

# Managing Sickness Absence - model policy and procedures for Oxfordshire schools

Introduction .....	3
Policy purpose and scope .....	3
Responsibilities .....	4
Head teachers and line managers .....	4
Employees are responsible for: .....	4
General points and principles.....	5
The role of Occupational Health .....	5
GP fit notes .....	5
Equality Act .....	6
Disabled employees .....	6
Pregnant employees .....	7
Gender reassignment .....	7
Sick pay .....	7
Time off to attend medical and dental appointments.....	8
Elective surgery .....	8
Fertility treatment and IVF .....	8
Ill health related to drug and alcohol misuse .....	8
Work related sickness absence .....	9
Annual leave and sick leave.....	9
Procedure for reporting and managing sickness absence .....	9
Reporting sickness absence .....	9
Monitoring and recording sickness absence .....	9
Keeping in touch during periods of absence .....	10
Return to work interviews.....	10
Phased return to work.....	10
Procedures for managing sickness absence.....	11

Formal attendance notifications .....	11
Attendance at meetings .....	11
The right to be accompanied to meetings .....	11
Procedure for managing short term absence .....	12
Stage One - informal review .....	12
Stage Two - formal review (usually two months after informal review) .....	13
Stage Three - formal review (usually two months after stage two review) .....	14
Managing long term absence .....	16
General principles for managing long term sickness absence .....	16
Stage One - informal.....	16
Stage Two - formal review (usually after three months absence) .....	17
Stage Three - formal review (normally after five months absence).....	18
Stage four - formal hearing by a panel of the relevant body .....	19
Academy, Voluntary Aided, Foundation and Foundation Special schools .....	20
Community, Voluntary Controlled, Community Special and Maintained Nursery Schools .....	20
The right of appeal .....	21
III Health Retirement.....	21
Members of the Teachers' Pension Scheme .....	21
Members of the Local Government Pension Scheme.....	22
Policy Review.....	22
Annex 1 - Sick pay entitlement for Support Staff employed on NJC Green Book terms and conditions & Oxfordshire Local Agreement .....	23
Annex 2 Sick Leave and Pay Entitlement for Teachers .....	24
Sick leave and pay .....	24
Sick pay .....	24
Sick Leave Year.....	24

## Introduction

1. This Oxfordshire model policy has been drawn up following consultation with all the recognised trade unions and associations: ASCL, ATL, NAHT, NASUWT, NUT and Unison.
2. Advice and support on the application of this policy is available from the Schools' HR team 01865 797588 or [schoolshr@oxfordshire.gov.uk](mailto:schoolshr@oxfordshire.gov.uk)
3. This policy applies to all employees working in schools. It should be read in conjunction with other relevant documents such as the School Teachers' Pay and Conditions Document (STPCD), Conditions of Service for School Teachers in England and Wales (Burgundy Book) and the Oxfordshire Local Agreement (OLA) and/or the National Agreement on Pay and Conditions of Service for support staff (the Green Book).
4. It is recommended that academies who have chosen to continue to use the STPCD, Burgundy Book, Oxfordshire Local Agreement and / or Green Book also adopt this model policy. Where an academy adopts this policy the word 'school' should be taken to refer to the academy.
5. The term 'relevant body' has been used throughout this policy. In maintained schools this is the governing body. The differing structures of academies means that the academy trust will need to define the relevant body for the purpose of this policy.
6. The term 'head teacher' has been used throughout this document, however depending on the size and structure of the school this role may be delegated to other members of the senior leadership team, school business managers or line managers as appropriate. Where the head teacher is subject to these procedures, it will be managed by the Chair of the relevant body or other nominated governor.

## Policy purpose and scope

7. The school aims to have a healthy workforce with excellent levels of attendance. This is vital to the success of our pupils.
8. The school takes its responsibilities as an employer seriously and will take all reasonable steps to ensure that the working environment, work demands and management processes are not detrimental to its employees' health and wellbeing.
9. The school acknowledges that ill health or injury can affect any one and undertakes to treat those who are unable to work due to ill health fairly, confidentially and sensitively.

10. The school expects all employees to take their mental and physical health seriously and take personal responsibility for following healthy working practices and lifestyle choices so that they remain healthy and can attend work regularly.
11. The procedures set out in this document, provide a fair and consistent framework for handling employee sickness absence.
12. Before any action is taken under these procedures, the facts and circumstances of each case will be carefully considered, including any medical advice received and the degree to which the absence is causing operational difficulties to the school. Where all efforts to support improved attendance and/or the recovery and return to work of an employee within a reasonable timescale have failed, and where the procedures set out in the policy have been followed, continued poor attendance is likely to result in dismissal.

