



# Supporting Attendance Policy

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# Contents

1.0 Purpose	3
2.0 Applicability	4
3.0 Roles and responsibilities	4
4.0 Principles	7
5.0 Reporting sickness absence	8
Absences of more than seven calendar days	9
Sickness during holidays	9
Unauthorised absence & misuse of sick pay	9
6.0 Returning from sickness absence	9
Return to work discussions	9
Recording absence	10
Medical suspension	11
7.0 Supporting Attendance Informally	11
8.0 Formal action - Stage One Meeting	13
9.0 Formal action – Stage Two Meeting	16
10.0 Phased return to work	19
11.0 Consideration for redeployment	19
12.0 Formal action – Stage Three Hearing	20
13.0 Appeals	22
14.0 Authority to act under the Policy	23
15.0 Annual Leave and Long-term Sickness Absence	24
16.0 Records	24
17.0 Review	25
Annex 1 - Return to Work Form / Self-Certificate – Record of Sickness Absence	26
Annex 2 - Statement of Fitness for Work (“Fit Note”)	28
Annex 3 - Order of Proceedings for Stage Three Hearing	29
Annex 4 - Burgundy Book (Section 4: Sick Pay Scheme)	31
Annex 5 - Green Book (for school-based support staff)	36

# Supporting Attendance Policy

## 1.0 Purpose

1.1 At Co-op Academies Trust we're committed to promoting the health, safety and wellbeing of all colleagues and will support and assist individuals who may have health difficulties. As part of this aim it is essential that throughout our Trust, everyone is committed to achieving the highest possible levels of attendance.

1.2 We recognise the benefits of a healthy workforce and value the contribution that colleagues make through regular attendance in ensuring effective running of our academies. Each absence is unique and will be dealt with in a sensitive, fair and confidential manner, with decisions made based on the information available at the time.

1.3 our Trust will:

- provide appropriate support to help colleagues to return to work after illness, for example through a phased return, counselling, occupational health, reasonable adjustments and in some cases redeployment;
- tackle issues which may result in absence due to colleague mental health or work related stress (see Positive Mental Health & Wellbeing Policy, which incorporates preventing and managing stress at work) or dignity at work issues (see Dignity at Work Policy);
- encourage attendance, and monitor absence & the cost of sickness absence;
- work with unions and health and safety representatives to identify actions and preventative measures to promote the health, safety and wellbeing of staff; and
- provide coaching and training for managers dealing with sickness absence issues.

1.4 The aims of this policy are to:

- provide a framework to support colleagues who are unable to work due to illness and assist them back to work as quickly as possible;
- give colleagues appropriate support to improve attendance where necessary;
- reduce the impact on other work colleagues when covering for employees who are absent due to illness; and
- secure the attendance of colleagues in order to minimise the cost and effects of sickness absence on educational delivery.

1.5 This policy will be applied with due consideration to our Trust's Equality, Diversity & Inclusion Policy and our co-operative values.

1.6 Absence data will be monitored to help develop supportive strategies to tackle underlying causes of staff absence.

1.7 Additional guidance may be provided to academies regarding implementing this policy in respect of coronavirus / Covid19. Wherever possible, trade unions will be consulted.

## 2.0 Applicability

2.1 This policy applies to all employees of our Trust, whether permanent or on a temporary / fixed term contract. It does not apply to agency workers, contractors or volunteers. For colleagues in an Induction Period, see 2.4 below.

2.2 The Supporting Attendance Policy applies to absence due to personal sickness or injury. It does not apply to out-patient appointments or to absences connected to the illness of relatives. These are dealt with for each employee under our Trust's [Special Leave Policy](#) (e.g. sections on "serious illness of a dependant", "time off for hospital, doctor, dental and other medical visits" and "medical screening, donors & infertility treatment")

2.3 Formal action under this policy in respect of a pregnant employee, a colleague whose absence is directly attributable to an accident or incident at work<sup>1</sup>, who is known to have a condition defined as a disability under the Equality Act, or with a terminal illness should not be taken without first seeking advice from Human Resources.

### 2.4 Attendance during the Induction Period

The requirements of this Policy apply in terms of reporting & recording any absences, and the Policy should be referenced to ensure colleagues are supported to remain in work wherever possible, including the consideration of reasonable adjustments. Colleagues must still have a return to work meeting after every period of absence, although they won't enter the formal stages of the supporting attendance process or have agreed attendance targets.

Attendance should be discussed and documented at Induction Review meetings. Poor attendance during the Induction Period will be managed through the Induction Procedure and may constitute a failure to perform to the required standards and could prompt the final Induction Review to be brought forward.

## 3.0 Roles and responsibilities

3.1 Headteachers / Principals (Trust CEO and other SLT members for central / hub team members) have primary responsibility for the health and well-being of staff and the day-to-day management of attendance in school. The Headteacher / Principal may choose to delegate some of the following responsibilities where this is appropriate:

- Ensuring colleagues are aware of this Policy
- Managing attendance on a day-to-day basis

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<sup>1</sup> Reporting of these situations is outside the scope of this policy: please refer to Health & Safety guidance on accidents, industrial injuries or occupational diseases, in particular those which may be reportable under RIDDOR.

- Ensuring that sickness absence is recorded accurately and sent to payroll.
- Handling absence problems promptly and sensitively. Intervening at an early stage to actively support colleagues showing signs of ill health, to prevent deterioration in their health and a long-term absence. Sign-posting staff to other appropriate services such as [Access to Work](#), & counselling services.
- Encouraging and supporting colleagues to maintain good attendance levels through good management practice, including return to work discussions.
- Ensuring that sickness absence is managed appropriately in accordance with this policy (as per section 14), and with advice from Human Resources and Occupational Health (or other appropriate services) where required.
- Making reasonable adjustments to an individual's job or workplace to help them to return to or remain at work, particularly in accordance with any identified disability.

### 3.2 Colleagues are responsible for;

- Familiarising themselves with and ensuring that they comply with this Policy, including undertaking actions / attending appointments agreed as part of a support plan / be available during normal working hours to meet with the headteacher/Principal or nominated person to discuss their absence with reasonable notice
- Co-operating with all efforts to identify and implement reasonable agreed adjustments and to comply with safe working practices and procedures
- Reporting absence in a timely manner in accordance with individual academy procedures
- Alerting their manager / Headteacher / Principal to:
  - any work related issues that may be contributing to their ill-health and/or absence;
  - any medical conditions which might put themselves, pupils, other members of staff at risk;
  - any work-related accident, incident or injury, and making an entry in the accident reporting book.
- Gaining agreement from their Line Manager before undertaking any form of secondary employment whilst off sick.

3.3 Our Trust has an appointed Occupational Health Provider whose role is to provide independent occupational medical advice on employee health-related matters and act in the capacity of an 'approved medical practitioner' The purpose of the advice is to help the management of the academy take informed decisions on health matters and to support colleagues who may be experiencing health issues. A colleague may ask to be referred to Occupational Health, or a referral may be requested by management.

