|                                       |                                                                                                                 |
|---------------------------------------|-----------------------------------------------------------------------------------------------------------------|
| During 1st 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 4th 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 to claim sickness benefit if entitled, available from the Trust payroll provider.

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

The Trust Board of Directors may agree to extend the above allowances subject to any request being approved with the Trust Chief Executive Officer with advice from the Trust HR Manager, 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.

## **Medical Suspension**

When an employee is deemed unfit to work by their Head Teacher due to reasons of ill-health, the Head Teacher has the right to enforce a short period of absence for no longer than 7 days in which time the member of staff must seek advice from their GP regarding their fitness to work.

The Head Teacher should ensure that a risk assessment is completed before medical suspension is agreed, considering alternative options to the medical suspension. The Head Teacher should seek advice from the Trust HR Manager and appropriate medical advice will be sought from the Trust's Occupational Health Provider.

This absence will be counted as suspension from duty with pay for medical reasons. Where the Trust can demonstrate that the employee has refused a reasonable offer of alternative employment as an alternative to medical suspension, the employee will not receive pay for the period of medical suspension.

Where the employee's GP advice conflicts with that of Occupational Health the organisation will rely on its Occupational Health providers advice following discussions between the GP and Occupational Health.

## **Accidents Involving a Third Party**

In cases where employees are absent from work because of an injury sustained wholly or partly because of the actions of a third party against whom the employee has made a claim, any payments made to the employee by the organisation will be recoverable. The employee must notify the fact that they are making a claim to their Head Teacher at the commencement of the absence, or as soon as practicable. The Head Teacher should notify the Trust HR Manager so that payroll may be informed. Where an employee is unable to notify their Head Teacher personally because of, for example, serious injury, notification may be undertaken by another party.

## **Further Information**

If you would like any further information or advice in relation to this Policy and Procedure, please contact the Trust HR Manager on 01388 811 765 or [office@tudhoelearningtrust.co.uk](mailto:office@tudhoelearningtrust.co.uk)



## TUDHOE LEARNING TRUST RETURN TO WORK INTERVIEW/SICKNESS DECLARATION FORM

Information disclosed to your Head Teacher / Trust HR Manager will be treated confidentially. Any breach of confidentiality in respect of Sickness Declarations will be regarded as a disciplinary matter.

### NAME and DETAILS

|                         |          |        |  |
|-------------------------|----------|--------|--|
| Employee's name:        |          | D.O.B: |  |
| School:                 |          |        |  |
| Interview conducted by: |          | Date:  |  |
| Telephone Interview     | Yes / No |        |  |

### SICKNESS ABSENCE INFORMATION

|                                                          |          |      |                         |       |     |
|----------------------------------------------------------|----------|------|-------------------------|-------|-----|
| Absence commenced:                                       |          |      | Last day of absence:    |       |     |
| Total length of absence:                                 |          |      |                         |       |     |
| Self Cert completed:                                     | Yes / No |      | Med3 to cover absence?: |       |     |
| If part time days absent:                                | Mon      | Tues | Wed                     | Thurs | Fri |
| Specific reason for absence:<br>(Not "unwell" or "sick") |          |      |                         |       |     |
| Previous absences over last 12 month period:             |          |      |                         |       |     |

### AREAS FOR EXPLORATION

|                                                                                      |          |                                                                                         |          |
|--------------------------------------------------------------------------------------|----------|-----------------------------------------------------------------------------------------|----------|
| Does the employee:                                                                   |          |                                                                                         |          |
| Have concerns about long term disability:                                            | Yes / No | Have concerns about health issues that impact on their ability to perform their duties: | Yes / No |
| Details:                                                                             |          | Details:                                                                                |          |
| Have concerns that the illness is either caused or exacerbated by something at work: | Yes / No |                                                                                         |          |
| Details:                                                                             |          |                                                                                         |          |

Current state of health and any other issues:

#### PLAN AND ACTION

|                                            |                                                                                                                                              |
|--------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------|
| Is the employee fully recovered?           | Yes / No                                                                                                                                     |
| If no, provide details:                    |                                                                                                                                              |
| Summary of actions required (Please tick): | Occupational Health Referral/Counselling<br>Training<br>Refer for sickness absence meeting<br>Annual leave implications for whole-time staff |

#### 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)      Date: \_\_\_\_/\_\_\_\_/\_\_\_\_

## Head Teacher Guidance

### Return to Work Meeting

The return to work meeting 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 meeting should be chaired by the employees Head Teacher but, if this is not practicable, it should be delegated to a deputy head teacher.

The meeting should be performed in a suitable environment with full consideration given to confidentiality and 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 meeting is to encourage future attendance through appropriate support and assistance.

The meeting should neither be an inquisition nor a medical cross examination, but 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 meeting is to:

- Welcome the employee back into the workplace.
- Provide an appropriate forum to discuss the employees' current health and establish whether there is a likelihood of recurrence and whether any ongoing medical treatment is required.
- Identify the reason for absence and whether there is an underlying issue contributing to the absence.
- Whether the absence is related to a previous absence? Has a doctor/specialist been consulted?
- Show interest and support to the person who has been absent.
- Review the employees' attendance record and whether they complied with the notification procedure.
- Where a fit note has been issued, discuss any adjustments recommended by the GP.
- Update the employee on any work related matters.

The outcome of the meeting may be to:

- Record the information and take no further action
- Implement the recommendations on the fit note
- Arrange a further support meeting
- Agree a referral to Occupational Health
- Provide the employee with further information on the staff counselling service
- Take action where work-related issues contribute to the absence
- Schedule a Sickness Absence Meeting
- Take further advice from the Trust HR Manager

The meeting must be recorded on the RETURN TO WORK INTERVIEW / SICKNESS DECLARATION FORM (see Appendix 1) and must be signed by both parties as an accurate account of the interview.

