



# Education Trust

Inspiring the individuals of today, for a better society tomorrow,  
"Aspire, Belong, Collaborate"

## MANAGING STRESS AND ABSENCES POLICY

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## INTRODUCTION

The health, well-being and attendance of staff within this Trust is an intrinsic part of our approach to performance management and to the success of our pupils. Having a fair and consistent approach to the way attendance of staff is managed within the Trust is essential. Whilst it is recognised that there will inevitably be sickness absence, high levels can lead to a reduction in service provision and place additional burden on colleagues. This policy has been adopted as an essential management tool and ensures that employees have the support they need from their managers, as well as access to support services provided by the Trust.

### **Scope**

These procedures apply to all employees based within the Trust, with appropriate provisions made for teaching and non-teaching members of staff. It should be read in conjunction with the following policies (and all other relevant policies will apply):

- Leave Arrangements Policy.
- Maternity Policy.
- Paternity Policy and Parental Leave Policy.
- Disciplinary Procedure.
- Capability Policy and Procedure.
- Grievance Procedure.
- Health and Safety Policy.
- Flexible Working Policy and Procedure.

### **Equality Statement**

This policy applies equally to all Trust employees regardless of their age, disability, sex, race, religion or belief, sexual orientation, gender reassignment, pregnancy and maternity, marriage or civil partnership. Care will be taken to ensure that no traditionally excluded groups are adversely impacted in implementing this policy. Monitoring will take place to ensure compliance and fairness.

### **Policy Statement**

This policy sets out the obligations of both the Trust as the employer and the staff member as the employee in respect of managing sickness absence, reporting arrangements and support.

Those with Line Management Responsibility will:

- promote the health and safety of their members of staff; supporting members of staff experiencing sickness with a view to assisting a return to work where possible and sustaining an acceptable level of attendance.
- report on high-risk groups and initiatives to address causes of sickness where these may be work-related.
- endeavour, as far as is practicable, to ensure that all members of staff understand the standards of attendance expected by the Trust and the effect of absence on the Trust's ability to provide consistent, high-quality services.
- promote the procedure to be followed to encourage and support good attendance.
- promote the procedure to be followed when standards of attendance fall below what is expected.

The Trust will

- ensure those persons responsible for managing staff are appropriately trained and act uniformly in applying this policy.
- maintain accurate records of sickness absence and provide this data to the Payroll Section for each employee showing the duration of, and reasons for, all spells of sickness absence.
- ensure that all available options are considered for employees, being mindful of the need to act reasonably and sympathetically in all circumstances, and where procedures are abused, refer to Human Resources for advice on appropriate action.
- monitor this policy and sickness trends in conjunction with the recognised Trade Unions.

The Employee will

- make contact in the required way and at the earliest opportunity to advise of any absence.
- continue to remain in contact with the Trust as required to advise on any continued absence.
- complete and provide any relevant paperwork as required, including either self or medical certification in a timely way.

The Trust is aware that, from time to time, members of staff suffer illness or injury which may necessitate their absence from work. However, if sickness absence is ignored or managed insensitively, the effects can be disruptive and costly. Therefore, this policy has been prepared in consultation with the recognised Trade Unions. It aims to ensure that absences are managed fairly and consistently whilst also recognising the expectation that all members of staff need to be capable of an acceptable level of attendance at work in order to effectively carry out their duties.

### **Monitoring & Data Protection**

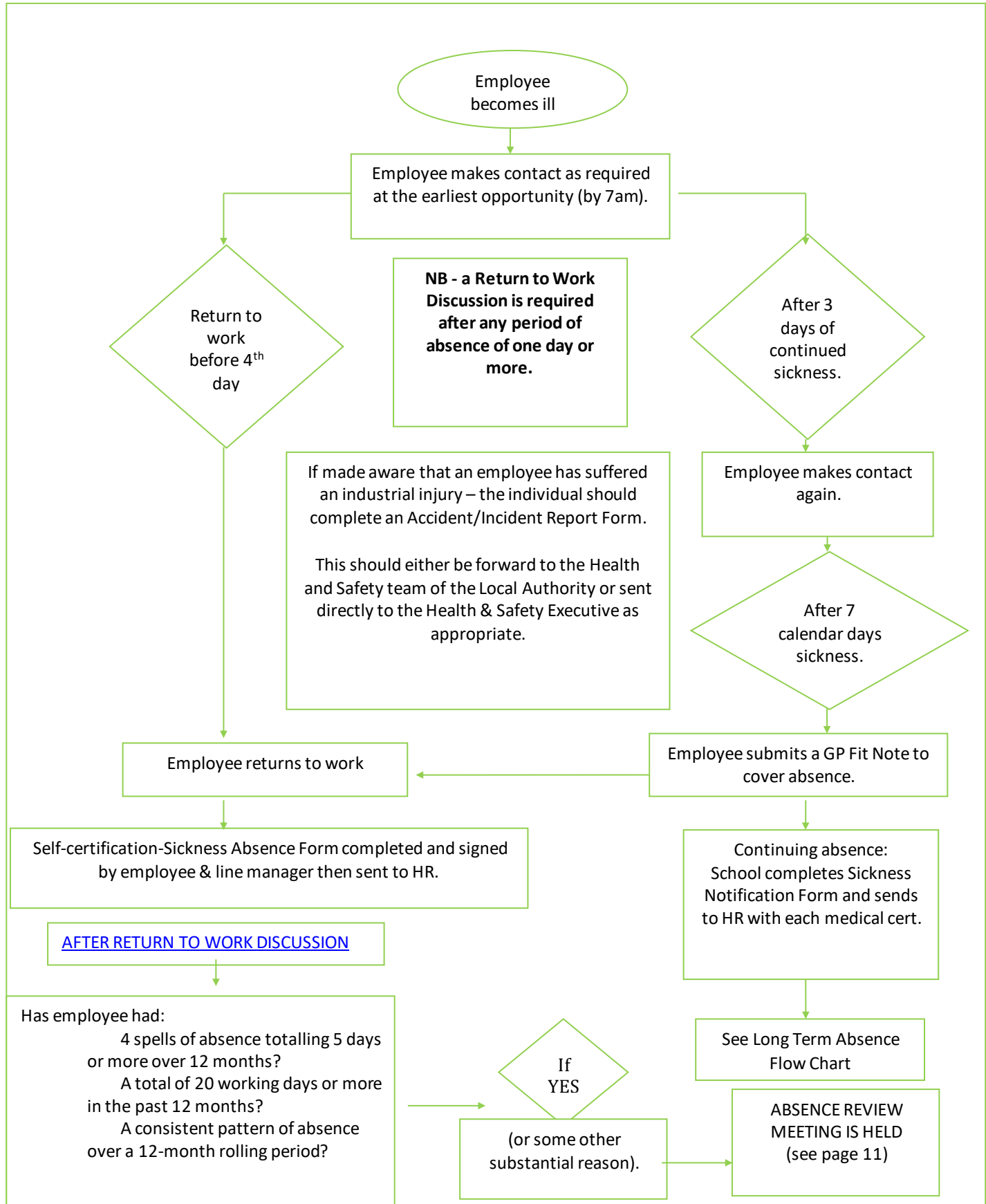
The Trust will monitor this policy and ensure that its application is compliant, consistent and fair to all staff. To support this, it is expected that those with responsibility for managing the attendance of staff ensure that any required data on absence is collected and processed consistently. Where appropriate, the Trust will engage the support and advice of Human Resources to ensure the effective use of this policy.

Information contained on any Medical Referral Form or notes of subsequent meetings relating to the health of an employee should be made available to the employee if requested. For further information, please contact Human Resources.

The Academy will ensure it complies with the provisions of the General Data Protection Regulation (2016) in respect of holding and processing employee health-related data in the course of following this policy.

## MANAGING DAY-TO-DAY SHORT-TERM ABSENCES

The Flowchart below identifies the way in which short-term absences are managed up until the need for an Absence Review Meeting.



## NOTIFICATION ARRANGEMENTS

Where an employee is unwell it is important that both the Trust and Employee maintain appropriate lines of communication and contact with each other. All members of staff are required to notify their school when they are absent due to sickness. This applies to permanent, temporary or casual members of staff. Failure to follow this procedure may result in withholding sick pay allowance and may result in disciplinary action.

In this Trust, unless exceptional circumstances apply, all members of staff must contact:

Oldway Primary School and Shiphay Learning Academy:	Please contact your Team Leader by 07:00, please refer to the school handbook for contact details.
Roselands Primary School:	Please contact the Head of School on details provided to them. Please refer to the school handbook for further details.
All Trust other Trust Staff:	Please contact your Team Leader by 07:00, or no later than 1 hour before your start time.

When notifying their manager of the absence, the employee should state:

- why are they absent.
- the date their illness started, where applicable.
- whether they have contacted, or intend to contact their GP.
- how long they are likely to be absent from work.

In addition, the following contractual notification is required:

### **Support staff:**

- contact their school on the first day of absence and at the earliest opportunity.
- contact again where the absence continues beyond three days.

### **Teaching Staff:**

- contact their school on the first day of absence and at the earliest opportunity.
- contact their school no later than the fourth working day of continuing absence.

Employees are required to maintain regular contact with their manager during their absence from work and notify their manager prior to their return to work.

### **Certification**

There are currently two forms of sickness notification, **Employee Self Certification** and **Statement of Fitness to Work**.