## Responsibilities

### Head teachers and line managers

13. Head teachers and line managers are responsible for providing a safe work environment and for promoting working practices that support the health and wellbeing of staff. In particular they are responsible for:
  - ensuring jobs are well designed
  - monitoring workload
  - promoting good health and safety and acting promptly to manage risks
  - ensuring all employees have the right skills and knowledge for the job
  - effective communication with employees
  - monitoring attendance and applying these procedures consistently and fairly
  - notifying payroll promptly of an employee's absence and their return to ensure pay is adjusted correctly
  - dealing with ill health matters confidentially and sensitively
  - ensuring all staff are aware of this policy and their responsibilities including the procedure for reporting sickness absence.

### Employees are responsible for:

- looking after their health
- following good working practices
- attending work unless prevented by ill health
- reporting sickness absence promptly and in accordance with the school's procedures
- keeping in regular contact with their manager when absent from work

- providing doctor's 'fit notes' (sick notes) promptly for all periods of absence of more than seven days (including non-working days)
- returning resources to the school where this will minimise disruption to the school during a period of absence
- co-operating with the school's sickness absence procedures.

## General points and principles

### The role of Occupational Health

14. Where ill health is impacting on an employee's attendance or performance, they may be referred to the school's Occupational Health Service at any time so that the school can obtain advice. A written report will be provided by Occupational Health and this will be shared with the employee.
15. A referral to Occupational Health will also normally be made when an employee:
- has been continuously absent for one month
  - where ill-health may be work related e.g. stress or injury
  - where persistent short term absence is causing concern
16. A discussion will take place with the employee before the referral, to explain the reason for the referral and the process.
17. Employees are required to attend Occupational Health appointments where necessary.
18. In order to provide full advice the Occupational Health Service may seek to request a medical report from the employee's GP or specialist. The employee will be asked to provide their consent for Occupational Health to apply for a medical report and has the right to state that they wish to see the GP/specialist report.
19. Where an employee refuses to cooperate with the school's request to obtain medical advice from the Occupational Health Service, they will be advised in writing that a decision about their absence will be taken by the head teacher or line manager on the basis of the information that is available.

### GP fit notes

20. Employees must give the school a doctor's 'fit note' if they are off sick for more than seven calendar days (including non-working days).
21. The fit note will say the employee is either 'not fit for work' or 'may be fit for work'.

22. Where the GP states 'may be fit for work', they may suggest ways of helping the employee get back to work such as a phased return, modified duties or working hours. The head teacher or line manager will meet the employee to discuss possible options with the aim of reaching an agreed return to work plan and wherever possible, accommodating the GP's recommendations.
23. The fit note recommendations are not binding on the employer and the employee will be treated as 'not fit for work' if the school, having fully explored the suggested modifications, finds it is not possible to accommodate them.
24. The school will ask the employee to fill in a 'self-certificate' for absence up to seven calendar days.

## Equality Act

### Disabled employees

25. The application of this policy and procedures will take account of the Equality Act 2010 and the Equality and Human Rights Commission's, [Employers Statutory Code of Practice](#) and in particular legal duty on employers to make reasonable adjustments for disabled employees.

*A person has a disability if they have a physical or mental impairment which has lasted or is likely to last for at least 12 months or for the rest of the person's life and where the impairment has a substantial adverse effect on their ability to carry out normal day-to-day activities. (Equality Act 2010)*

26. Where adaptations or adjustments are recommended by a medical practitioner to support a disabled employee to carry out their job, these will be implemented where reasonable.
27. Cancer, HIV infection, and multiple sclerosis are deemed disabilities from the point of diagnosis.
28. Progressive conditions and those with fluctuating or recurring effects will amount to disabilities in certain circumstances.
29. Further advice on managing sickness absence for disabled employees and on reasonable adjustments is available from the HR team, the Occupational Health Service, [Access to Work](#) and the [Oxfordshire Employment Service](#).

### **Pregnant employees**

30. Pregnancy and maternity are protected characteristics under the Equality Act 2010. Therefore a woman should not receive unfavourable treatment in relation to her pregnancy or illness suffered by her as a result of that pregnancy.
31. While the same sickness absence levels will trigger review meetings with pregnant employees, pregnancy related sickness absence will not be counted when reviewing the employee's sickness absence record.

### **Gender reassignment**

32. The Equality Act provides protection for people who are in the process of transitioning from one gender to another.
33. The school will not treat transgender people less favourably for being absent from work because they propose to undergo, are undergoing or have undergone gender reassignment than they would be treated if they were absent because they were ill or injured.
34. While the Equality Act 2010 does not say how much time must be allowed for absence because of gender reassignment, the school will :
- discuss with an employee how much time they will need to take off
  - accommodate those needs in so far as they are able.