The types of situation when a referral could be made to the Occupational Health Provider may include (although not limited to) advice sought on:

- the health of an individual on long term sickness absence and actions to support their return to work;
- the health of an individual where their level of sickness absence is affecting their performance at work;
- supporting an individual with any health concerns;
- supporting an individual with a disability and making adjustments to their job/environment;
- pre-employment health checks;
- medical redeployment and ill health retirement.

It is expected that staff will seek support through our Trust's Occupational Health provider when necessary and engage in any suggested treatment, particularly where it has been indicated that such programmes may improve their health and attendance at work.

If consent is not given for a referral and/or release of a report then we are unlikely to have the best information available to make decisions which may affect colleagues and their health at work. Decisions may then be taken based on the information available at the time.

In order to satisfy entitlement to Occupational Sick Pay, all colleagues in our Trust (teaching, support and central team colleagues) can be required to undertake a medical examination, in line with the national terms and conditions of service outlined at Annex 4 (teaching staff) and Annex 5 (School based support staff) and/or the terms and conditions outlined in contracts of employment.

3.4 The role of Human Resources (collectively: Trust and in-school HR management & administration, external HR Business Partner support, and our Trust's Chief People Officer) is to support the management of the school by:

- advising on the Supporting Attendance Policy and best practice relating to supporting colleague health & well-being;
- advising on making Occupational Health referrals and coordinating referrals to the Occupational Health Provider;
- assisting with the provision of staff sickness absence data, including equalities data if requested;
- advising hearings on procedural matters;
- advising management on individual cases and give advice on measures/tools for managing absence;
- monitoring the implementation of this policy and advising managers on implementation to encourage fair management of sickness absence across our Trust.

- arranging case conferences with Occupational Health, the colleague, Headteacher / Principal, HR and Trade Union representative to discuss colleague welfare needs.

## 4.0 Principles

4.1 Our Trust will ensure that sickness absence is effectively monitored by managers and that action is taken to support colleagues who are absent from work to return to work and/or improve their attendance.

4.2 Our Trust will ensure that every colleague is treated fairly and with respect, and that confidentiality is maintained. Where necessary, reasonable adjustments will be made to enable colleagues with disabilities to maintain good attendance levels and to comply with the requirements of the Equality Act.

4.4 Where there are concerns about an employee's attendance this policy provides a framework for the colleague to be advised of these concerns, and to have the opportunity to discuss the situation and present relevant information before any decisions are made.

4.5 The absence indicators (previously referred to as "trigger points") contained in this policy set out a guideline for when informal or formal action may be required.

4.6 The colleague will have the right to be accompanied by a trade union representative or work colleague at all formal meetings/hearings under this policy; and may be accompanied at informal meetings where appropriate to provide support.

4.7 The colleague will be given at least 5 working days' notice of all formal meetings under this policy. Wherever possible, meetings will be held at a mutually agreed time, date and venue. All parties must ensure that there are no unreasonable delays to the process. If the colleague or their companion is unable to attend on the proposed date, the meeting may be rearranged within five working days of the original date.

4.8 If there are any language or disability issues affecting the colleague or their representative, these will be reasonably addressed so that any formal proceedings can take place fairly.

4.9 Information relating to formal proceedings and medical conditions will be kept confidential as appropriate.

4.10 The timescales within this policy may be amended by mutual consent.

4.11 Our Trust will pay sick pay in line with national terms and conditions for teachers (Burgundy Book – see Annex 4) and support staff (Green Book – see Annex 5).

4.12 Please note extra care should be taken when distributing any papers in advance of a hearing. In line with GDPR, sensitive personal data must be processed securely and all sensitive information should therefore be hand delivered or posted by recorded delivery with a return address in case of any postal issues. Please ensure all tracking evidence is retained to confirm direct receipt from intended recipients.

## 5.0 Reporting sickness absence

5.1 Local arrangements for reporting sickness absence can be determined by each academy but should adhere to all policies agreed at our Trust's JCNC. The school is responsible for ensuring that their staff are aware of how they should report absence.

5.2 A colleague who is unable to report for duty must notify their academy (or business area in the case of central / hub team colleagues) in line with their local arrangements as soon as possible, and usually no later than the time they would normally start work.

5.3 The colleague should normally inform their academy of the absence themselves, giving:

- the reason for the absence
- the estimated duration of absence if known
- confirmation of contact details
- whether the absence is a result of an accident, injury or assault at work<sup>2</sup>
- if appropriate and possible, advise the school of any outstanding matters / diary commitments. However, there is no obligation on teachers to set cover work.

If the colleague is unable to report sickness absence themselves, they should ensure that someone else notifies the school on their behalf.

Where local arrangements are automated or electronic, colleagues are required to leave a contact number and to be available to be called in person in order to discuss and confirm the details of their absence.

5.4 Where the sickness absence continues the colleague will contact their manager as agreed. Arrangements for contact should be agreed relative to the circumstances: for example, if it is a minor illness and a quick return is expected then daily contact may be appropriate; however, if it is clear from the outset that the absence will be longer term then weekly or fortnightly contact may be more appropriate to maintain communication.

5.5 Where the colleague fails, without prior agreement, to contact their manager as stated in this policy, or in accordance with local arrangements, the manager may contact the colleague.

5.6 If no contact has been made within 1 working day of the start of an absence and the school has been unable to contact the colleague directly, in the interest of the colleague's safety and welfare the manager may contact the colleague's next of kin.

5.7 If a colleague becomes unwell during a work day and needs to leave before their normal finish time they should notify their line manager. The colleague should be recorded as being absent from the time that they leave work. For monitoring purposes this part day will not contribute towards the 'occasions' absence indicators or sick-pay entitlement, but may form part of an unacceptable pattern which in itself is an absence indicator.

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<sup>2</sup> Please see Burgundy / Green book for details of sick pay in these circumstances.



Absences of more than seven calendar days

5.8 For absences of more than seven calendar days, a “statement of fitness for work” (fit note) is required (see Annex 2). It should be received by the academy by no later than the eighth day of absence wherever possible. Doctor’s fit notes will only be accepted for sick pay purposes from the date that they have been signed. Colleagues should ensure that their fit notes are continuous (i.e. there are no gaps in the dates) and must provide an explanation if this is not the case. Fit notes should normally be received by the academy within 3 working days of the expiry of the previous note to ensure that the payment of occupational sick pay is not affected.

Sickness during holidays

5.9.1 If colleagues are sick on a public / bank holiday they will not qualify for time off in lieu at a later date.

5.9.2 If all-year-round colleagues are sick whilst taking annual leave, the absence can be reclassified as sickness subject to the following criteria:

- The manager / academy must be informed at the time of sickness, and not after the period of annual leave, and
- A medical certificate / fit note must be produced regardless of the length of the absence.

5.9.3 Teachers: holidays and weekends do not count against the sick leave entitlements set out in the Burgundy Book, only the 195 working days are counted. Teachers absent due to sickness continue to receive full or half pay, as appropriate, through weekends, half-term breaks, bank holidays and the longer Christmas, Easter and Summer breaks; however, these periods do not count against their sick leave entitlements. Teachers whose sick leave extends into the school holiday must continue to submit fit notes, even though the school is closed.