For all absences of **up to 7 days** (including a Saturday and a Sunday or other 'non-working day'), **self-certification** must be carried out by the employee on their return to work – this is done by completing the Sickness Absence Notification Form. It is the responsibility of members of staff to ensure that the description of the nature of the illness stated on the Sickness Absence Notification Form is accurate.

Sickness Absence Notification Forms must be signed by the employee in the case of self-certification and by the manager in all cases of sickness absence. When completed and duly signed, the forms should be passed to the delegated responsible person within the Trust for despatch to the Trust's Payroll provider at the earliest opportunity.

For absences **greater than 7 days** (including a Saturday and a Sunday or other 'non-working day'), members of staff must send to their manager a **Statement of Fitness to Work (Fit Note)**, from their GP / Hospital Doctor. A certificate signed by a specialist other than a GP or Hospital Doctor will only be accepted for a period of 7 days, after which the employee must see their GP.

The GP can advise whether the employee 'is not fit for work' or 'may be fit for work'. The GP will give a 'may be fit for work' statement if they think that the employee may be able to work if given the right support. They can then state suggested arrangements that could help the employee return to work, for example, altered hours, amended duties and / or workplace adaptations. Any obligations under the Equality Act 2010 (relating to disability) will still apply.

If the GP has indicated that the employee 'may be fit for work', managers must consider the alternative arrangements that have been suggested by the GP and discuss these with the employee to agree on an appropriate return to work plan. Where the Trust is not able to accommodate the suggested arrangements, the employee will be deemed to be sick for the duration of the certificate.

Where there are any concerns or queries, line managers are strongly advised to contact HR to support with Occupational Health referrals, to discuss any adjustments suggested by the GP and whether specific Occupational Health advice is also necessary before the employee can return to work. Line managers will need to ensure a Health and Safety Risk Assessment is carried out preferably before or as soon as the employee returns to work to ensure that any health concerns have been considered.

N.B. The Trust is aware that it is possible to purchase convincing fake doctors' fit notes via a website; these are sold as "novelty items and not for any illegal purpose" so purchase is not illegal. However, the NHS Counter Fraud Service has stated that anyone caught using fake sick notes is open to prosecution and if fraud is suspected, the NHS Counter Fraud Service should be advised. Such behaviour would lead to an internal investigation held under the Trust's Disciplinary policy.

If an employee wishes to work for another employer whilst on sick leave, this should be notified to their Academy. The nature of the illness and the material difference between the two types of employment can be relevant. The employee could be advised by their doctor that being in relevant active employment during sickness absence would help the recovery process.

### **Cosmetic Procedures**

Where an individual makes the decision to undertake an elective procedure, including cosmetic surgery; leave must be requested in advance. If granted, such leave will be unpaid. As a guide, "elective procedures" are defined by the Trust as treatments that are not eligible for NHS funding under the policy of the employee's local Clinical Commissioning Group, or treatment that is not intended to support an employee to facilitate or increase their attendance at work.

### **Notification of Sickness absence during Annual Leave or Periods of Academy closure**

Due to differing terms and conditions between employees in the Trust, all employees should notify their line manager both if they become ill, or become fit during periods of academy closure or whilst on annual leave (all year-round employees). This is important as it may impact sickness benefits.

When a member of Support staff has a contract of employment that entitles them to take annual leave during term time, and they become ill whilst on leave, they must notify their line manager as early as possible. If it is not possible for the cancelled annual leave to be taken within the current leave year, i.e. if the cancelled request falls close to the end of the leave year, up to four days may be carried forward to the following annual leave year.

### **Returning to work following sickness Absence**

If the nature of the cause of absence might call into question an employee's fitness to undertake the full range of their duties, then the employee should ensure that their GP has indicated that they "may be fit for work" and has given their recommendations on the certificate. This is to ensure that the employee is fit to perform modified duties safely and fully. Without such confirmation, the employee may be sent home (See section on Sending Home).

### **Absence during the working day**

When an employee becomes ill at work and has worked some or the entire first half of their normal working day only the second half of the day will be treated as sickness. The same principle will apply where an employee who was absent due to sickness for the first half of the day works some or the entire second half of their working day, i.e. only the first half of the day will be treated as sickness. Therefore, for the first or second half of the day (or shift) the employee will be credited with working a standard half-day. e.g. where an employee leaves work due to sickness at 11.00 am (and normally works a standard day), they will be recorded as being sick for the afternoon only.

### **Attending Medical Appointments**

Time off for medical appointments/treatment in a hospital or an emergency appointment associated with sickness or incapacity to work will be treated as sickness where the absence involves half a day or more and may qualify for sick pay.

#### **NB:**

- Managers should be notified in advance of such appointments
- Necessary paid time off will be granted for cancer screening
- Attendance at pregnancy-related appointments will not be treated as sickness

Routine medical, dental and ophthalmic appointments (including treatment) and complementary therapies (where this is recommended by a GP or the Occupational Health Service) that are not at a hospital should, where possible, be arranged to take place outside normal working hours.

It is recognised that sometimes the appointments may need to be within working hours and where there are particular difficulties managers will attempt to accommodate reasonable requests subject to service considerations.

Where the employee is referred for treatment by their GP at a hospital or other such clinic and the treatment lasts for half a day or more, the absence would be treated as sickness and may qualify for sick pay.

Sick leave cannot be claimed for treatments that are not specifically recommended by a GP.

### **Attending Counselling Sessions**

Paid time will be granted for appointments with the Trust's Counselling Service (where these occur during the employee's normal working hours), but not with private counsellors unless referred by the Trust's Counselling Service. The Employee must advise the Head of School / Line Manager in advance of such appointments if these fall within working time but other than the time, no other information will be sought by the academy.

The Trust's counselling service is provided by Health Assured and can be contacted on 0800 028 0199

### **RETURN TO WORK DISCUSSION**

After any period of absence of one day or more, the appropriate manager should arrange a short Return to Work discussion with the employee as soon as possible to establish that the employee is fit to return to work following the absence.

### **Aims of the discussion**

It is not intended that this discussion is conducted on a formal or intrusive basis, nor should it be approached by either party as a "problem" event but rather out of genuine concern for the employee's welfare due to their absence. It should be held on a "one-to-one" basis and in privacy.

The intention of the discussion is to enable both the manager and the employee to achieve an increased awareness of the importance of managing sickness absences and its impact on service provision. The aim is to assist the employee, to ensure proper management of absences and to offer appropriate support.

### **What to discuss**

The meeting should be appropriate to the circumstances and may include as a guide:

- Establishing the nature of the sickness.
- Agreeing whether the employee is now fit to resume their duties fully.
- Collecting a medical (GP's) certificate as appropriate.
- Enquiring if there is any further support the manager may be able to provide to assist the employee to avoid further absences. This may include a temporary adjustment to duties (on the understanding that the Occupational Health Service's advice would be necessary if there was a long-term medical problem. Where non-medical problems were the cause of the absence, or the problem was the sickness of a dependant, advice on appropriate support and procedures could be sought from Human Resources.
- Advising the employee, where appropriate, that a continuing level of absence may need to be reviewed at an **Absence Review Meeting**.
- Advising the employee of anything missed during their absence which may be relevant to them.
- Completing the sickness absence notification form, which serves to document the reason for absence and self-certification.

NB: A manager can suspend contractual sick pay if there is a reasonable belief that the employee is abusing the sickness scheme e.g. carrying out activities prejudicial to recovery. Further advice must be sought from Human Resources.