### **Sick pay**

35. Paid sick leave is available to employees to allow them to recover from ill health. Employees are required to co-operate with medical advice and to ensure they do not act in a way which adversely affects their recovery. Details of sick pay entitlement for teachers and support staff can be found at Annex 1 and 2. This includes information about statutory sick pay and occupational sick pay paid by the school under this policy.
36. Sick pay is a financial provision and not a provision that in any way indicates the amount of absence to which an employee is entitled. The school reserves the right to terminate the contract of any employee absent through sickness or injury at any time through this policy, irrespective of whether occupational sick pay has been exhausted.
37. Where there are grounds to believe an employee is acting dishonestly or is failing to follow these procedures, this will normally be treated as a disciplinary matter.

## Time off to attend medical and dental appointments

38. Appointments for routine medical or dental checks, screenings and treatment must be made outside normal working hours in an employee's own time. Where this is not possible e.g. hospital appointments, the head teacher/line manager may agree to time off. Proof of the appointment may be required.
39. Agreement may be given for employees to take paid time off during the school day for emergency medical treatment or hospital appointments. Employees should apply for time off in advance, under the school's [Emergency and Special Leave Policy](#).
40. The school recognises that disabled employees, (as defined under the Equality Act), may have periods where they need time off work to attend medical appointments for treatment, rehabilitation, check-ups etc to help them manage their condition. Normally, the school will allow paid time off for a disabled employee to attend up to ten appointments (pro rata for part time staff) over a twelve month rolling period, as a reasonable adjustment. This limit is regarded as a reasonable amount of time in most circumstances but may be varied in exceptional circumstances depending on the facts of the case.

## Elective surgery

41. When an employee wishes to take time off to undergo elective surgery, such as cosmetic surgery, they must discuss the period of absence they are requesting with the head teacher or line manager. Employees who are employed term time only are expected to schedule elective surgery and the consequent recovery time during school holidays. Annual leave or unpaid leave may be agreed for staff employed all year.
42. Any consequential sick leave which is certified by a GP, hospital physician or Occupational Health will be managed under normal sick leave entitlements.

## Fertility treatment and IVF

43. There is no legal right to time off work for fertility investigations or treatment. Appointments should be treated as any other medical appointment.
44. If an employee becomes unfit for work because of fertility treatment, they should follow the usual sickness reporting procedures.

## Ill health related to drug and alcohol misuse

45. Consideration will be given to introducing measures to help employees who are suffering from alcohol or drug abuse. The aim will be to encourage the employee to seek help and treatment in accordance with the school's Drug and Alcohol Policy.



## Work related sickness absence

46. An employee must report any work related injury to their head teacher or line manager immediately and this must be reported and recorded using the channels in place at the school. For maintained schools the injury or accident must be reported to the Health and Safety team.
47. Where work-related stress is reported a referral will be made to the Occupational Health Service.

## Annual leave and sick leave

48. Employees will continue to accrue annual leave during periods of sickness absence. Where long term sickness absence prevents an employee from taking their annual leave during a leave year, they may carry forward up to the maximum of their statutory entitlement of four weeks leave (pro rata for part time employees), less any leave already taken in the year. For staff working term time only any accrued entitlement is included in normal school closure periods.

## Procedure for reporting and managing sickness absence

### Reporting sickness absence

49. To report sickness absence, employees must contact their line manager or other nominated person by phone no later than one hour prior to the start of the working day and/or in accordance with the school's agreed procedures.
50. The employee must explain the nature of their illness and give an estimated return to work date. If the absence continues beyond three days or the estimated return date, the employee must contact the head teacher or line manager with an update.
51. If the school does not hear from an absent employee, or someone on their behalf, the head teacher or line manager will contact the employee as soon as possible to determine their whereabouts and ensure they are safe.
52. Failure to report sickness absence and follow the school's procedures may result in formal disciplinary action being taken.

### Monitoring and recording sickness absence

53. The school operates a confidential system for recording all sickness absences and will record start and end dates of all absences promptly to avoid any pay errors.

### **Keeping in touch during periods of absence**

54. Regular contact between the employee and head teacher or line manager is crucial during periods of sickness absence. It is particularly important where employees are absent for a long period of time as returning to work can be daunting.
55. The frequency and manner of contact should be agreed between the head teacher or line manager and the employee at the outset e.g. weekly or fortnightly phone calls.
56. Home visits or meetings at a neutral venue may be appropriate where the employee is unable or would prefer not to meet at their normal work place.
57. Where an employee is admitted to hospital or medical advice states they are not well enough to have contact with their manager, the head teacher/line manager will seek to maintain contact with a representative nominated by the employee such as a trade union representative or relative.