Unauthorised absence & misuse of sick pay

5.10 Unauthorised absence, failure to observe the requirements of sickness absence reporting or misuse of our Trust’s sick pay scheme will be regarded as possible misconduct and may lead to disciplinary action.

## 6.0 Returning from sickness absence

Return to work discussions

6.1 A meeting should always be held with a colleague on their return to work from sickness absence at the earliest opportunity, and usually by the end of the first day back at work. This can be a brief 5-10 minute conversation, although sometimes the circumstances of an absence mean that more time for discussion should be allowed. Meetings should, wherever possible, be conducted in a private area.

6.2 Whilst this discussion would usually be with the colleague’s manager, sensitivity should be shown around personal information and who the colleague feels comfortable talking to about it. If appropriate, the discussion can take place with another appropriate person (e.g. of the same gender). Line managers will receive appropriate training in order to carry out such meetings with sensitivity and an understanding of the Equality Act 2010.

6.3 The purpose of this brief discussion is to:

- welcome the colleague back, and check that they are fit to be at work;
- explore any actions required to support the individual back to work, or to help prevent further health issues arising (ensuring that support is offered at the earliest possible opportunity) see section 7 for more details;
- update the colleague on work matters as necessary;
- identify if an individual workplace risk assessment needs to take place;
- ensure that the absence is correctly recorded;
- inform, if appropriate, that further action is required.

6.4 Colleagues with two or more contracts may be fit to undertake neither, one or both of their roles, depending on the type of role within the academy. The same reporting process and certification process applies for the role they are unfit to work. Advice should be sought from HR if appropriate.

6.5 In order for a colleague to return to work following an absence, they don't need to have a statement from the doctor confirming that they are now fit for work. However, if there are concerns (particularly of a safety nature, or if a colleague is seeking to return prior to the end of a previously issued fit note) then the manager may arrange an occupational health appointment; OH may ask for a report from their GP or Specialist (in which case any costs should be met by the academy).

6.6 Where a GP, Specialist or Occupational Health makes suggestions to assist a colleague's return to work, the manager should assess whether or not it is possible to accommodate these recommendations. Wherever possible, reasonable adjustments should be made - particularly if these are short term, to support a phased return. If a manager has concerns about implementing the recommendations, advice should be sought from HR, as the requirements of the Equality Act with regards to reasonable adjustments must be considered. It is recommended that, if the colleague is a member of one of our recognised trade unions, their union rep is involved at this stage if appropriate (this may help to avoid disagreements over "reasonable adjustments" arising at a later stage).

#### Recording absence

6.7 At the return to work discussion the manager and colleague should complete a return to work / self-certification form (see Annex 1). This form should be completed for all periods of absence regardless of length (even for periods that are covered by a GP's statement of fitness – see below) to ensure that accurate records are maintained. This form also acts as a self-certification form for those absences requiring one and should be retained on the colleague's personal file. The colleague should be provided with a copy of the completed form.

6.8 Each academy is responsible for putting in place a local operational process to ensure that return to work / self-certification forms are completed and returned to the academy office, so that accurate personnel and payroll records can be maintained.

6.9 All absences in excess of seven calendar days must also be covered by a statement of fitness from a GP or a hospital. A copy should be retained on the colleague's personal and the original returned to the colleague.

6.10 The Headteacher / Principal is responsible for ensuring that payroll is notified of all absences, and that local records are maintained for reporting purposes.

#### Medical suspension

6.11 Medical suspension means requiring the colleague to stay at home whilst a medical matter is being investigated; such suspension will be used for as limited a time as possible and for no longer than 26 weeks.

Our Trust has a duty to ensure the health & safety of its colleagues, and in certain circumstances a health professional may recommend that a particular colleague is unfit to work with a particular hazard. If the hazard cannot be removed, or temporary reasonable adjustments cannot be made to the colleague's role, our Trust may have to suspend the colleague until it is safe for them to return to work.

It may also be necessary to temporarily suspend a colleague from work on the grounds of ill health in the following circumstances:

- in the opinion of Occupational Health the colleague is unfit for work, but is declaring themselves fit for work or being declared fit for work by their own doctor;
- the individual is deemed to be at risk to themselves or others because of their medical condition;
- if any agreed reasonable adjustments are not operating or in place for a temporary period.

Any medical suspension will be at the normal rate of pay. It is not a disciplinary suspension. Advice should be sought prior to making a decision to suspend a colleague from both the Regional HR Manager and Occupational Health.

## 7.0 Supporting Attendance Informally

7.1 Academies are responsible for monitoring absence levels, and if a colleague's short term sickness absence starts to reach levels of concern it is recommended that this is drawn to the colleague's attention during the return to work meeting prior to them reaching the absence levels which would prompt the start of a formal procedure.

7.2 A return to work meeting with the colleague is an opportunity to discuss their absence(s), highlight the concerns, and talk about any steps that could be taken by either party to help the colleague to maintain good attendance. The focus of the discussion should be supportive and, if appropriate, the manager should direct the colleague to support providers such as the Employee Assistance Programme, and/or our Trust's Colleague Positive Mental Health & Wellbeing Policy. It is an opportunity for the colleague to make any suggestions they may have. The manager may also bring to the colleague's attention our Trust's Supporting Attendance Policy and the possible consequences of further absences.

7.3 If the return to work meeting hasn't taken place due to the situation being a long term absence, an informal 'welfare discussion' may take place. The member of staff should be invited to such a discussion in writing and any record of the meeting retained will be shared with the colleague.

7.4 The discussion may be noted on the return to work form, or the manager may confirm by email or letter that the discussion has taken place and any actions agreed. A copy of any record of the discussion should be shared with the colleague.

7.5 Although good practice, it may not always be possible or appropriate to have gone through a process of informal support prior to commencing formal action (e.g. where there is one short term absence of 10 days, or a colleague on long term absence is unable or unwilling to engage).