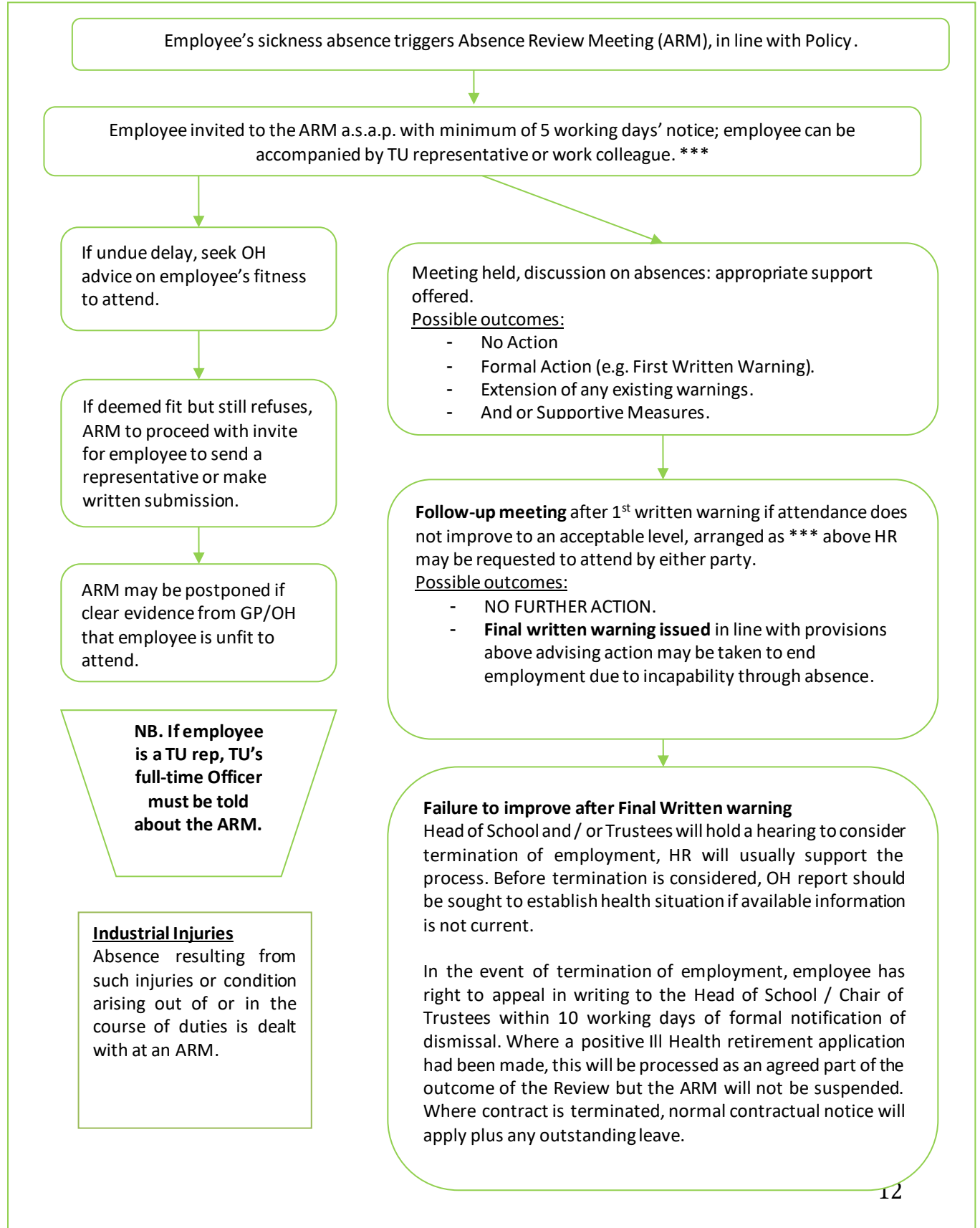
### **ABSENCE REVIEW MEETING**

This is the procedure for enabling a formal discussion about an employee's sickness absence (including absences due to industrial injury, pregnancy or disability) through monitoring sickness absence statistics and it should, if necessary, be followed to the conclusion.

The procedure seeks to ensure fair and consistent treatment of individuals and takes account of the operational needs of different services and personal circumstances.

In operating this procedure and achieving its aims there will inevitably be those members of staff who genuinely suffer from frequent periods of short-term sickness and substantial single periods of absence due to more serious sickness.

## ABSENCE REVIEW OVERVIEW



**Follow-up meeting** after 1<sup>st</sup> written warning if attendance does not improve to an acceptable level, arranged as above - HR may be requested to attend by either party.

**Possible outcomes:**

- No further action.
- A final written warning issued in line with the provisions above advising action may be taken to end employment due to incapability through absence.

If undue delay, seek OH advice on the employee's fitness to attend.

If deemed fit but still refuses, ARM to proceed with an invite for an employee to send a representative or make a written submission.

ARM may be postponed if clear evidence from GP/OH that the employee is unfit to attend.

Meeting held, discussion on absences: appropriate support offered - HR may be requested to attend by either party.

**Possible outcomes:**

- No Action.
- Formal Action (e.g. First Written Warning).
- Extension of any existing warnings.
- And or Supportive Measures.

**Failure to improve after Final Written warning**

Head of School and/or Trustees will hold a hearing to consider termination of employment. HR will support the process. Before termination is considered, an OH report should be sought to establish the health situation if available information is not current.

In the event of termination of employment, the employee has the right to appeal in writing to the Head of School/Chair of Trustees within 10 working days of formal notification of dismissal. Where a positive Ill Health retirement application has been made, this will be processed as an agreed part of the outcome of the Review but the ARM will not be suspended. Where a contract is terminated, normal contractual notice will apply plus any outstanding leave.

An employee invited to the ARM a.s.a.p. with a minimum of 5 working days' notice; the employee can be accompanied by a TU representative or work colleague.

An employee's sickness absence triggers an Absence Review Meeting (ARM), in line with Policy.

**Circumstances that trigger the Absence Review Procedure**

The Absence Review procedure will be followed when the Trust determines that it is appropriate to follow this procedure for an employee who is either on sick leave or has a record of sickness absences.

To ensure consistency in managing sickness absence, the Trust will review the matter with the employee in the following circumstances:

- **4 spells** or more of absence amounting in **total** over the period, equating to **5 working days or more**, over a **rolling period of 12 months** (whether self or GP certified) – e.g. 3 instances of 1-day absences and 1 instance of 2-days' absence = 5 days in total within the rolling 12-month period
- A total of **20 working days or more absence** in any 12-month rolling period;
- A **consistent pattern of absence** over a rolling period of 12 months or more which is significant for the Trust but falls short of the parameters above (for example – always taking Friday or Monday off work)
- Where there is **some other substantial reason** whereby the manager considers it necessary to meet

The key to the Absence Review Meeting is the opportunity to communicate formally with the employee as to their current health situation and consider what can be done to support the employee to remain or return to work. It is important that the nature of the sickness absence is understood, in order that the employee is not treated less favourably.

### **Absence Review Meeting Arrangements**

- The employee may be accompanied at the meeting by a Trade Union representative or work colleague, who may make representations on their behalf. (If the employee is a Trade Union representative, the manager should advise the Trade Union's full-time official that an interview is to be arranged).
- The employee should be given at least five working days' notice of the date and time, be advised of the purpose of the meeting and be provided with a copy of this procedure.
- There should be as short a time-lapse as possible between notification of the meeting and the date of the meeting to minimise any stress or worry on the part of the employee.
- If the employee is currently off sick and unwilling or unable to attend or goes off sick before the meeting, the manager should advise them in writing that the meeting will be re-arranged. Should this involve any unnecessary delay, then the advice of the Occupational Health Service will be sought on whether the employee is fit enough to attend the meeting or not.
- If the employee is deemed to be fit enough to attend but still refuses to do so, the meeting will be held in their absence, or they will be invited to send a representative.
- An Absence Review Meeting may be postponed when there is clear evidence from the employee's GP or Occupational Health that they are unfit to attend.

### **Matters to discuss**

The matters for discussion at the Absence Review Meeting will include informing the employee of the level of sickness absence they have had and allowing an opportunity for the employee to discuss their absences. The discussion should be appropriate to the circumstances, and should also include one or more of the following:

- Explore whether there may be some underlying reason causing the high level of absence (such as maternity-related absence or absences covered by the Equality Act 2010).
- Give the employee an opportunity to comment on the position and for those comments to be considered.
- Explore what if anything can be done by the employee to improve the situation, e.g. advice from their GP, referral to a specialist, getting an eye test, reviewing their work/life balance etc.

- Consider what support, if any, the manager is able to give to assist the employee to improve their attendance.
- Offer any other available support including how to access Counselling support or support provided by Human Resources such as coaching.

### Outcomes

Each Absence Review Meeting should conclude with a clearly defined outcome. These outcomes will fall into one of the following categories:

- No formal Action
- Supportive Measures
- Formal Action

### No Formal Action

Where an employee has been absent from work for maternity-related sickness, no formal action will result. For employees who are absent from work directly as a result of a medical condition that meets the criteria under the Equality Act, formal action will only be considered where this is deemed to be reasonable in the circumstances.

For all other types of sickness absence, the manager can decide to take no formal action. This will be dependent on the situation and individual circumstances. Managers should make the individual aware that further periods of sickness absence may lead to formal action being taken if a further Absence Review Meeting is required.

### Supportive Measures

Supportive measures may be needed either in place of or in addition to formal/no formal action. All supportive measures must be documented and actioned appropriately. Supportive measures can include a whole range of formal and informal actions such as:

- **Referral to Occupational Health** - where there is a clear need for medical advice.
- **Access to Work Assessment** – where an employee has a disability or mental health condition that may entitle them to a Government grant to assist them to stay in work.
- **Reasonable Adjustments** – required by law to ensure that disabled workers are given equal opportunity to stay in work. Adjustments can be made on a temporary or permanent basis.
- **Extended Trigger Points** – where the levels of absence are adjusted.
- **Changes to working arrangements/patterns** - this can be either a temporary change at the request of the employee or a more formal reasonable adjustment.

### Formal Action

As a result of the Absence Review Meeting, it may be appropriate to take Formal Action. Formal action can take the form of:

- The need for the employee to provide **certification by a GP from the first day of absence** for a defined period (with reimbursement of cost incurred in obtaining such certificates).
- **First Written Warning** - the manager needs to set a level which is reasonable given the type of employment e.g., the average for their work group **within the setting**. This would not be an automatic outcome of the interview but would depend on the circumstances.

- **Extension of an existing warning** – depending on the circumstances it may be appropriate to extend the current level of warning (which must still be in force) for a further period of 6-12 months. (Circumstances where a warning may be extended can include e.g., where there may have been some improvement but not at the level expected).
- **Final Written Warning** (with right of appeal).
- **Dismissal** (with right of appeal).

All warnings will remain in force for a defined period:

First written warning	6 months
Final written warning	12 months

These periods are a guide only and the precise periods that the warnings will be in force will depend on the circumstances and will be confirmed in writing. Warnings will be considered spent after the specified period and will be disregarded for future disciplinary purposes.

In exceptional circumstances, where an employee’s attendance has been a significant cause of concern and no satisfactory reason for the high level of absence is offered by the employee, it is possible to move straight to a Final Written Warning. This should not be considered without discussion with Senior Management and it is also advised that advice is sought from Human Resources, in the interests of promoting consistency across the Trust. The consequences of a final written warning being given must be put in writing to an employee – i.e. if their attendance does not improve significantly, then their employment may be in jeopardy.