### **Return to work interviews**

58. The head teacher or line manager will normally speak with an employee on their return to work, after any episode of absence.
59. The purpose of the conversation is to:
- welcome the employee back to work and update them on work matters
  - ensure the employee is fully recovered, establish whether there are any on-going health or wellbeing issues that may lead to further absences and identify any support that may be required
  - consider any adjustments that could support the employee's recovery and attendance
  - review their sickness absence record for the last 12 months and decide if any further action or review meetings should be held in accordance with the procedures set out in this document.
60. In cases of long term absence, a meeting prior to the expected return to work date may be helpful to agree a return to work plan to support reintroduction to the workplace.

### **Phased return to work**

61. Where an employee has had a serious illness and/or has been absent for a long period, the GP or Occupational Health Service may recommend a phased return. This allows a gradual build-up of working hours and/or duties, normally over a period of up to four weeks. This will be supported by the school where the recommendations are reasonable and practical.

62. Normal pay will not be affected during this period. Phased returns may be extended by up to an additional two weeks in exceptional circumstances.
63. If a longer temporary period of reduced hours or change to duties is recommended by a medical practitioner, this will normally be considered, particularly if agreed as a reasonable adjustment for a disabled employee. If these measures can be accommodated by the school, the changes will normally involve agreeing with the employee a variation to their contract of employment i.e. a reduction in working hours. Normal pay may be affected by such changes.
64. If a permanent change of duties or hours of work is recommended by a medical practitioner, this will normally be considered, particularly if agreed as a reasonable adjustment for a disabled employee. If the school is able to accommodate these changes they will discuss them with the employee and amend their contract of employment where appropriate.

## **Procedures for managing sickness absence**

65. The next sections of this document set out the steps followed by the school to manage short term absence and when an employee's ill health results in them being absent for a long period of time (for over one month). The procedures explain the informal and formal meetings that will be held in these circumstances.

### **Formal attendance notifications**

66. Under the formal stages of these procedures head teachers/line managers can decide to issue formal attendance notifications. These are issued to ensure employees are aware that continued high levels of sickness absence may result in further formal action and ultimately dismissal.

### **Attendance at meetings**

67. In circumstances where Occupational Health advises that an employee is not well enough to attend the meetings set out in these procedures, the school will seek to agree alternative arrangements with the employee to enable the meeting to go ahead, for example a trade union representative or other nominated person can attend on behalf of the employee or the employee can provide information in writing.

### **The right to be accompanied to meetings**

68. Employees have the right to be represented by a trade union representative or accompanied by a work colleague at any formal meetings held under this procedure.
69. Informal meetings do not attract the same right, but requests to be accompanied will be considered where this support may be helpful.

70. Where employees wish to be accompanied, they must contact the manager responsible and give them the name of the trade union representative or work colleague in good time before the meeting.

## Procedure for managing short term absence

71. Short term sickness absence can have a significant detrimental impact on the school. This procedure aims to support improvement in attendance, but where this does not happen, formal action may be taken including dismissal.

72. There are four stages for managing short term absence:

- Stage one – informal review meeting
- Stage two – formal meeting which may result in an attendance notification being issued
- Stage three – formal meeting which may result in a final attendance notification
- Stage four – if attendance does not improve within a reasonable time scale (usually within six months from stage one) a formal hearing will be held and the outcome may be dismissal.

73. Normally a period of two months is given between each of the stages to allow for improvement in the employee's health and attendance, but this may be varied depending on the level absence, timing of school holidays and the facts of the case. In between these stages, the head teacher or line manager and employee may meet for informal reviews.

74. Before taking action at any stage, the head teacher or line manager must be satisfied that any reasonable adjustments that would help improve levels of attendance, have been identified. For disabled employees, managers must be satisfied that these have been fully explored and/or implemented in accordance with the [Equality Act 2010 - see Statutory Code of Practice - Duty to make reasonable adjustments.](#)

### Stage One - informal review

75. Stage one is triggered if, during a 12 month rolling period an employee has either:

- a) four occurrences of sickness absence totalling six days\* or more
- b) a total of nine working days sickness absence\*

*\*Pro-rata for part time staff.*

76. A 12 month rolling period is calculated backwards from the first day of the current absence.

77. The head teacher or line manager will meet with the employee to discuss:

- the pattern of absence and the reasons for it
- what actions the employee has taken to address the issue e.g. medical treatment
- whether any aspect of the job may be affecting the employee's health and whether any temporary changes to the job could assist attendance
- any underlying health problem and the likelihood of further absence
- whether the employee has a disability, and if so whether there are any reasonable adjustments that could be made
- the effect of the absence on pupils, colleagues and the school
- whether medical advice is needed from the Occupational Health Service
- any other relevant considerations.