### Sickness Absence Meeting

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 as soon as possible after the meeting.





**Tudhoe Learning Trust**  
**Sickness Absence/Wellbeing Meeting – Initial Stage**



|                                                                                                                                                                                                                                                                                                              |  |                                      |  |
|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--|--------------------------------------|--|
| <b>Date of Interview:</b>                                                                                                                                                                                                                                                                                    |  | <b>Date of Birth:</b>                |  |
| <b>Employee Name:</b>                                                                                                                                                                                                                                                                                        |  | <b>Post Held:</b>                    |  |
| <b>Home Address:</b>                                                                                                                                                                                                                                                                                         |  | <b>Academy:</b>                      |  |
| <b>Attended by:</b>                                                                                                                                                                                                                                                                                          |  |                                      |  |
| <b>Reason for Absence including advice provided on Med3:</b>                                                                                                                                                                                                                                                 |  | <b>Absence – preceding 12 months</b> |  |
|                                                                                                                                                                                                                                                                                                              |  |                                      |  |
| <b>Is the absence related to a disability (please provide details)?</b><br><i>Discuss with employee if there is a condition or symptoms of a condition that have lasted or are likely to last for 12mths or more that have a significant detrimental impact on their ability to perform every day tasks.</i> |  |                                      |  |
| <b>Is the absence as the result of an accident at work?</b><br><i>Ensure that any hazard is identified, removed or reduced to prevent further harm and make any necessary to referral to H&amp;S Executive. An injury within the workplace that lasts more than 7 days is notifiable.</i>                    |  |                                      |  |
| <b>What is the current position?</b>                                                                                                                                                                                                                                                                         |  |                                      |  |
|                                                                                                                                                                                                                                                                                                              |  |                                      |  |

What are the barriers to a return to work?

- 

Return to Work Plan and help offered to overcome barriers:

- 

Are there any non-medical contributory factors?

Occupational Health Involvement:

Other actions / considerations:

*Work related absences over 7 days are notifiable to Health & Safety Executive, Stress Toolkit*

Summary, further review date, targets.

- 

Signed Head Teacher:

Signed  
Employee:



**Tudhoe Learning Trust**  
**Sickness Absence/Wellbeing Meeting – Subsequent Stage**



|                                               |  |                         |  |
|-----------------------------------------------|--|-------------------------|--|
| <b>Date of Interview:</b>                     |  | <b>Date of Birth:</b>   |  |
| <b>Employee Name:</b>                         |  | <b>Post Held:</b>       |  |
| <b>Home Address:</b>                          |  | <b>Academy:</b>         |  |
| <b>Attended by:</b>                           |  |                         |  |
| <b>Current position?</b>                      |  |                         |  |
| <b>Summary, further review date, targets.</b> |  |                         |  |
| <b>Signed Head Teacher:</b>                   |  | <b>Signed Employee:</b> |  |



**Tudhoe Learning Trust**  
**Sickness Absence/Wellbeing Meeting – Final Stage**



|                           |  |                       |  |
|---------------------------|--|-----------------------|--|
| <b>Date of Interview:</b> |  | <b>Date of Birth:</b> |  |
| <b>Employee Name:</b>     |  | <b>Post Held:</b>     |  |
| <b>Home Address:</b>      |  | <b>Academy:</b>       |  |
| <b>Attended by:</b>       |  |                       |  |

**Matters arising from previous review meetings:**

**Current position:**

**Occupational Health Involvement:**

Agreements/Adjustments to assist return to work:

Summary and Comments

Signed Head Teacher:

Signed  
Employee:

## 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 Chief Executive Officer and Trust HR Manager 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 Chief Executive Officer and Trust HR Manager 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. The Chief Executive Officer and Trust HR Manager 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 Chief Executive Officer has arrived at a decision, all parties will be recalled to the meeting and informed of that decision.
11. The HR Manager 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.

## Managing a 'phased return to work'

The Trust 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.



**Procedure to be followed at an Ill Health Capability Appeal****Introduction**

Members of the Appeal Panel will invite all parties present to introduce themselves and their role in the hearing. The Trust HR Manager will be in attendance. The purpose of the hearing, how it will be conducted and the powers of the Appeal Panel should be explained.

**Statement by the Employee**

1. The employee (or their 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 their witnesses.
3. The Members of the Appeal Panel and HR Manager attending in an advisory capacity will have the opportunity to ask questions of the employee and their witnesses.

**Statement of case by the School**

4. The Presenting Officer/ Head Teacher will put the case in the presence of the employee and their representative and will call witnesses.
5. The employee (or their representative) will have the opportunity to ask questions of the Presenting Officer and their witnesses.
6. The Members of the Appeal Panel and HR Manager attending in an advisory capacity will have the opportunity to ask questions of the Presenting Officer/ Head Teacher and their witnesses.

**Summing Up**

7. The Presenting Officer/Head Teacher and then the employee (or their 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 their representative) withdraw from the hearing.

**Consideration by the Committee**

9. The Members of the Appeal Panel and HR Manager attending in an advisory capacity will deliberate in private, only recalling the Presenting Officer/Head Teacher and the employee (and their 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 Appeal Panel has reached a decision the employee (and their representative) and the Presenting Officer/Head Teacher will be invited back in and informed of that decision.
11. The HR Manager attending in an advisory capacity will then outline how and when the decision will be conveyed in writing to the employee.