As a guide:

Description	Management Approach
A level of short term / occasional absence which has not yet met an absence indicator but is causing concern	<p><b>Review:</b> To take place after each period of sickness absence during the Return to Work meeting.</p> <p><b>Support:</b> Dependent on the individual case. Refer to 3rd party support if appropriate</p>
Frequent / recurring patterns of absence which are causing concern	<p>If the absence(s) is/are potentially related to an underlying medical condition (e.g. musculoskeletal / back / spinal condition) OR is cause for concern (e.g. work-related stress, anxiety, mental health) a relevant risk assessment should be carried out and/or an Occupational Health referral made prior to further action so that support is provided at an early stage.</p> <p><b>Action:</b> If absence indicators are met, then the case should be managed as documented within this policy.</p>
One continuous period of Long Term absence which has lasted (or is expected to last) over four consecutive weeks	<p><b>Review:</b> When a colleague has been off (or is expected to be off) for four weeks or more</p> <p><b>Support:</b> Dependent on the individual case. Maintain 'welfare contact' with the colleague through an appropriate link person during their absence, which may include home visits or visits at agreed venue.</p> <p>If appropriate:</p> <ul style="list-style-type: none"> <li>● hold 'welfare discussion' to discuss absence</li> <li>● conduct risk assessment</li> <li>● refer to OH for advice</li> <li>● signpost to EAP for counselling</li> <li>● refer to 3rd party support (if appropriate)</li> </ul> <p><b>Action:</b> Following the informal support above, and/or where appropriate depending on the individual circumstances the case should be managed as documented within this policy.</p>

## 8.0 Formal action - Stage One Meeting

8.1 A formal absence review meeting will normally be organised when a colleague's absence reaches a level of concern in line with one or more of the following:

- Four or more separate periods of sickness absence (or 10 or more working days lost) in a rolling twelve- month period. This will be proportionate to days worked for part time workers (see footnote)<sup>3</sup>. *e.g. one absence lasting 10 or more days; or 4 absences of 1 day each; or two or three absences which add up to 10 or more days in total.*
- An unacceptable pattern of absence, *e.g. Fridays and/or Mondays; before or after Bank Holidays or school closure periods;*
- Long term absence - a period of sickness which has lasted more than 4 weeks (and may or may not be ongoing)
- Other concerns about levels of absence, such as an increase in absence following expiry of a support & review period

8.2 The purpose of these indicators is to alert the school to undertake a formal review of a colleague's record of absence and assess whether further action is necessary, following full consideration of each individual's circumstances and the nature of their absences.

8.3 Where treatment / surgery associated with a colleague's transition leads to absence from work, this will be remunerated under the sick pay policy. However, reasonable time off work will be excluded from absence indicators under our Trust's Supporting Attendance Policy [see Trans Equality Policy for further details]

8.4 Modification of these indicators will be considered as a "reasonable adjustment" under the terms of the Equality Act, and should be based on medical opinion . Any adjusted indicators should be set at a level where, if exceeded, the absences are likely to have a substantial impact on service delivery or result in the colleague being unable to perform the main duties of their post.

The adjusted attendance indicators will be notified to the colleague and may be further adjusted in consultation with the colleague according to the circumstances at a later stage. Any change in the indicators will be notified to the colleague in writing.

The normal attendance procedures should be followed if the adjusted indicators are not met in terms of progression throughout the policy.

If the colleague's absences are only identified as being due to a disability at a point where the attendance management procedure has already commenced, then the colleague should continue in the attendance management process at the stage they have reached

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<sup>3</sup> Two or less days per week worked (indicator = 2 4 absences or 4 days); three days per week worked (indicator = 3 4 absences or 6 days); 4 days per week worked (indicator = 3 4 absences or 8 days)

and if adjusted targets are agreed, these will be used from this point forward. Where the disability has been identified at a point where the colleague would otherwise have hit an absence indicator and agreement has been given for adjusted indicators, these should be used to determine whether to go on to the next stage.

A review meeting should be held where a colleague's medical condition changes, the requirements of the job change or it is apparent that the revised targets do not reflect the extent to which the level of absence is or is not disability-related. Any adjustments made previously may need to be revised (this may be up or down), but will be no less than the absence indicators applicable to all colleagues as set out in this policy. Where this involves an adjustment of absence indicators, the adjusted indicator should be used from that point onwards.

8.4 If a formal meeting is not held when an absence indicator is first reached, it will not preclude the manager convening such a meeting if there is a further period of absence.

8.5 The colleague will be given at least 5 working days' written notice of the meeting (unless the colleague agrees in writing to less) and will be reminded of their right to be accompanied. A copy of their absence record will be included, and they will be informed of who will conduct the meeting.

#### Short term absence

8.6 The purpose of the meeting will be to:

- Examine the reasons, pattern and nature of the absences
- Examine whether there is an underlying cause or condition, and the prognosis of this if known
- Decide whether further information needs to be sought either from the colleague's doctor or a referral to the academy's occupational health provider
- Give the colleague the opportunity to discuss any problems or raise any concerns
- Consider reasonable adjustments if the absence is disability related
- Consider whether a more detailed risk assessment is required, or whether there are any support measures which would assist the colleague in reducing their sickness absence
- If appropriate, set a target for improvement and a period over which absence levels will be reviewed. As a 'starting point' guide, a target and support & review period might be 3 days in the next 3 months, 2 absences / 5 days in the next 6 months, 3 absences / 8 days in the next 9 months, or 4 absences / 10 days in the next 12 months. When setting targets for improvement, the manager will need to take into account the individual circumstances of any case, medical advice received and the impact of any disability. The support & review period will not exceed 12 months, and targets must be proportionate to the overall absence indicators.

- Remind the colleague that if their attendance does not improve to the required level, that it will continue to be managed under the Supporting Attendance Policy
- Inform the colleague they will receive a letter to confirm the outcome of the discussion.

8.7 A representative from HR may attend the meeting to provide procedural advice, but they are not required to do so.

8.8 The outcome of the meeting must be confirmed in writing to the colleague within 5 working days. This should include the improvement expected, the support & review period, support to be given / actions to be taken, and a reminder that failure to reach and maintain the required level of attendance could lead to further action.

#### Long term absence

8.9 The purpose of the meeting will be to:

- Examine the reasons for the absence, and the absence history if relevant. This will generally be over the previous 12 months, but it may be relevant to consider a longer time frame where relevant to the current absence
- Examine whether there is an underlying cause or condition, and the prognosis of this if known
- Ask about treatment and/or specialist help being received
- Review report from our Trust's occupational health provider, and decide whether further information needs to be sought either from the colleague's doctor or specialist, or from occupational health
- Give the colleague the opportunity to discuss any problems or raise any concerns
- Consider whether the Equality Act applies, and reasonable adjustments if the absence is disability related
- Make reference to the Colleague Positive Mental Health & Wellbeing Policy, if appropriate
- Consider whether a more detailed risk assessment is required, or whether there are any support measures which would assist the colleague in making a successful return to work
- If appropriate, discuss arrangements for a phased return (see section 10)
- If appropriate, involve or seek advice from other support organisations such as our Employee Assistance Programme, [Access to Work](#), [Remploy](#), [HSE](#), [Mind](#).
- Confirm the anticipated return to work date, and establish when the situation will be reviewed

- Inform the colleague they will receive a letter to confirm the outcome of the discussion.

8.10 A representative from HR may attend the meeting to provide procedural advice, but they are not required to do so.

8.11 The outcome of the meeting must be confirmed in writing to the colleague within 5 working days. This should include details of the discussion, support to be given / actions to be taken, and when the absence will be reviewed should it continue.

8.12 In circumstances where the colleague remains continually absent for an extended period, the review period will be set in line with individual circumstances (all factors should be taken into consideration) and, where the absence is continuing, progression to the next stage will take place at the end of the review period established.

### Next steps

8.13 Interim review meetings may be held during the support & review period to check that actions / support are taking place as agreed.