78. Following the meeting the person conducting the meeting will write to the employee. The letter will summarise the main points from the meeting, including agreed actions, confirmation that an improvement in attendance is expected, timescale for improvement and the date for a review meeting. The letter will also explain that continued poor attendance may result in formal action being taken in line with stage two of these procedures.

79. Where an underlying medical condition or disability is identified, or where concerns about attendance continue, the employee should be referred to the Occupational Health Service.

80. Where attendance improves to an acceptable level the head teacher or line manager will hold a review meeting to confirm this and decide the need for or frequency of further monitoring meetings. Following the meeting the manager will write to the employee confirming the outcome.

#### **Stage Two - formal review (usually two months after informal review)**

81. Where concerns about attendance continue, the manager will invite the employee to a formal meeting, giving five working days' notice (providing copies of any relevant documents that will be referred to at the meeting). Up to date medical advice may be obtained from Occupational Health for this meeting. The employee can be accompanied to this meeting by a trade union representative or work colleague. At the meeting the manager and employee will discuss:

- the on-going pattern and level of absence and the reasons for it
- medical advice
- whether further absences are likely to occur
- if there are work factors affecting the employee's attendance and whether any temporary changes to the job could assist attendance

- if the employee has a disability, any reasonable adjustments that could be made
- the impact of the employee's absence on the school.

82. Having taken in to account all of the relevant facts and consulted with the employee, the head teacher/line manager may decide to:

- take no further action
- extend the period of monitoring and review
- issue a formal attendance notification, warning the employee of the risk of dismissal if attendance does not improve. This will normally remain on record for 6 - 12 months depending on the circumstances.

83. In addition, an action plan will be agreed with review meetings which may include obtaining further medical or specialist disability advice and/or putting adjustments, aids or adaptations in place, to support improved attendance.

84. Following the meeting, and within three working days, the person conducting the meeting will write to the employee confirming the outcome of the meeting and the employee's right to appeal, within 10 working days, if a formal attendance notification has been issued.

85. Where attendance improves to an acceptable level the head teacher or line manager will hold a review meeting to confirm this and decide the need for or frequency of further monitoring meetings. This will be confirmed in writing to the employee.

### **Stage Three - formal review (usually two months after stage two review)**

86. Where levels of absence continue to be unacceptable, the manager will invite the employee to a further formal meeting, giving five working days' notice (providing copies of any relevant documents that will be referred to at the meeting). The employee can be accompanied to this meeting by a trade union representative or work colleague.

87. The meeting will consider any points and submissions from the employee and will consider:

- the on-going pattern and level of absence and the reasons for it
- medical advice
- whether further absences are likely to occur
- if there are work factors affecting the employee's attendance and whether any temporary changes to the job could assist attendance
- if the employee has a disability, any reasonable adjustments that could be made and the effectiveness of any adjustments that have already been put in place
- the impact of the employee's absence on the school.

88. As a result of this meeting the head teacher/line manager may decide one or more of the following:

- to take no further action
- extend the period of review and monitoring, for example to allow for improvement in the employee's fitness as a result of treatment or improvement in attendance as a result of adaptations or adjustments that can be put in place
- issue a final attendance notification, warning the employee of the risk of dismissal if attendance does not improve, including the timescale for improvement

89. In addition, an action plan will be agreed which may include obtaining further medical or specialist disability advice and/or putting adjustments, aids or adaptations in place, to support improved attendance. A further review meeting will also be scheduled.

90. The outcome of this meeting will be confirmed in writing to the employee within three working days, along with their right to appeal within ten working days, if a final attendance notification has been issued.

91. A further review meeting will be held after a reasonable amount of time has been given for improvement in attendance e.g. usually two months. At this meeting the case will be reviewed and examined by the head teacher or another senior manager in consultation with the employee and a decision will be taken either:

- to take no further action
- to extend the period of review and monitoring, for example to allow for improvement in the employee's fitness as a result of treatment or improvement in attendance as a result of adaptations or adjustments that can be put in place
- to recommend dismissal and arrange a formal hearing for a panel of the relevant body to examine the case (see paragraph 117 - 125).

92. Where attendance improves, for a sustained and reasonable period e.g. two months, formal monitoring will normally cease but if levels increase again within the period of the attendance notification or within a year, then this will trigger the reinstatement of this procedure at stage three.