#### Follow-up Meetings

A further Absence Review Meeting should take place **between one and three months from the Absence Review Meeting** in order to monitor improvement and any supportive measures that are in place.

#### Follow-up meetings, after a First Written Warning is issued

In the event of a First Written Warning being issued and an employee’s record not improving to the level specified, a further Absence Review Meeting will take place between the manager concerned and the employee, who may be **accompanied** at the meeting by a Trade Union representative or a work colleague. (If the employee is a Trade Union representative, the manager should advise the Trade Union’s full-time officer, in advance of the meeting).

At least **5 working days’ written notice** of the meeting should be given. Either party may also request the attendance of a **representative from Human Resources**.

The content of the interview should be consistent with the provisions set out above in **“Matters to Discuss”**.

Where the employee’s absence remains a significant cause of concern and no satisfactory reason for the continued level of absence is offered by the employee, they might be issued with a **Final Written Warning**. As part of this process, the employee will be told that unless their absence levels over a given period are reduced to a reasonable level, then appropriate action may be taken to terminate their employment on the grounds of incapability to perform duties required due to the level of absence from work.

#### Dismissal following Written Warnings

- **Ill Health Capability Dismissal**
  - Following the Absence Review Process
  - Due to long term sickness Absence
- **Medical Retirement**
  - Granted by the Pension Provider on the advice of Medical Information (Ill Health Retirement).



Where the employee's absence remains a significant cause of concern and no satisfactory reason for the continued level of absence is offered by the employee, the Head of School or CEO will convene a hearing to consider termination of the employee's employment. The Trust will typically invite a representative from Human Resources to attend the hearing to ensure a fair and consistent process and to provide advice where appropriate.

The Trust will write to the employee inviting them to a formal meeting to consider their dismissal on the grounds of ill health Capability. The employee should receive **5** days written notification of this meeting and will be given the right to be accompanied by a Trade Union representative or a work colleague (if the employee is a Trade Union representative, the manager should advise the Trade Union's full-time officer in advance of the meeting).

The Trust will consider any reasonable adjustments that may need to be offered to the employee so that they can either attend or put forward representation at the meeting.

In this Trust, the CEO will consider dismissal on the grounds of Ill Health Capability.

During the meeting, factual information that has been obtained i.e. absences/warnings to date will be presented, along with any support that has been given, adjustments made, and any information from Occupational Health. The CEO will then invite the employee to make any representations as required. When the CEO is satisfied that all sides have had an opportunity to ask questions, the meeting will be adjourned whilst a decision is made.

Where this is possible, the employee will be invited back into the meeting and the outcome will be given verbally. Where the employee is dismissed, this will be with notice. Where the employee is a Teacher, the CEO will need to consider the impact of the notice on the teacher's notional end dates and any additional contractual notice.

Where there is a need for further information to be obtained prior to any decision being taken, the employee will be informed that they will receive a written decision within **5 working days of the hearing**.

The Trust will ensure that the employee and their representative have had access to any Occupational Health feedback being considered, prior to any final hearing.

### **Appeals**

Within this policy, the right of appeal applies where the employee has received either a **final written warning** or has been **dismissed**.

Penalty	Appeal Deadline for Employee	When will this be heard?	Who will hear it?	Verbal outcome	Written Confirmation
First Written Warning	No Right of Appeal	N/A	N/A	N/A	N/A

Final Written Warning	Within 5 working days of receipt of letter	Within 10 working days of receipt of written appeal	CEO/ Trustees	Within 2 working days of the appeal	Within 5 working days of the appeal hearing
Appeal against Dismissal	Within 10 working days of receipt of letter	Within 15 working days of receipt of written appeal	CEO/ Trustees		

Any wish to appeal must be in writing and made to the Chair of Trustees who will either hear the appeal or ensure this is heard by the appropriate person / governors. At the appeal, the employee has the right to be accompanied by a Trade Union representative or work colleague. Any documentation and minutes of previous meetings should be circulated in order that both parties have access to these at least five working days prior to any date of the hearing.

The decisions open to the appeal panel are:

- To uphold the appeal.
- To confirm the original decision.
- To impose a lesser penalty.
- To vary the terms (such as timescales) attached to the penalty.

The appeal against dismissal hearing will not be a re-hearing of the case unless the Appeals Committee of the Trustee Board decides. Their principal role will be to review whether the decision to dismiss was reasonable, taking into account the circumstances of the case.

Individuals and their Trade Union representatives will be able to make written and verbal **representations** at this appeal hearing. The decision of the Appeals Committee of the Governing Body **will be final** within the internal procedures of the Trust.

### MAKING USE OF OCCUPATIONAL HEALTH

The purpose of a medical referral is:

- To assist in the understanding of the employee's health problems.
- To obtain the Occupational Health Service's opinion on the likelihood of the employee achieving an acceptable level of attendance in the future.
- To advise the manager to consider possible adjustments which might help the employee improve their attendance (e.g. specific ergonomic assessment).
- To advise on a pattern of absences that are because of a range of minor and unrelated conditions.
- The employee appears to be suffering from a long-term ailment, which shows no sign of improving.

In the circumstances listed below the appropriate manager will normally, after consultation with Human Resources, refer the employee concerned to the Trust's Occupational Health Service:

- Prior to any dismissal on the grounds of Ill Health Capability.
- Where an employee has currently **been off sick due to illness or injury** for a reasonable period (**generally 20 working days or more**) and a date of return has not yet been indicated.
- As an outcome of an **Absence Review Meeting**.

- The employee has suffered an illness or injury or is diagnosed as having a condition which may **permanently affect their ability** to perform the duties of the post.
- The employee or his/her medical practitioner requests consideration of a **change of duties on medical grounds** asks their manager for a referral or asks to be considered for **Permanent Ill Health Retirement**.
- The employee gives notice of **resignation on health grounds**.
- Some other **substantial medical reason**.

In some circumstances (e.g. routine surgery where the likely period of absence can be established) a referral to Occupational Health may not be considered necessary although this should be kept under review with each case assessed individually. Where absences continue beyond four weeks, it is entirely appropriate to maintain communication to assess the likelihood of a return to work. (Where applicable, this communication can be maintained via a union representative.)

### PROCEDURE FOR MAKING A REFERRAL

#### **Consent**

The employee should be advised that the Trust wishes to make the referral and should receive a tactful explanation as to why this is being requested (i.e. the need to review their health and seek some advice about what if anything can be done to support them to remain/return to work). The employee **must** give either verbal or written consent prior to any referral being submitted to Occupational Health.

#### **Occupational Health Provider**

Heales currently provides Occupational Health Services to the Trust. Where a referral is made, this is generated via a web-based secure online system by the appointed person within the Trust. The referral form provides the necessary information that will be considered by Heales. It is important for the referring manager to include as much relevant information as possible, and to include any support that has already been given.

The referral will be triaged by Heales to determine the level of medical expertise required to deal with the referral. Once triaged, a medical appointment will be arranged with the employee. This may either be in the form of a telephone appointment, face-to-face appointment with a nurse, or face-to-face appointment with the physician.

Where the Trust wishes to seek an emergency appointment outside of a normal clinic, this can be arranged but will incur additional charges.

Within the referral process, the Occupational Health Service may seek the employee's **consent to contact their GP** or a Specialist if it is considered necessary.

On receipt of the Occupational Health Service's report, it is advised that a further meeting is held to discuss the content of the Occupational Health feedback and review any adjustments that may need to be made to support the employee. The meeting will take the form of an Absence Review Meeting and the procedure in **Section 6** will apply. The Head of School or CEO may wish to postpone the meeting until the report from the Occupational Health Service has been received.

### **Refusal/Failure to attend an appointment**

If the employee refuses to be referred, or upon referral, fails to attend a scheduled appointment with the Occupational Health Service, the manager in accordance with these procedures may **make a decision on the known facts**. In the event of a refusal by the employee Human Resources advice should be sought.

## **MANAGING EMPLOYEES WITH RECOGNISED MEDICAL CONDITIONS**

### **Access to Work Assessments**

Access to Work is a specialist disability service delivered by Jobcentre Plus, which gives practical advice and support to disabled people, whether they are working, self-employed or looking for employment. Access to Work is provided where someone needs support or adaptations beyond the reasonable adjustments which the Academy as an employer is legally obliged to provide under the Equality Act.

To be eligible for help, a person must:

- have a disability or health condition that has a long-term substantial adverse effect on their ability to carry out their job.
- be over 16 years old.
- be in, or about to start, paid employment (including self-employment).
- normally live and work in Great Britain, and;
- not be claiming Incapacity Benefit or Employment Support Allowance once they are in work.

Access to Work can support the Trust in a number of ways. For example, it can provide funds towards:

- special aids and equipment.
- adaptations to equipment.
- travel to work.
- travel in work.
- communication support at interviews.
- a wide variety of support workers, and;
- the Mental Health Support Service.

Access to Work does not provide the support itself but provides a grant to reimburse the cost of the support that is needed.

The level of grant will depend on a number of factors including employment status, length of service and the type of help required. Under specific criteria, grants covering 100% of costs can be met. Alternatively, costs can be shared by the Trust and Access to Work.