8.14 If a colleague's attendance improves to the required standard for the specified support & review period the colleague will be removed from the sickness absence procedure. It is, however, expected that the improvement will be sustained. Attendance will be monitored for a period of 12 months from the date of the Stage One meeting, and if the improvement is not sustained then the procedure will recommence at the stage it was stopped.

8.15 If however, there have been further absences during the support & review period, a further review period may be set at Stage One or the process could move to Stage Two. A review of Stage One may take place in the Stage Two meeting, as long as appropriate notification procedures have been followed.

## 9.0 Formal action – Stage Two Meeting

9.1 At the end of the review period for stage one a review meeting should be arranged with the colleague; review meetings may take place before the end of the review period where there is cause for concern, for example following further absences during this period.

9.2 The colleague should be invited in writing with at least 5 working days' notice, and advised of the right to be accompanied by a representative or colleague. If the stage one review is taking place as part of a stage two meeting, this should be made clear in the letter.

### Short term absence

9.3 If there have been no absences or there has been an acceptable improvement during the review period, then the procedure should be terminated. If, however, there have been further absences which exceed the number set out in the previous meeting, a discussion should take place considering the points outlined in section 8 and any further support /



action appropriate, and a further support & review period should be agreed with the colleague wherever possible.

9.4 A stage two review period will usually be no less than six months.

9.5 A representative from HR may attend the meeting to provide procedural advice, but they are not required to do so.

9.6 The outcome of any meetings held under Stage Two must be confirmed in writing within 5 working days. This should include the improvement expected, the support & review period, support to be given / actions to be taken, and a reminder that failure to reach the required level of attendance could lead to a Stage Three Hearing which could result in their dismissal.

#### Long term absence

9.7 In circumstances where the colleague remains continually absent for an extended period, the Stage Two review meeting will revisit the points set out in section 8, and:

- Consider the latest advice from the colleague's GP / specialist / occupational health (as appropriate)
- Consider the anticipated return to work date
- Consider whether any further actions could be taken to facilitate the colleague's return to work, including arrangements for a phased return if appropriate
- Consider whether redeployment to alternative role on medical grounds is appropriate (see section 11)
- Consider whether retirement on ill health grounds is appropriate. This may be available to colleagues who are certified as permanently unfit for the job they are employed to do, and is dependent on individual circumstances, medical advice and pension scheme rules.
- The review period will be set in line with individual circumstances (all factors should be taken into consideration) and where the absence is continuing to cause concern progression to the next stage, a Stage Three Hearing to consider the colleague's dismissal on the grounds of ill health capability, may take place at the end of this review period.
- Inform the colleague that they will receive a letter to confirm the outcome of the meeting.

9.8 A representative from HR will usually attend the meeting to provide procedural advice, but they are not required to do so.

9.9 The outcome of the meeting must be confirmed in writing within 5 working days. This should include details of the discussion, the review period, the support to be given / actions to be taken, and informing the colleague that continued long term absence could

lead to a formal hearing which could result in dismissal on the grounds of ill health capability.

### Next steps

9.10 Interim review meetings may be held during the support & review period to check that actions / support are taking place as agreed with the colleague wherever possible.

9.11 Short term absence: if a colleague's attendance improves to the required standard for the specified support & review period the colleague will be removed from the sickness absence procedure. It is, however, expected that the improvement will be sustained. Attendance will be monitored for a period of 12 months from the date of the Stage Two meeting, and if the improvement is not sustained then the procedure will recommence at the stage it was stopped.

If the colleague fails to meet the specified attendance target, the next stage of the procedure will be implemented immediately – it is not necessary to wait until the end of the support & review period.

9.12 Long term absence: if the colleague returns to work they will be removed from the supporting attendance procedure, once any phased return has been completed and/or attendance target has been met. It is, however, expected that the improvement will be sustained, and the procedure may recommence at the stage it was stopped if there are further absences within a 12 month period.

Where the end of the Stage Two review period is reached if the colleague has not returned to work and there is no return anticipated within reasonable timescales (based on latest occupational health advice), and where retirement on ill health grounds is not available, a formal Stage Three hearing should be arranged.

Before convening a Stage Three hearing, it is important that consideration has been given to all reasonable steps which could be taken to support the colleague in returning to work, including redeployment to an alternative post. Additional meetings may take place with the colleague at Stage Two to discuss this.

9.13 Some colleagues may be considered for ill health retirement which allows the colleague to access early release of pension benefits in line with appropriate TPS or LGPS scheme regulations. Proposals for ill-health retirement should be documented on a business case and any exit costs are subject to approval by our Trust's CEO and appropriate level of authority (determined by the financial limits as set out in our Trust's Scheme of Delegation).

Only an approved, independent Occupational Health Physician can determine whether a person meets the criteria for ill health retirement; they will review the medical evidence available in relation to the application. If ill health retirement is approved, and accepted as a course of action by the colleague, the Stage Three meeting to confirm this may be held by the Head / Principal / Trust CEO standing alone.

## 10.0 Phased return to work

10.1 A phased return to work may be used as a way of supporting colleagues to return to work following a long-term period of absence, and may form part of a reasonable adjustment for a colleague with a disability. This may be arranged through informal 'welfare meetings' or as part of formal Stage meetings. A colleague may be accompanied by a trade union representative or work colleague at meetings to discuss a phased return.

10.2 A phased return to work must be agreed between the management of the school and the colleague. It will need to take account of what is possible for the academy to accommodate based on how it might impact on operational needs. A phased return to work needs to take account of the individual colleague's circumstances and what would be appropriate support for the individual in returning. Further advice on the type of phased return required may be sought in advance from the academy's Occupational Health provider.

10.3 The exact length and nature of the phased return will be determined on a case by case basis taking into account the length and nature of the preceding absence and the relevant medical evidence / Occupational Health advice. Although there may be exceptions when a shorter or longer period is agreed, the usual duration is around four weeks.

10.4 An academy will normally only be able to support one phased return to work per individual colleague in any one academic year. Any exceptions to this should be discussed with Human Resources.

10.5 Colleagues will return to full pay when the phased return commences. Any days or hours not worked will not be counted as sickness absence.

10.6 If the colleague is unable to return to their normal contracted hours by the end of the agreed phased return period then a review of the situation will be required which might determine:

- The colleague is not ready to return to work and therefore may be absent again from work due to sickness
- The colleague is able to be at work but is unable to fulfil their normal contracted hours, a temporary variation to reduce hours might be agreed between the school and the colleague and any pay will therefore be on a pro-rata basis.

## 11.0 Consideration for redeployment

11.1 Redeployment should only be considered where it could either help the colleague to reach and maintain a satisfactory level of attendance or make a successful return to work from long term absence. Where this is not the case or there is no alternative then the manager will move to stage three and a hearing will be convened.