93. At any stage the head teacher/manager may decide it is reasonable to extend review periods or improvement notice periods to ensure sustained improvement is achieved.

## Managing long term absence

### General principles for managing long term sickness absence

94. Long-term sickness absence is defined as continuous absence of one calendar month.
95. The school will deal with any long term illness of an employee sympathetically and will consult regularly with the employee or the employee's representative, with the aim of assisting the individual to return to work.
96. Head teachers/line managers are recommended to seek HR advice in cases where long term or terminal illness is diagnosed.
97. Regular contact between the head teacher or line manager and employee must be maintained throughout the period of absence. How and when this contact takes place should be agreed at the outset e.g. weekly or fortnightly phone calls.
98. There are four stages for managing long term absence:
- Stage one – informal meeting
  - Stage two – formal meeting which may result in an attendance notification
  - Stage three – formal meeting which may result in a final attendance notification
  - Stage four – if absence continues and medical opinion is that there is no prospect of a return to work within a reasonable time scale or permanently, (usually within six months from stage one) a formal hearing will be held and the outcome may be dismissal. The decision to dismiss an employee on long-term sick leave will only be taken when all other options have been considered.

### Stage One - informal

99. Where an employee has been or is likely to be absent for one calendar month, they will normally be referred to the Occupational Health Service so that the head teacher/line manager can obtain medical opinion including the expected timescale for recovery and return to work.
100. The head teacher or line manager will invite the employee to a meeting to discuss:
- the medical opinion, prognosis about recovery including the expected timescale for a return to work
  - what support the employee needs to enable him/her to make a successful return to work
  - whether the employee has a disability in accordance with the Equality Act 2010 and any adjustments that could reasonably be made to support a return to work
  - the impact of the absence on the school's operations including the ability to cover the work and the costs.



101. The options that may be considered at this stage include:

- to take no further action
- agree a return to work plan including reasonable adjustments such as a phased return
- extend the period of monitoring and review
- obtain further medical advice or specialist disability advice.

102. Following the meeting the person conducting the meeting will write to the employee. The letter will summarise the main points from the discussion, confirm any actions agreed and the date for a further review meeting. The letter will also explain that continued absence is likely to result in formal action being taken in line with stage two of these procedures.

103. Where the employee recovers and returns to work the head teacher or line manager will decide whether further review meetings are necessary to support the employee.

#### **Stage Two - formal review (usually after three months absence)**

104. Where absence continues, the head teacher or line manager will write to the employee inviting them to attend a formal review meeting, giving at least five working days' notice and providing any relevant documentation that may be referred to at the meeting. The employee can be accompanied to this meeting by a trade union representative or work colleague.

105. Up to date medical advice may be obtained from Occupational Health for this meeting.

106. At the meeting the head teacher or line manager will explore with the employee:

- medical opinion, the prognosis about recovery including the expected timescale for a return to work
- what support the employee needs to enable him/her to make a successful return to work
- whether the employee has a disability in accordance with the Equality Act 2010 and whether any reasonable adjustments can be made to support their return
- the impact of the absence on the school's operations including the ability to cover the work and the costs.

107. The options that may be considered include:

- taking no further action

- agreeing a return to work plan including reasonable adjustments e.g. a phased return
- extending the period of monitoring and review
- obtaining further medical advice or specialist disability advice
- issuing a formal attendance notification, advising the employee of the risk of dismissal where a return to work is unlikely within a reasonable timescale (usually within six months of stage one).

108. Following the meeting the person conducting the meeting will write to the employee. The letter will summarise the main points from the meeting, confirming actions agreed and the date for a further review meeting. The employee will also be advised of their right to appeal, within ten working days, if a formal attendance notification is issued.

109. Where the employee recovers and returns to work the head teacher or line manager will decide whether further review meetings are necessary.

### **Stage Three - formal review (normally after five months absence)**

110. Where absence continues, the head teacher or line manager will write to the employee inviting them to attend a formal review meeting giving at least five working days' notice and providing any relevant documentation that may be referred to at the meeting. The employee can be accompanied to this meeting by a trade union representative or work colleague.

111. In most cases a recent report from the Occupational Health Service will be needed and should be requested in good time for the meeting.

112. At the meeting the head teacher or line manager will explore with the employee:

- medical opinion, the prognosis about recovery including the expected timescale for a return to work
- what support the employee needs to enable him/her to make a successful return to work
- whether the employee has a disability in accordance with the Equality Act 2010 and whether any reasonable adjustments can be made to support their return
- the impact of the absence on the school's operations including the ability to cover the work and the costs.