More information about Access to Work is available at the following link:

<https://www.gov.uk/access-to-work/apply>

### **Stress Risk Assessments**

The Trust will refer to the Health and Safety Executive's website for advice and online support to tackle Work-Related Stress. This may include completing a Stress Risk Assessment to identify and eliminate the risks. Where advised to do so by either Occupational Health or because an employee has highlighted to the Trust that they may be suffering from Work Related Stress, the Trust may require the employee to undertake an assessment and will put measures in place to support the employee. All assessments will be documented in

the Employee's file. More information can be obtained via the Health and Safety Executive's website <https://www.hse.gov.uk/stress/risk-assessment.htm>.

### **Assessments for Dyslexia**

Where an employee has identified that they have Dyslexia, but has not been formally assessed for this, Occupational Health will usually be contacted in the first instance to identify how best to support the employee. Where possible, the Trust will support the Employee to obtain an up-to-date assessment of need. Access to Work may also be utilised to support the employee.

### **Reasonable Adjustment Agreements**

Where the Employee has a disability, it will normally be appropriate to consider whether it would be reasonable to agree on a permanent adjustment to their duties and / or working arrangements as provided under the Equality Act 2010.

The advice of the Trust's Occupational Health Service would be sought and any adjustment would be subject to the agreement of the employee and their Head of School / Line Manager. Any Reasonable Adjustments should be recorded using a Reasonable Adjustment Agreement form, which can be regularly reviewed and monitored.

## **MANAGING LONG-TERM SICKNESS ABSENCE OR PERMANENT ILL HEALTH**

Where an employee has been deemed unfit to attend work due to sickness, and their absence continues beyond a period of 4-6 weeks, this will be deemed by the Trust as long-term sickness.

Earlier sections of this policy apply in relation to notification requirements and making use of Occupational Health. However, where an employee remains unwell on an ongoing basis, the Trust will need to consider a different approach to that of short-term absence. For example, the Absence Review procedure would not be a practical response to long-term absence, as the employee will not be at work to demonstrate any improvements etc.

The way that the Trust deals with and supports long-term sickness absence will vary depending on individual circumstances (e.g. a broken leg may require a fixed amount of time away whereas a degenerative medical condition may require more time off as it progresses.) Ultimately, however, decisions taken in relation to an employee who is on long-term sick will always take into account the needs of the pupils, the individual circumstances and ultimately the business needs of the Trust. This may mean that a decision is taken to terminate the employment of an employee who is on long-term sickness, and this can happen prior to an employee exhausting their full sickness entitlement.

### **Contact whilst on long-term sickness Absence**

Where an employee is considered to be absent on long-term sickness, it will be important to maintain a supportive level of contact. Employees who are on long-term sick should expect to be contacted by the Trust to enquire as to how they are and provide any important updates etc. Any such contact should be reasonable in the circumstances. Where an employee is absent due to work, they may not wish to receive any contact from the Trust. In these circumstances, it may be reasonable to communicate via another means, such as in writing, through a union representative or via a workplace colleague or family member. Equally, Human Resources and Occupational Health can provide some contact. It is unacceptable, however, for an employee to refuse any or all contact. Where this occurs, and all attempts by the employee have failed, the Trust will seek advice from Human Resources.

## Occupational Health Service

Where an employee has been signed off from work and has been absent for 20 continuous days or more, they should be referred to Occupational Health. Occupational Health advice is vital where an employee is on long-term sickness absence as it will provide key information to the Trust namely:

- The severity of the illness
- The employee's short, medium- or longer-term health prognosis
- What treatment is required and any timescales
- What adjustments may allow a return to work
- Whether the Employee is likely to be covered by the Equality Act 2010.

It may also be necessary for the employee to be reviewed on a regular basis, for example, once any treatment has been given or where recovery time has occurred and the employee is either ready to return or remains unfit. By making use of Occupational Health, the Trust will ensure that it is obtaining independent medical advice to support the employee throughout their period of sickness. However, whilst the Trust is committed to supporting its employees, it may become necessary to consider dismissing the employee on the grounds of ill health capability. Where this is the case, medical information from Occupational Health should be used to demonstrate that a return to work is unlikely to occur in a reasonable timeframe.

## Returning to work from long-term sickness

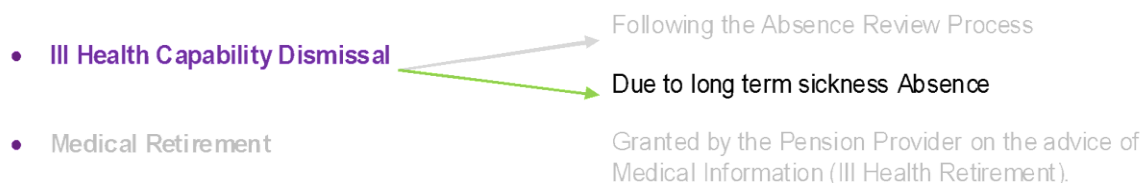
When an employee has been absent from work due to long-term sickness but is fit to return to work, it is usual for them to do so via a Phased Return. A phased return is used to allow the employee to build back into their hours gradually so that their return is successful and they re-build stamina.

## Home Visits

Home visits usually only occur either where it is more convenient to meet at the employee's home (i.e. because they physically cannot travel e.g. because of broken bones etc), or in cases where they may be very unwell, and where there is no likelihood of a return to work in the short-medium term. Home visits are usually informal meetings and will only take place with the agreement of the employee concerned. Prior to conducting a home visit, the Trust should seek advice from Human Resources as care should be taken to ensure that they are not intimidating to the employee.

## ILL HEALTH CAPABILITY DISMISSAL – LONG-TERM SICKNESS ABSENCE

Dismissal on the grounds of long-term sickness (Ill Health Capability) will usually only occur where an employee who is off sick, is deemed by Occupational Health to be unlikely to return to work in the short-medium term **AND** where Medical Retirement is not an option either because the employee is not in the pension scheme, or they are not considered eligible in the opinion of independent medical professionals.



Before any Ill Health Capability Meeting is set up to consider dismissal, the Trust should ensure that it has obtained sufficient information about the employee and their medical prognosis, as well as explore what

options could be considered before dismissal. It will be important to take this information into account to ensure that any decision made by the Trust is reasonable having taken into account all the facts.

Factors that will be considered by the Trust prior to an Ill Health Capability Meeting being called dismissal:

- Likelihood of any return on the advice of recent and up-to-date information from Occupational Health.
- Whether or not there are any **reasonable adjustments** that could be put into place that could enable the employee to return in any capacity.
- The possibility of being **redeployed** into an alternative vacant post.
- The **medical advice**, and whether it is **accepted** by the employee.
- Whether **Medical Retirement** is an option and the pension implications of Medical Retirement should the employee qualify (including the Injury Allowance Scheme if retirement is a consequence of an industrial injury).
- The implications of termination of employment on grounds of **Ill Health Capability** where the employee does not meet the criteria for Medical Retirement.

### **Ill Health Capability Meeting**

The CEO or First Committee of Trustees (nominated by the Trustee Board) will convene a hearing to consider termination of the employee's employment. The Trust will usually invite **Human Resources** to be present at this hearing to advise the Head of School or CEO.

The Trust will write to the employee inviting them to a formal meeting to consider their dismissal on the grounds of ill health Capability. The employee should receive **5** days written notification of this meeting and will be given the right to be accompanied by a Trade Union representative or a work colleague (if the employee is a Trade Union representative, the manager should advise the Trade Union's full-time officer in advance of the meeting.)

The Trust will consider any reasonable adjustments that may need to be offered to the employee so that they can either attend or put forward representation at the meeting.

In this Trust the CEO, has delegated responsibility to consider dismissal on the grounds of Ill Health Capability.

During the meeting, the factual information that has been obtained will be presented, i.e. absences to date, along with any support that has been given, adjustments made, and any information from Occupational Health. The CEO / First Committee of Trustees will then invite the employee to make any representations as required. When the CEO / Committee are satisfied that all sides have had an opportunity to ask questions, the meeting will be adjourned whilst a decision is made.

Where this is possible, the employee will be invited back into the meeting and the outcome will be given verbally. Where the employee is dismissed, this will be with notice. Where the employee is a Teacher, the CEO / Trustees will need to consider the impact of notice on the teacher's notional end dates and any additional contractual notice.

Where there is a need for further information to be obtained prior to any decision being taken, the employee will be informed that they will receive a written decision within **5 working days of the hearing**.

The Trust will ensure that the employee and their representative have had access to any Occupational Health

feedback being considered, prior to any final hearing.

### Right to Appeal

In the event of termination, there would be a right to appeal within 10 working days of the formal notification of the dismissal decision to the individual. Appeals should be in writing to the relevant Chair of Trustees.

	Appeal Deadline for Employee	When will this be heard?	Who will hear it?	Verbal outcome	Written Confirmation
Appeal against Dismissal	Within 10 working days of receipt of letter	Within 15 working days of receipt of written appeal	Chair of Trustees	Within 2 working days of the appeal	Within 5 working days of the appeal hearing

After considering the evidence, the person / Committee hearing the appeal must verbally give the decision within 2 working days. The decision might be:

- That the appeal was successful and the decision to dismiss is to be reversed.
- That the appeal was unsuccessful and the decision to dismiss will be upheld.

The results of the appeal hearing must normally be confirmed in writing within 5 working days of the decision being delivered. The letter should briefly state the reason for the decision.

The appeal against the dismissal hearing will not be a rehearing of the case unless the Appeals Committee of the Trustee Board decides. Their principal role will be to review whether the decision to dismiss was reasonable, taking into account the circumstances of the case.