11.2 Following advice from Occupational Health and/or other independent medical professionals, and input from Headteacher/Principal and with academy's HR representative, the manager should discuss with the colleague the possibility of

redeployment taking into consideration the impact of the colleague's health on their abilities and the future prognosis. If appropriate (depending on the level of the post in question), the academy's Chair of Governors and/or our Trust CEO may be involved.

11.3 There is no requirement to create a role for the colleague, however they should be considered for suitable vacancies within our Trust.

11.4 Where the colleague has a condition that falls under the definition of disability under the Equality Act then steps should be taken to make reasonable adjustments to enable them to undertake the vacant role.

11.5 Redeployment opportunities will be sought for a specified period, normally no longer than eight weeks. When redeployment is not found within the specified time a stage three hearing will normally be arranged. Academies will continue to seek redeployment opportunities during the stage three process and notice period.

11.6 Redeployment on a permanent basis may be considered if a suitable alternative post is vacant within our Trust. In this case, pay will be at the rate for the job; there is no pay protection.

A trial period of four working weeks will apply where there is a difference in the skills required to carry out the new role and the employee's previous role. The aim of the trial period is to allow both parties an opportunity to decide whether the employee is suitable for the role. It enables an assessment to be made on whether the employee has the required skills, with training, to do the new job. Appropriate support and training will be discussed and offered to assist the employee in being successful in the role within the trial period.

Subject to successful completion of the trial period and in agreement with the colleague, they may then be confirmed in post.

In exceptional circumstances and by mutual agreement only, the trial period can be extended for up to eight working weeks. Where this is agreed the Headteacher will write to the colleague to confirm the extension and the new date for review.

If either our Trust or the colleague deems the trial unsuccessful, the supporting attendance procedure will recommence at the stage it was stopped. If the colleague moved to a lower paid role for the trial period, they will return to their previous terms & conditions from the date that it is confirmed that the trial was unsuccessful.

## 12.0 Formal action – Stage Three Hearing

12.1 The colleague will be given 10 working days' notice in writing of a stage 3 hearing. The chair of the hearing will write to the colleague to confirm:

- The problem with their attendance and the reasons for the stage 3 hearing
- The date, time and location of the hearing

- The name of the person chairing the hearing (as per section 14)
- The right to be accompanied and/or represented by a trade union representative or work colleague
- The requirement to provide the chair hearing the case with a copy of the documents that they will be relying upon and the names of any witnesses that they will be calling at the hearing at least 3 working days before the hearing
- The advice that the hearing could result in their employment being terminated.

12.2 Copies of documents that management will refer to at the hearing, and names of any support that they wish to call will be included with the notification.

12.3 At the hearing both the management side and the colleague will be given the opportunity to state their case, call support and ask questions. HR will attend the hearing to provide procedural advice.

12.4 The chair/panel will consider:

- The colleague's overall attendance record
- The impact of the level of attendance on the academy / Trust
- Representations from the colleague
- Whether the reason for the absence(s) falls within the disability provisions of the Equality Act 2010
- The management of the case
- Any medical advice received
- The support / reasonable adjustments considered and/or provided
- Any further action that can be taken
- Options for redeployment within the academy or Trust on medical grounds
- Whether ill-health retirement has been considered

12.5 The hearing will normally be adjourned whilst the chair/panel hearing the case reaches a decision.

12.6 The outcome of the hearing may be either dismissal on the grounds of ill health capability or alternative action in the light of evidence presented at the hearing. Where a colleague is dismissed they should be dismissed with appropriate notice. The colleague will be notified in writing of the outcome normally within 5 working days and of their right of appeal.

12.7 A postponement may be granted if the colleague or their representative is unable to attend on the proposed date. A postponement should not be for more than 5 working days after the original date proposed, however, an extension to this time limit can be made by mutual agreement. Where a hearing is rearranged and the colleague is unable to attend a second time, the hearing will normally convene, as arranged, and a decision taken in the colleague's absence.

12.8 Termination of employment during a period of sick leave: in the event of a colleague exhausting in part or full their entitlements to sick pay and being given notice of the termination of their contract without returning to work on the ground of permanent incapacity or for some other reason related to the sickness absence, they shall be paid full salary for the notice period with normal deductions only.

## 13.0 Appeals

13.1. A colleague is entitled to appeal against the decision taken at the stage three hearing.

13.2 The appeal should be on the basis of one of the following grounds:

- The procedure - a failure to follow procedure had a material effect on the decision
- The decision - the evidence did not support the conclusion reached
- The penalty - was too severe given the circumstances of the case
- New evidence - which has genuinely come to light since the first hearing.
- Bias or discrimination

13.3 The appeal must be made in writing, addressed to the person stated in the stage 3 outcome letter, stating the specific grounds for the appeal, within 5 working days of being advised in writing of the decision at any stage.

13.4 The appeal will be heard as soon as possible and not normally later than 20 working days after being received.

13.5 The colleague will normally be given 10 working days' notice, in writing, of the date of the appeal hearing. This notification will give the name of the person chairing the hearing, and the names of panel members. It will remind the colleague of their right to be accompanied at the hearing by either a trade union representative or work colleague. HR will attend the hearing to provide procedural advice.

13.6 Both parties must indicate at least 3 working days in advance of the appeal hearing which, if any, witnesses they wish to call and provide copies of any documentation that will be relied upon at the hearing. In exceptional circumstances an alternative time-scale may be agreed.

13.7 The chair of the stage 3 hearing will attend the appeal to present the management case.

13.8 The colleague will be able to present evidence that is relevant to the grounds of the appeal. Our Trust will have the opportunity to respond.

13.9 The appeal hearing may confirm or overturn the decision or may recommend some alternative action.

13.10 The colleague will be informed of the appeal decision in writing, normally within 5 working days. The decision of the appeal hearing is final.

## 14.0 Authority to act under the Policy

	Informal discussions on sickness absence and returning to work	Stage One & Stage Two Meetings	Stage Three – Hearing <i>Panel member should have had no prior involvement with the case</i>	Appeal against dismissal <i>Panel member should have had no prior involvement with the case</i>
All academy-based colleagues except those listed below	Headteacher / Principal (who may delegate responsibility to line managers, or another appropriate person within their academy, either on an ad hoc basis or via local operational procedures)	Headteacher / Principal (who may delegate to responsibility to a colleague)	Panel of three from the Academy Governing Committee (AGC), or 2 members of the AGC and a member of senior Trust staff e.g. Regional Director	Panel of three from the Academy Governing Committee (AGC), or 2 members of the AGC and a member of senior Trust staff e.g. Regional Director
Headteacher / Principal	AGC Chair and/or Regional Director	AGC Chair and/or Regional Director	Panel of three, including at least one member from our Trust Board	Panel of three from our Trust Board
All central team colleagues except our Trust CEO	Line manager	Line Manager and/or a member of senior Trust staff e.g. Regional Director	Panel of three, including at least one member of our Trust Board	Panel of three from Trust Board
Trust CEO	Chair of our Trust Board (or nominated delegate)	Chair of our Trust Board (or nominated delegate)	Panel of three from our Trust Board	Panel of three from our Trust Board

Note: whilst it would be usual to draw panel members from an individual Academy Governing Committee (AGC), in exceptional circumstances our Trust may appoint

Governors from another Trust academy in order to ensure neutrality or expediency of proceedings

## 15.0 Annual Leave and Long-term Sickness Absence

15.1 All colleagues are entitled to a statutory annual leave entitlement of 5.6 weeks (28 days) including bank holidays, pro rata for part time colleagues.