113. After considering any advice from the Occupational Health Service or other health professionals, along with the discussion at the meeting, a decision will be taken as follows:

- either to extend the review period
- to embark on a phased return to work

- that no further action is needed as the employee is returning to work
- to consider if other suitable work may be available within the school
- explore eligibility for ill-health retirement

114. If the review concludes that a return to work is not possible at this point or within a reasonable timescale, a final attendance notification may be issued advising the employee of the risk of dismissal on the grounds of ill-health. This will remain on the employee's record for a period determined at the meeting and will usually be for a period of 6 - 12 months. The employee will have the right of appeal against this decision within 10 working days.

115. The person conducting the meeting will write to notify the employee of the outcome of this review within three working days.

116. The decision to dismiss an employee on long-term sick leave will only be taken once all other options have been considered. However, where medical advice is that an employee is permanently unable to return to work or there is little prospect of them returning within a reasonable length of time (usually three months) a formal hearing will be convened and the facts of the case will be fully examined. The hearing may result in dismissal.

#### **Stage four - formal hearing by a panel of the relevant body**

117. In circumstances where an employee continues to have unacceptable levels of sickness absence and where all other options have been fully explored, a formal hearing will be convened and the case examined by a panel of three members of the relevant body. This hearing could result in dismissal.

118. The employee will be invited to attend the hearing and given at least five working days' written notice. The written notification will give details of the time and place of the meeting and will advise the employee of their right to be accompanied by a trade union representative or work colleague. If the employee is not well enough to attend the hearing in person, they may elect to be represented and/or to provide a written submission. If the employee has special needs regarding transport or location these will be given favourable consideration.

119. The head teacher or line manager will present the recommendation to the panel.

120. Any proposal to dismiss an employee in a Community, Voluntary Controlled, Community Special or Maintained Nursery School on grounds of incapability through ill health must involve the Local Authority in accordance with The School Staff Regulations (Amendment) 2012.

121. A HR adviser may attend the meeting to advise the Relevant Body.

122. Prior to the meeting the employee and members of the panel will be given copies of any relevant written information that will be used to consider the decision. This will normally include:

- A report summarising the ill health record and the sequence of events leading up to the decision to convene the formal hearing
- A chronology of key issues/events relating to the health of the employee
- Details of any adaptations, adjustments or support that have been put in place with relevant dates
- Advice and opinion from the Occupational Health Service this may include advice on likely eligibility for ill-health retirement
- Notes of any meetings that have been held with the employee
- Details of any consideration given to redeployment including outcomes
- Summary of the impact of the absence on the school
- Copy of this procedure

123. The employee will be invited to submit additional medical evidence, if they wish.

124. The employee (and/or his/her representative) and the head teacher or line manager will be given the opportunity to put forward their case, and to question each other.

125. The possible outcomes from this hearing are:

- for absence to remain under review
- a return to work is planned or
- the employee is dismissed with appropriate notice
- where appropriate, make a decision with regard to ill-health retirement.

#### **Academy, Voluntary Aided, Foundation and Foundation Special schools**

126. Once the decision to dismiss has been taken, the Relevant Body will dismiss the employee with notice.

#### **Community, Voluntary Controlled, Community Special and Maintained Nursery Schools**

127. Once the Relevant Body has decided that the employee should no longer work at the school, it will notify the Local Authority of its decision and the reasons for it. The Local Authority must dismiss them within fourteen days of the date of the notification.

## **The right of appeal**

128. Employees have the right to appeal against the decision to dismiss them, or any other formal action and may do this by setting out their grounds of appeal in writing within ten working days of the decision.
129. Appeals will be heard without unreasonable delay and, where possible, at an agreed time and place. The employee will have the right to be accompanied by a trade union representative or work colleague.
130. The appeal will be dealt with impartially and, wherever possible, by managers or members of the Relevant Body who have not previously been involved in the case. Appeals against attendance notifications, before a decision to dismiss, may be heard by a senior manager or an individual governor who has not been previously involved with the case.
131. Appeals against the decision to dismiss taken by a panel of the relevant body will be heard by an appeal panel made up of at least the same number of people from the relevant body.
132. Appeals should normally be restricted to considering the reasonableness of the decision made, any relevant new evidence or any procedural irregularities.
133. Where an appeal is upheld the matter should be referred back to the head teacher or person conducting the procedure to be reconsidered or for further appropriate action. Where attendance continues to be monitored, this should not be halted while an appeal is pending.
134. The employee will be informed in writing of the results of the appeal hearing within three working days of the date of the hearing.