Individuals and their Trade Union representatives will be able to make written and verbal representations at this appeal hearing. The decision of the Appeals Committee of the Trustee Board will be final within the internal procedures of the Trust.

### MEDICAL RETIREMENT

Under certain cases, employees may be medically retired on the grounds of ill health. Medical Retirement is **only available** to employees who are registered with either the Local Government Pension Scheme (a qualification period applies), or the Teachers' Pension Scheme and are on the Payroll at the time of being granted ill health retirement.

- Ill Health Capability Dismissal
  - Following the Absence Review Process
  - Due to long term sickness Absence
- Medical Retirement
  - Granted by the Pension Provider on the advice of Medical Information (Ill Health Retirement).

### Teaching staff

Under the Teachers' Pension Arrangements, **only the teacher** may apply to Teachers' Pensions for ill health retirement benefits. The Teacher should download the relevant form from the Teachers Pensions Website <https://www.teacherspensions.co.uk> and complete the relevant sections. Having completed the relevant

information, the teacher can **either** request an appointment with the Trust's Occupational Health Provider and ask them to complete the forms **or** they can choose to take the form to their own Specialist, for example, to complete. Once the relevant forms have been completed, the teacher is responsible for sending their application to Teachers' Pensions for consideration.

Where an employee chooses to request medical information from the Trust's Occupational Health provider, any associated costs for this will be paid by the Trust. However, where the employee chooses to utilise an independent medical provider, the employee **must** first agree to costs of obtaining this information with the Head of School who will then authorise it. Failure to do so may result in the Trust refusing to pay for such medical information.

Following a decision being made by Teachers' Pensions, the employee will be notified. Where Medical Retirement has been granted, a mutually convenient date for the commencement of the pension will be agreed between the teacher and the trust. Ill health benefits must come into payment at the earliest possible date because the person is unfit for further employment as a teacher. The teacher would not normally have a right to complain to an employment tribunal on grounds of unfair dismissal, since no dismissal is deemed to have taken place. The CEO or Head of School should contact Human Resources for advice and guidance. Information and guidance from the Teachers' Pension Scheme is available on the Teachers' Pension Scheme Website.

### **Support Staff**

With the employee's consent, the Trust will seek to obtain consideration for Medical Retirement via its Occupational Health provider.

To qualify for ill health benefits the employee will be deemed to be permanently unable to do their job and have a reduced likelihood of being capable of gainful employment before age 65.

There are graded levels of benefit based on how likely the employee is to be capable of obtaining gainful employment after they leave.

The different levels of benefit are:

- **No reasonable prospect of being capable of gainful employment before age 65** - ill health benefits are based on the membership that the employee would have had if they had stayed in the Scheme until age 65.
- **Unlikely to be capable of gainful employment within 3 years of leaving**, but may be capable of doing so before 65 then ill health benefits are based on membership built up to leaving plus 25% of prospective membership from leaving to age 65.
- **Likely to be capable of gainful employment within 3 years of leaving or before age 65 if earlier**, ill health benefits are based on membership at leaving. Payment of these benefits will be stopped after 3 years, or earlier if the employee is in gainful employment or becomes capable of such employment, provided they are not aged 65 by then. If the payment is stopped it will become payable again from age 65 but there are provisions to allow it to be paid earlier. Details will be provided at the time.

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

### **Medical Retirement and Contractual Notice**

Where it is recommended by Occupational Health and the employee accepts Medical Retirement, the Trust will seek to terminate employment so that the employee can start to benefit from the commencement of their Pension.

To do this, the Trust will seek to meet with the employee where this is possible. The employee may be accompanied at this meeting by a Trade Union representative and/or friend/relative. Following consultation with the CEO /Trustee Board, a mutually convenient commencement of pension date will be agreed between the Trust and the Employee.

During any period of notice, normal full pay (less sickness benefits) will apply unless the employee agrees to immediate termination in which case by agreement a payment in compensation will be made. This payment will be calculated based on the salary rate applicable on the date of termination. Employees who are medically retired, do not have an entitlement to exhaust their sick pay allowance.

### **Right to Appeal**

If the employee does not agree to Medical Retirement, they should be advised of their appeal rights, including (where the medical advice is not accepted by the employee) the **right to have their case referred to a second Independent Occupational Health Service.**

## **GENERAL TERMS AND CONDITIONS DURING SICKNESS ABSENCE**

### **Occupational Sick Pay**

Subject to the provisions of the sickness scheme, an employee absent from duty due to illness (this term is deemed to include injury) shall be entitled to receive (in any period of 1 year) Occupational Sick Pay in accordance with the following allowances:

#### **Teaching staff**

During the 1st year of service.	Full pay for 25 working days and, after completing 4 calendar months' service, half pay for 50 working days.
During the 2nd year of service.	Full pay for 50 working days and then half pay for 50 working days.
During the 3rd year of service.	Full pay for 75 working days and half pay for 75 working days.
During 4th and subsequent years.	Full pay for 100 working days and half pay for 100 working days.

#### **Support Staff**

During any Period of Probation.	Statutory Sick Pay only.
During the 1st year of service (& after any period of Probation where applicable).	Full pay for 1 month and, after completing 4 months' service, half pay for 2 months.
During the 2nd year of service.	Full pay for 2 months and half pay for 2 months.
During the 3rd year of service.	Full pay for 4 months and half pay for 4 months.
During the 4th and fifth years of	Full pay for 5 months and half pay for 5 months.

service.	
After 5th years of service.	Full pay for 6 months and half pay for 6 months.

The rate of allowance and the period for which it shall be paid for any absence due to illness shall be determined by deducting from the entitlement on the first day of absence, the aggregate of the periods of absence due to illness during the twelve months immediately preceding the first day of absence. **NB, there is no entitlement to exhaust sickness pay.**

Sick pay shall include (where appropriate) Statutory Sick Pay and shall not exceed full normal pay. Other detailed provisions are contained in the National Conditions of Service document (The “Green Book”) and the Terms and Conditions of Service for School Teachers (Burgundy Book), available in Human Resources.

#### **Extending sickness pay**

The Trust **will not normally extend Occupational Sick Pay allowances except in exceptional circumstances** but would not wish financial pressures to result in the employee returning to work before being fit to do so. Other options may be:

- Returning to work on a phased basis;
- Returning temporarily to other duties where this is agreed by the Occupational Health Service as suitable given the nature of the employee’s health problem;
- Utilising annual leave where applicable

#### **Annual Leave during sickness absence**

Under employment case law (i.e. *Stringer and others v HM Revenue and Customs, 2009*) employees who are absent due to sickness continue to accrue **statutory** annual leave, regardless of the length of time they are off sick. Employees are also entitled to request paid statutory annual leave during their sickness absence, in effect allowing them to receive normal contractual pay during their sickness absence. This payment should not interfere with any contractual sickness payments that the employee may be receiving, contractual sick pay will be suspended and then resumed to allow the annual leave to be paid. Employees are entitled to a maximum of **28 days statutory** annual leave in this case (pro-rata for part-time employees), less any annual leave and Bank Holidays already taken during the period of leave. This is in line with the Working Time Regulations (1998).

#### **Teachers**

Teaching staff are deemed to have taken their entitlement to annual leave during periods of Academy closure. Where a teacher returns from sickness absence, the Trust will check that there are still enough available periods of closure available in the remainder of the annual leave year to deem that they have taken their entitlement of 28 statutory days. Where this is the case, no further action will be required. However, where this is not the case, any outstanding statutory days can be carried over and taken during periods of closure in the following year.

#### **Support Staff**

Support staff are entitled to contractual annual leave in line with the Trust’s terms and conditions of employment.

### **Term Time Only Support Staff**

For Term time only support staff, ordinarily, pay for contractual annual leave is added as a factor to the employee's pay, and like teachers, they are deemed to have taken the physical time during periods of Academy closure. When a member of the support staff is sick, they continue to accrue annual leave. Therefore, like teachers, where support staff return from sickness absence, the Trust will check that there are still enough periods of closure available in the remainder of the annual leave year to deem that they have taken their entitlement of leave. Where this is the case, no further action will be required. However, where this is not the case, it may be appropriate for the individual to carry forward any accrued statutory annual leave to the next annual leave year, to be taken during periods of Academy closure.

### **Support Staff Working all year**

Where support staff can take annual leave during term time (i.e. because they work over 52 weeks) but have been absent due to sickness, they should be encouraged to take any outstanding statutory annual leave during the remainder of the leave year (where able to do so).

Annual leave requests should be made directly to the employee's Line Manager through the Trust's usual annual leave request process.

### **Teachers and Support Staff**

Where employees are absent due to sickness and do not request to take their annual leave during the current leave year, the statutory leave may be carried forward into the following leave year, to be taken at a time to be agreed with the Head of School. Employees are encouraged to request to take their annual leave before they return to work wherever possible (whether this is in the current leave year or next) to prevent a build-up of leave.

The Trust should notify Payroll of any approved annual leave requests for employees who are on long-term sick leave in order for their pay to be adjusted accordingly.

The Trust is advised to contact Human Resources if there are any queries.

Where an employee's contract is terminated on the grounds of medical incapability or permanent ill health, annual leave entitlement will be at the rate prescribed under Working Time Regulations and this will be deemed to have been included within the notice period. No other payment will be made.