15.2 Teachers and support staff on term-time only contracts are contractually required to be available to work during term time and their statutory annual leave forms part of normal holidays during school closure periods. Entitlement to statutory annual leave is not affected by either paid or unpaid long-term sickness absence. The entitlement to this leave will be offset by any period of school closure that has taken place in the leave year in question i.e. both before and after the sickness leave period.

15.3 If a colleague has been unable to take all their statutory annual leave entitlement during the leave year advice should be sought from HR. Where a colleague remains in employment with our Trust, any statutory annual leave untaken should be carried forward and taken in the school closure periods in the following year.

15.4 Where a colleague who works on a full-year basis has had an extended period of sickness absence and been unable to take their full annual leave entitlement in the current leave year as a result, they will be able to carry forward the balance to the next leave year up to a maximum of 20 days (pro rata) – 28 days statutory entitlement, minus 8 days bank holiday.

15.5 It is not possible for the colleague to decide to carry over the statutory entitlement into the next leave year, if there is time for it to be taken in the current leave year. It is also not possible to receive payment in lieu of the untaken entitlement unless the colleague does not return to work after the period of sickness absence and the contract of employment ends.

## 16.0 Records

16.1 Records of absence management meetings, including appeals hearings, will be kept and remain on file as part of the colleague's overall record of employment. These records will be kept confidential and retained in accordance with the Data Protection Act 2018, which includes the rules set out in the General Data Protection Regulations.

16.2 In accordance with paragraphs 8.13 and 9.6 of this policy, the records of previous meetings will generally be disregarded if the improvement in attendance is sustained for a minimum of 12 months. However, there may be exceptional circumstances, such as a recurring pattern of absence over several years, when it is appropriate to revisit older records. In these circumstances' advice should be sought from our Trust's Chief People Officer.



16.3 Records will be retained for six years after employment ceases, after which time they must be destroyed as confidential waste.

## 17.0 Review

17.1 This policy will be reviewed to respond to any changes in the employment legislation, and at least every three years, in consultation with our Trust's recognised trade unions. The policy should be Equality Impact Assessed as part of this review and the details shared with Trade Unions.

## Annex 1 - Return to Work Form / Self-Certificate – Record of Sickness Absence

This form must be completed for all sickness absences, regardless of duration

Name	
Payroll Number	
Job Title	
Start date of absence	
Date of return to work	
Number of working days absent	
Reason for absence (please give details of symptoms or injury, saying "unwell" or "illness" is not sufficient)	
Was medical advice sought? (if so, please give detail e.g. date & place, and what was advised)	YES / NO
Are you receiving any ongoing medication, treatment or support? (if so, please give further information)	YES / NO
Was the absence related to an accident or injury at work, or other workplace factors? (give details as appropriate)	YES / NO
Was the absence related to a disability? (give details as appropriate)	YES / NO
Does the colleague feel fit to return to work? – if no give reasons	YES / NO
For absences over 7 calendar days, has a fit note from a GP or hospital been provided? (please attach a copy to this form, and note any actions recommended)	YES / NO / Not Applicable
Are any arrangements required to support the	YES / NO

colleague's return to work? (if so, please use the space below to give details)			
Have arrangements been made to update the colleague on work issues they may have missed?		YES / NO	
Agreed actions: please use this space to: <ul style="list-style-type: none"> <li>state any support that is being offered to colleague and/or actions that are to be put in place as a result of the colleague's absence</li> <li>record any other relevant information about the absence which has not been captured above</li> </ul>			
Has the colleague met one of the following indicators which could prompt a formal review meeting (please tick, underline or highlight)? If so, please refer to the Supporting Attendance Policy for guidance.			
4 absences* in a rolling 12-month period	Total of 10 days absence* in a rolling 12-month period	An unacceptable pattern of absence	More than 28 calendar days absence, with no known return to work date

\*pro rata for part time staff

<i>I have read and agree with the notes above, and understand that the information on this form can be used for sickness absence monitoring purposes. I declare that I have not undertaken any other form of secondary employment during this period of absence (unless otherwise agreed with my line manager). I am aware that a poor attendance record may result in action being taken under our Trust's Supporting Attendance Policy.</i>	
Colleague's signature:	Date:
Manager's signature:	Date:

## Annex 2 - Statement of Fitness for Work ("Fit Note")

Fit notes tell you whether or not the employee's Doctor thinks they are fit to attend work. They will normally advise that the colleague:

- Is not fit for work, where the medical opinion is that the colleague should refrain from undertaking their duties, or
- May be fit to work, taking into account their advice which may include recommendations such as phased return, altered hours, amended duties or workplace adaptation.

**Phased return:** this may be suggested if the Doctor feels the colleague would benefit from a gradual increase in their duties and/or hours. This can be helpful as someone gradually rebuilds their capacity / strength following a prolonged absence.

**Altered hours:** a Doctor may recommend this if they feel the colleague will benefit from a change to the hours they normally work, in order to help them return to work. This does not necessarily mean fewer hours. This may help someone who is still receiving treatment to return to work with an earlier or later start or finish time.

**Amended duties:** a Doctor may recommend this if they feel the colleague could return to work if some temporary amendments were made to their duties. For example, swapping some duties of a role with a colleague for a few weeks to reduce the amount of lifting & carrying involved.

**Workplace adaptations:** this may be suggested if the Doctor thinks an early return to work could be facilitated by adapting the workplace, for example arranging a temporary ground floor work location for a colleague with reduced mobility post-surgery.

If you receive a Fit Note you need to have a discussion with the colleague as soon as possible, and ideally before they return to work (or alternatively as part of a return to work meeting), so that you can discuss the Doctor's recommendations.

The Fit Note is advisory only. The recommendations are considered to be temporary measures, and where possible they should be accommodated for an agreed timescale. If it is not possible to accommodate them, the reasons for this should be explained to the colleague, and the statement should then be treated as if the doctor had advised the colleague was not fit to work.

Where a colleague requests a return to work before the fit note expires there is no requirement for them to get confirmation that they are fit to be in the workplace from their Doctor. However, their return is subject to the approval of the academy. Where such a request is received, consideration should be given to carrying out a workplace risk assessment – and if there are any concerns about the colleague returning to work then Occupational Health advice should be sought.

Further advice and information on fit notes can be found here:

<https://www.gov.uk/government/publications/fit-note-guidance-for-employers-and-line-managers>

## Annex 3 - Order of Proceedings for Stage Three Hearing

### 1. Introduction

- Introduce those present, and explain why they are there. A notetaker, who is not involved in the case, should be appointed to take notes on the proceedings and Human Resources may be present throughout the hearing.
- Explain the purpose of the meeting i.e. to review the colleague's attendance record and, in line with our Supporting Attendance Policy, to consider their dismissal from employment by Co-op Academies on the grounds of ill-health capability
- Explain how the meeting will be conducted. Particular attention should be paid to any reasonable adjustments which may be necessary in light of the colleague's health.