## **Ill Health Retirement**

### **Members of the Teachers' Pension Scheme**

135. If the employee is a member of the Teachers' Pension Scheme and applies with the support of the Occupational Health Service to the pension scheme for early retirement on grounds of ill health then, following discussion, this process will usually be considered first and other action held until the outcome of the application is known. If the application is successful the effective date of early retirement will be agreed with the teacher and employment will end.
136. If a teacher's application for early retirement on the grounds of ill-health is not successful then other options including dismissal on the grounds of incapability through ill health will be considered and the procedure set out above will be followed.

## **Members of the Local Government Pension Scheme**

137. If the employee is a member of the Local Government Pension Scheme and ill health retirement is recommended by the Occupational Health Service, the school must decide whether to accept the recommendation for the Ill Health pension to be paid; and to end employment on the grounds of ill health.
138. It is recommended that the Relevant Body delegates the decision to dismiss to the Headteacher in the event that an Ill Health Retirement recommendation certificate is received. The Headteacher can then conduct a formal meeting with the advice of the school's HR service at which the recommendation for Ill Health Retirement from the Local Government Pension Scheme and dismissal can be considered.
139. The member of support staff will have a right of appeal against the decision to dismiss and a separate right to appeal against the pension decision. If they wish to appeal against the pension decision they must do so using the Pensions Internal Disputes Resolution Procedure.
140. If a member of the support staff holds more than one post either within one school or in more than one school a separate recommendation and decision will need to be reached for each post.
141. If early retirement on the grounds of ill health is not recommended then other options including dismissal on the grounds of incapability through ill health will be considered.

## **Policy Review**

142. This policy is reviewed regularly and has been subject to an equality impact assessment.

**April 2015**

## Annex 1 - Sick pay entitlement for Support Staff employed on NJC Green Book terms and conditions & Oxfordshire Local Agreement

- During the first year of service: up to one month's full pay and (after completing four months' service) two months' half pay
- During the second year of service: up to two months' full pay and two months' half pay
- During the third year of service: up to four months' full pay and four months' half pay
- During the fourth and fifth years' of service: up to five months' full pay and five months' half pay
- After five years' service: Up to six months' full pay and six months' half pay

The school is responsible for paying Statutory Sick Pay (SSP) to employees absent on sick leave in accordance with Department of Work and Pensions regulations. Visit <https://www.gov.uk/statutory-sick-pay> for the latest information.

If an employee qualifies for SSP or sickness or incapacity benefit this is offset against the occupational sick pay, paid under their contractual terms and conditions.

If an employee is sick as a result of an accident for which a third party is liable to pay damages, the employee will not be entitled to sick pay but may receive an equivalent amount of pay which must be refunded when damages are received.

## Annex 2 Sick Leave and Pay Entitlement for Teachers

*(Extract from Teachers Pay & Conditions – Burgundy Book Sick Pay Scheme for Teachers - Revised Edition August 2000)*

### Sick leave and pay

1. Provided the appropriate conditions are met, a teacher absent from duty because of illness (which includes injury or other disability) shall be entitled to receive in any one year sick pay as follows:

During the first year of service	Full pay for 25 working days and after completing four calendar months' service, half pay for 50 working days
During the second year of service	Full pay for 50 working days and the half pay for 50 working days
During the third year of service	Full pay for 75 working days and then half pay for 75 working days
During fourth and subsequent years	Full pay for 100 days and half pay for 100 working days

2. For the purpose of the sick pay scheme, "service" includes all aggregated teaching service with one or more local education authorities.
3. Each employer has discretion to exceed the minimum entitlement for sick leave and should review the position of teachers at an early opportunity and before their entitlements to paid sick leave expires.
4. For the purpose of this scheme, "working days" means teaching and non-teaching days within "directed time", as specified under paragraph

### Sick pay

Sick pay shall include, where appropriate, Statutory Sick pay and shall not exceed the full (ordinary) pay of the teacher under the contract of employment. Go to <https://www.gov.uk/statutory-sick-pay> for the latest information about Statutory Sick Pay.

### Sick Leave Year

For the purpose of calculating a teacher's entitlement during a year under paragraph 2, a year is deemed to begin on 1st April and end on 31st March of the following year. Where a teacher starts service after 1st April in any year, the full entitlement for that year will be applicable. Where a teacher is on sick leave on 31st March in any year, no new entitlements shall begin until the teacher has resumed duty and the period from April 1st until the return to duty is regarded as part of the preceding year's entitlement for the purpose of this scheme. When a teacher moves to another employer, any sick pay paid during the current year by the previous employer shall be taken into account in calculating the amount and duration of sick pay payable by the new employer.