### **SICKNESS ARISING THROUGH INDUSTRIAL DISEASE, ACCIDENT, ASSAULT OR IRRESPONSIBLE BEHAVIOUR**

The Trust is committed to its Health and Safety requirements and will ensure that risk assessments are undertaken and that there are safe systems of work in place. However, from time to time, it is possible that an employee will be absent from work due to sickness as a result of either an accident, industrial disease or assault **arising out of or in the course of employment at the Trust.**

Where this is the case, normal certification arrangements will apply and absence will still be reviewed under the Absence Review Procedure, though consideration may differ.

When the Trust is first aware that an employee may have suffered an industrial injury, they should take appropriate action to notify their Health and Safety representative.

Any accident or assault **must** be notified by the employee on an **Accident/Occurrence Form**, endorsed by the Head of School/line manager and kept in the Academy's/Trust's Health and Safety records for reference.

In cases of dispute, as to the cause of the absence, the opinion of the Trust's Occupational Health Service may be sought.

### **Third-Party Negligence**

Where the absence of an employee is occasioned by the actionable negligence of a third party in respect of which damages are recoverable, the employee will advise the Trust of this as soon as possible. In these circumstances, the Trust may seek to require the employee to refund a sum equal to the aggregate of sick pay paid to them during the period of absence or such part thereof as is deemed appropriate, but not exceeding the amount of the damages recovered. In the event of the claim for damages being settled on a proportionate basis, the Trust will require full details and will determine the actual proportion of sick pay to be refunded.

### **Payment of Industrial Sick Pay**

Industrial Sick Pay is payable to all members of staff who suffer a work-related accident or work-related stress whilst undertaking their day-to-day duties. Industrial Sick Pay is separate from Occupational Sick Pay. The payment of Industrial Sick Pay does not affect the Occupational Sick Pay entitlement and vice versa.

Where an accident at work occurs, payment of Industrial Sick pay will only begin once the accident has been reported and investigated and the Head of School is satisfied that any injury was a result of an accident in work time. Where necessary, Occupational Health will be asked to determine this.

Where the employee is suffering from stress due to work, payment of Industrial sick pay will only begin once the employee has provided evidence from their GP that their illness has been caused directly by work. Occupational Health will (in all cases) be asked to provide an independent medical opinion.

Industrial Sick Pay allowances are as follows:

Length of Continuous Local Government Service	Full pay:	Half Pay (up to):
During Any Period of Probation	Nil	Nil
1st four months	1 month	Nil
During 1st year	1 month	2 months
During 2nd year	2 months	2 months
During 3rd year	4 months	4 months
During 4th year	5 months	5 months
During 5th year	5 months	5 months
After 5 years	6 months	6 months

Industrial Sick Pay is on a sliding scale and is calculated on a 12-month rolling year period. Industrial Sick Pay equates to the employee's normal contractual rate of pay.

To claim Industrial Sick Pay, the Trust should complete the relevant section of the Sickness Absence Notification Form. Where the Trust specifies that the sickness is work-related, payment will be automatically made to the employee.

Where the Head of School is uncertain as to whether Industrial Sick Pay should be paid then they should seek further advice from Human Resources to discuss the circumstances of the case before indicating any decision to Payroll.

The Trust has the discretion to award a further payment of Industrial Sick Pay once the normal allocation has been exhausted.

### **Harm Caused by Irresponsible Behaviour**

The Trust will consider terminating sick pay allowances if it is proven that the absence was caused by deliberate behaviour, the employee has not acted in a manner which supported recovery or has failed to adhere to the conditions of the sick pay scheme. Under the Trust's duty of care, all realistic support and assistance will be offered to enable a successful return to work.

In any such case, the employee will be interviewed by the Head of School and accompanied if they wish by a union representative or workplace colleague. The employee will be informed of the grounds upon which the payment of sick pay has been suspended and afforded an opportunity of submitting their observations.

There will be a right of appeal in these circumstances to the Chair of Trustees where applicable. The employee will again have a right to be accompanied at the appeal by a representative / colleague. Where it is deemed that the illness was due to either the conduct of the employee, or there has been a failure to observe the conditions of the scheme without reasonable cause, or has been guilty of conduct prejudicial to their recovery, the right to any payment (or further payment) of sick pay in respect of that period of absence will be lost.

Occupational Sick Pay shall not be paid in a case of accident due to active participation in sport as a profession where the team or club provides an insurance facility for players, unless deemed otherwise by the Trust with advice from Human Resources although Statutory Sick Pay may be payable.
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### **Sending home on medical grounds**

Where the Trust considers that an employee attending for work is unfit to perform their duties to a satisfactory level due to illness, or may have contracted an infectious or contagious illness; this will attract the appropriate rate of sick pay, as per their entitlement.

Where an industrial disease is suspected, the Trust will contact its Health and Safety provider who will initiate a report to the Health and Safety Executive in line with regulations under RIDDOR. Reportable diseases include certain poisonings, some skin diseases such as occupational dermatitis, skin cancer, chrome ulcer, infections such as hepatitis, tetanus and tuberculosis and conditions such as carpal tunnel syndrome and hand-arm vibration syndrome.

If doubt remains then the Trust will contact its Occupational Health provider so that appropriate investigative steps may be taken whilst the Employee remains at home.

## REDEPLOYMENT

Where an employee is assessed by the Occupational Health Service as medically incapable of performing their contracted duties, the following considerations may apply, as appropriate:

- The Trust will usually seek to proceed to Ill Health Capability Dismissal
- The employee will be asked if they wish to seek redeployment should this be available.
- Where the employee wishes to seek redeployment, the Trust will seek to determine if there are any posts that may be suitable prior to any dismissal decision.
- During any period of notice the employee will be considered for suitable posts that arise.
- The Employee will be responsible for seeking to find alternative work.
- The Trust will not seek or create a job where none is available.

Where the employee identifies a potentially suitable alternative post, they will be interviewed by the Trust (where they meet the requirements of the role, or could do so with reasonable adjustments) **before** any other applicants are considered.

If it is a **promotional post**, they must apply **in competition** with other applicants.

The **opinion of the Occupational Health Provider** will be sought on whether the post is suitable, given the employee's state of health.

The decision on the application will be based on whether, in the assessment of Occupational Health, and the Head of School the employee is capable of carrying out the duties of the post with, if required, appropriate training within a reasonable period of time.

Should the alternative post be on the staffing establishment of another school within the Trust, it may be possible to seek cooperation with the other school; however, decisions on appointment rest with the Trustee Board of the other school.

The offer of the alternative post may be **subject to a trial period of 1 month (two months if training is required)**. If the trial period is satisfactorily completed the employee will be confirmed in the post. If not, the Trust will seek to proceed to Ill Health Capability Dismissal.

Employees who are successful in obtaining an alternative post will be redeployed on the **terms and conditions** of the position.

## PHASED RETURNS TO WORK FOLLOWING ILLNESS OR INJURY OR MAKING A PERMANENT ADJUSTMENT ON ACCOUNT OF DISABILITY

### **Illness/Injury**

As part of a return-to-work discussion, or in discussions prior to that, the manager and employee should consider whether a phased return to work programme would be beneficial. In case of doubt, advice should be sought from the Trust's Occupational Health Service, following discussion with the appropriate HR Advisor. Such a return, by mutual agreement, may take a variety of forms including:

- Working only on certain days of the week.
- Working a reduced number of hours.
- Undertaking restricted duties for a period of time, though exceptionally where the employee has acquired a disability, the adjustment may be permanent, subject to a period of review.

The Trust wishes to facilitate and encourage good practice in appropriate circumstances which may provide the following advantages:

- Assisting the recovery of an employee.
- Minimising the strain on an employee following a serious illness.
- Providing rehabilitation.
- Maintaining the Trust's standing as a caring employer which supports its employees following a serious illness/disability.

### **Phased Return Process**

When an employee has been absent from work due to a serious illness certified by a medical practitioner, and following advice from the employee's GP that a phased return to work is desirable, the following arrangements may apply:

- The proposed phased return should be subject to consideration by: The Trust's Occupational Health Service; the relevant manager; Human Resources; the employee - and agreement reached in principle that the proposed arrangements are feasible and acceptable.
- The employee needs to confirm their GP's support through certification which should state fitness to return which may include a phased period.
- Any duties that an employee is unable to undertake during the phased return should be clearly identified.
- The individual arrangements agreed should be subject to general monitoring by the line manager and if difficulties arise, these should be identified to Human Resources/line manager and discussed with the employee to enable consideration of any revisions that may be necessary. Within a reasonable timeframe, further advice will normally be sought from the Trust's Occupational Health Service if by then it is not proving possible for the employee to return to full normal duties.
- A phased return will normally last no longer than four weeks. Any extension to this should be arranged by mutual agreement.
- Head of School should complete and retain a copy of the agreed phased work schedule and a copy should be sent to HR for the employee file.
- HR will instruct Payroll via (MyView, Torbay Council's Payroll) that the employee has returned to work through the (MyView, Torbay Council's payroll) process and the GP certificate needs to be sent to Payroll for official purposes.

- If the employee is not able to return to full duties at the end of an agreed phased return, then the employee will need to be either referred to Occupational Health and/or further GP advice.

**NB:** a medical certificate from the employees GP will still need to be submitted to Payroll

- The occupational pension position should usually be unaffected by a phased return to work.
- The principles set out above will apply to part-time employees on a pro-rata basis.
- Employees who are on a phased return will receive their normal pay for the hours they actually work with the balance of their contractual hours attracting the appropriate rate of sick pay, less SSP as per their entitlement.
- Payment for Phased Returns will be made in arrears to prevent any overpayment should the Trust/employee need to make adjustments to it.

### **Disability**

Where an employee has acquired a disability, it will normally be appropriate to consider whether it would be reasonable to agree a permanent adjustment to their duties and/or working arrangements as provided under the Equality Act 2010.

The advice of the Trust's Occupational Health Service would be sought and any adjustment would be subject to the agreement of the employee and their line manager. The arrangements would be reviewed after an agreed period. Any change in contractual terms as a result of reduced hours or a change of post would be discussed with the employee and if agreed would be effective from the date of the adjustment.

Also refer to separate policy on Employment of People with a Disability and the Critical Illness Policy.

## **APPENDIX 1 - PHASED RETURN TO WORK SCHEDULE**

Where an employee has been absent from work due to sickness, and a phased return to work is recommended by the employee's GP and agreed by the employer, please complete the form below.

**Forward a copy of the schedule to Payroll who will action this in arrears.** Dealing with a phased return in arrears is the preferred method as it ensures that these hours have been worked, rather than paying them in advance and then the hours changing due to the working situation evolving.

On the following page are two tables:

**Table 'A'** must be completed showing the normal number of **contractual hours of work**.

**Table 'B'** must be completed showing the **actual number of hours worked** during the phased return. Please show any hours taken as annual leave (A/L). The hours worked or taken as annual leave will be paid at full pay and the remaining hours will be paid as 'sick' and will attract the rate of the current entitlement to sick pay i.e. full pay, half pay or no pay.

**An example of a completed weeks' phased return schedule appears at bottom of attached page**

<b>NB: Statutory Sick Pay (SSP) is NOT paid on any day when the employee works.</b>
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**Record of Phased Return Schedule**

<b>Name:</b>		<b>Employee Number:</b>	
<b>Employer:</b>		<b>National Insurance No:</b>	

<b>TABLE A (Number of Contractual Hour</b>						<b>Month Ending:</b>			
<b>Date:</b>	<b>1</b>	<b>2</b>	<b>3</b>	<b>4</b>	<b>5</b>	<b>6</b>	<b>7</b>	<b>8</b>	<b>9</b>
am									
pm									
<b>Date:</b>	<b>10</b>	<b>11</b>	<b>12</b>	<b>13</b>	<b>14</b>	<b>15</b>	<b>16</b>	<b>17</b>	<b>18</b>
am									
pm									
<b>Date:</b>	<b>19</b>	<b>20</b>	<b>21</b>	<b>22</b>	<b>23</b>	<b>24</b>	<b>25</b>	<b>26</b>	<b>27</b>
am									
pm									
<b>Date:</b>	<b>28</b>	<b>29</b>	<b>30</b>	<b>31</b>					
am									
pm									

<b>TABLE B (Number of Actual Hours Worked)</b>						<b>Month Ending:</b>			
<b>Date:</b>	<b>1</b>	<b>2</b>	<b>3</b>	<b>4</b>	<b>5</b>	<b>6</b>	<b>7</b>	<b>8</b>	<b>9</b>
am									
pm									
<b>Date:</b>	<b>10</b>	<b>11</b>	<b>12</b>	<b>13</b>	<b>14</b>	<b>15</b>	<b>16</b>	<b>17</b>	<b>18</b>
am									
pm									
<b>Date:</b>	<b>19</b>	<b>20</b>	<b>21</b>	<b>22</b>	<b>23</b>	<b>24</b>	<b>25</b>	<b>26</b>	<b>27</b>
am									
pm									
<b>Date:</b>	<b>28</b>	<b>29</b>	<b>30</b>	<b>31</b>					
am									
pm									

## APPENDIX 2 – REASONABLE ADJUSTMENT AGREEMENT

*We would recommend seeking advice and guidance from HR when making a reasonable adjustment agreement to ensure equitability.*

### **Individually tailored reasonable adjustments**

This 'Tailored adjustment agreement' is a living record of reasonable adjustments agreed between a disabled employee and their line manager.

The purpose of this agreement is to:

- Ensure that the individual and the Trust have an accurate record of what has been agreed.
- Minimise the need to re-negotiate reasonable adjustments where the employee has a change in roles/ line manager within the Trust.
- Provides employees and their Head of School with the basis for discussions about reasonable adjustments at future meetings.

This is a live document and should be reviewed regularly by both the employee and Head of School and amended as appropriate. Remember, however, that expert advice from Human Resources, Occupational Health, Health and Safety or Access to Work is often advised before changes are agreed and implemented.

The Trust will accept the adjustments outlined in the agreement as reasonable and ensure that they continue to be implemented. The agreement may need to be reviewed and amended at a later date but this should not happen until both parties have worked together for a reasonable period of time.

The agreement allows the employee to:

- Explain the impact of their disability on them at work.
- Suggest adjustments that will make it easier for them to do their job.
- Offer further information from their doctor, specialist or other expert.
- Request an assessment by occupational health, Access to Work or another expert.
- Review the effectiveness of the adjustments agreed.
- Explain any change in their circumstances.
- Be reassured that their Head of School knows what to do if they become unwell at work and who to contact if necessary.
- Know how and when their manager will keep in touch with them if they are absent from work because of illness or a disability related reason.

The agreement allows the Head of School to:

- Understand how a particular employee's disability affects them at work.
- Explain the needs of the Trust.
- Explain the Trust's policy in relation to managing attendance and reasonable adjustments.
- Recognise signs that an employee might be unwell and know what the employee wants you to do in these circumstances including who to contact for help.
- Knows how and when to stay in touch if the employee is off sick.
- Consider whether or not the employee needs to be referred for an assessment by an occupational health or another adviser to help both parties understand what adjustments are needed.

- Review the effectiveness of the adjustments already agreed.
- Explain any change in the employer’s circumstances.

**Reasonable adjustment agreement**

This is a record of the reasonable adjustments agreed between [*employee’s name*] and [*Head of School / line manager’s name*]

This agreement may be reviewed and amended as necessary with the agreement of both parties:

- At any regular one-to-one meetings.
- At a return to work meeting following a period of sickness absence.
- At six monthly and/or Performance Management Reviews.
- Before a change of job or duties or introduction of new technology or ways of working.
- Before or after any change in circumstances for either party.

**Employee – my disability in the workplace**

My disability has the following impact on me at work:		
I need the following agreed reasonable adjustments (refer to Access to Work agreement if relevant):	Date budget holder contacted if relevant:	Date implemented:

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**Wellness at work – employees who have fluctuating mental or physical disabilities**

On a 'good day' my disability has the following impact on me at work:
When things are breaking down. The following symptoms are indications that I am not well enough to be at work:

**Emergency contacts**

If I am not well enough to be at work, I am happy for my line manager to contact any of the following emergency contacts in the order of preference indicated below.

**Please add, amend or delete types of contacts as appropriate**

GP (preference X)	Care coordinator (preference X)
Name:	Name:
Surgery:	Telephone:
Telephone:	Mobile:
Address:	Address:
Relative (preference X)	Specialist (preference X)
Name:	Name:

Relation to me:  Telephone:  Mobile:  Address:	Telephone:  Mobile:  Address:
Friend (preference X)	Other (preference X)
Name:  Telephone:  Mobile:  Address:	Name:  Telephone:  Mobile:  Address:

I will let you know if there are changes to my condition which have an effect on my work and/or if the agreed adjustments are not working. We will then meet privately to discuss any further reasonable adjustments or changes that should be made.

If you notice a change in my performance at work or feel these reasonable adjustments are not working, I would be happy to meet you privately to discuss what needs to be done.

**Head of School – keeping in touch**

If you are absent from work on sick leave or for a reason relating to your disability for more than [X] days and have followed the usual procedures for notifying the organisation of your absence I will keep in contact with you in the following way:

Who will contact whom?
How will contact be made? (email, telephone, text, letter)
How often? (daily, weekly, monthly)
When? (preferred day, preferred time)

[Empty box]

### **Conversations while you are on sick leave**

These are the topics we have agreed we will discuss while you are absent, for example:

- How you are feeling
- What I can do to help
- Current work
- Planned phased return to work
- Return to work date

### **Return to work**

When you are ready to return to work after a period of sickness or disability related absence of more than [X] days we will meet to review this agreement and make any necessary amendments.

At this return to work meeting we will also discuss:

For example:

- Current work issues
- A phased return/back to work plan
- What to tell the team
- Assessments to review existing reasonable adjustments (Access to Work, GP, occupational health) and identify new adjustments that might be needed, etc.

### **Unauthorised absences from work**

If you are absent from work and have not followed usual procedures for notifying us that you are sick or absent for a reason relating to your disability we have agreed that I will do the following:

For example:

- Try to contact you on your mobile and/or notify your emergency contact whose up to date details as above.

**An up to date copy of this form will be retained by the Head of School / line Manager, the employee \*\*and link HR Advisor.**

**A copy of this form must also be given to a new or prospective Head of School / line manager with the prior consent of the employee.**

**Employee signature:**

**Date:**

**Signature on behalf of the Academy:**

**Date:**

## DETAILS OF AMENDMENTS

### **July 2021**

- Policy adopted.

### **October 2023**

- Review frequency amended to annually.
- Removed requirement for Doctors Note for less than 7 days to cover periods of annual leave.
- Information about cosmetic procedures added.
- Minor Changes to reporting procedure for absence – removing and Head of School Names and including Trust staff.
- Minor Formatting changes.

### **March 2024**

- Clarity around phased return .
- Minor changes to reflect best practice 5.

### **June 2025**

- Minor formatting changes.