### 2. Statement of the Management's Case

- State the details of the case and grounds for dismissal, including
  - the colleague's overall attendance record
  - the impact of the level of attendance on the academy / Trust
  - whether the reason for the absence(s) falls within the disability provisions of the Equality Act 2010
  - the management of the case
  - any medical advice received
  - the support / reasonable adjustments considered and/or provided
  - any further action that has or could be taken
  - any options for redeployment within the academy or Trust on medical grounds
  - whether ill-health retirement has been considered
  - consideration of any representations made by the colleague at earlier stages of the process
- If considered appropriate, witnesses may be called to present in person.
- Ensure that the colleague and their companion have (a) seen any evidence relied upon, including any statements made by witnesses and (b) have the opportunity to raise questions.

### 3. Colleague's Reply

- Give the colleague the opportunity to state their case and respond to any points that have been made by Management. They should be able to ask questions, present evidence and call witnesses. The colleague and their companion should be given the opportunity to confer privately.

- Ensure that Management representatives have (a) seen any evidence or witness statements put forward and (b) have the opportunity to raise questions of the colleague or witnesses.
4. General questioning and discussion
- The person/panel hearing the disciplinary should:
    - Ask questions of both the Manager and the colleague to fully establish all the facts [this may be done in section 2 and 3 above and/or at this point of proceedings]
    - Clarify the issues and check that what has been said is understood.
  - If new facts emerge, it may be necessary to adjourn the hearing to investigate.
5. Summing up
- Chair asks the manager presenting the case to sum up
  - Chair asks the colleague to sum up
6. Adjournment before decision
- The Chair should adjourn the meeting before a decision is taken. This allows the panel time for reflection and proper consideration; as much time should be taken as is necessary.
  - The outcome of the hearing may be either dismissal on the grounds of ill health capability or alternative action in the light of evidence presented at the hearing.
  - Where a colleague is dismissed they should be dismissed with appropriate notice.
7. Giving the decision
- Unless a mutual agreement has been reached otherwise, the meeting will be reconvened. The Chair will give a summary and concluding remarks
  - The colleague will be informed of the outcome of the hearing and the right of appeal.
  - The decision will be communicated in writing within 5 working days.

## Annex 4 - Burgundy Book (Section 4: Sick Pay Scheme)

### 1. Leave of absence

This section covers entitlement to sick pay and sick leave and the conditions to be fulfilled for those entitlements.

### 2 Sick leave and pay

2.1 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, half pay for 50 working days
During the second year of service	Full pay for 50 working days, and half pay for 50 working days
During the third year of service:	Full pay for 75 working days, and half pay for 75 working days
During the fourth and subsequent years of service:	Full pay for 100 working days, and half pay for 100 working days

For the purpose of the sick pay scheme, "service" includes all aggregated teaching services with one or more local education authorities.

2.2 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 expire.

2.3 For the purpose of this scheme, "working days" means teaching and non-teaching days within "directed time", as specified under paragraph 40 of the School Teachers' Pay and Conditions Document.

### 3. Sick Pay

3.1 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.

### 4. Sick Leave year

4.1 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.

## 5. Deductions from sick pay

### Full pay

5.1 The following deductions, subject to paragraphs 6.1 and 7 below, shall be made from sick pay where it equals full pay.

(a) the amount of sickness and incapacity benefit receivable under the Social Security Act 1975-1994;

(b) compensation payments under the Workmen's Compensation Acts where the right to compensation arises in respect of an accident sustained before July 5, 1948;

(c) the dependency element (but not disability element) of any treatment allowance received from the Department of Social Security

### Half pay

5.2 Where sick pay is less than full pay, deductions shall be made only so far as is necessary to ensure that sick pay together with benefits receivable in respect of insurance under the Social Security Acts 1975-1994 does not exceed full (ordinary) pay.

5.3 Deductions equivalent to those in paragraphs 5.1 and 5.2 above shall be on the basis that the teacher is eligible to receive such benefits, payments or allowances whether or not he or she takes the necessary steps to obtain them.

5.4 Deductions equivalent to those set out in paragraph 5.1 above shall be made from the sick pay of a teacher who is a married woman or a widow and has elected to pay reduced contributions under the terms of the Social Security Act 1975 and Social Security Contribution Regulations 1979, provided that, where a widow is in receipt of a widow's or widowed mother's allowance or widow's pension, regard should be paid in calculating the amount of sick pay only to such part of the national insurance benefit receivable as is in excess of the amount received by the teacher from the Department of Social Security in weeks of full normal employment.

## 6. Termination of employment during a period of sick leave

6.1 In the event of a teacher exhausting in part or full his/her entitlements under paragraph 2.1 above and being given notice of the termination of his/her contract without returning to work on the ground of permanent incapacity or for some other reason related to the sickness absence, he/she shall be paid full salary for the notice period with normal deductions only.

## 7. School closure periods

7.1 For the purpose of 2.1 above, two half school days shall be deemed to be equivalent to one working day. Whilst sickness during closure periods will not affect the period of a teacher's entitlements to sick leave under 2.1 above, it will be relevant so far as deduction of benefit is concerned. Thus the same deductions applicable to a teacher in respect of sickness on working days will be applicable in respect of sickness during a closure period.

7.2 The rate of sick pay applicable to a teacher in respect of sickness during the closure of a school is the rate applicable to him/her on the last day before the closure. Where a teacher, therefore, is ill immediately preceding a closure period and:

- he/she is on full sick pay, then he/she shall continue on full sick pay, but the closure period is not counted against his/her entitlement under 2.1 above;
- he/she is on half sick pay, then he/she shall continue on half sick pay, but the closure period is not counted against his/her entitlement



- he/she has exhausted his/her sick pay entitlement and is not receiving any pay, then he/she shall continue to receive no pay.

7.3 Where a teacher is either on half pay or is not receiving pay he/she may be put back on full (ordinary) pay by the procedure in 7.4 below.

7.4 When a teacher is ill immediately preceding a closure of the school, and has exhausted his/her sick leave entitlement, or is on less than full pay, and recovers during the period of closure, such teacher shall be deemed, for the purpose of calculating the amount of salary due, to have returned to duty on the day he/she is authorised medically fit to do so by means of a doctor's statement obtained for that purpose, provided he/she actually returns to duty on the first day after the period of closure. Where a teacher in these circumstances does not return to duty on the first day after the period of closure he/she shall refund such sum as the employer at their discretion may decide.

7.5 If, during the period of closure of a school a teacher falls ill and becomes entitled to Statutory Sick Pay or becomes or would become (but for election to be excepted from liability to pay contributions) entitled to claim any of the benefits referred to in sub-paragraph 5.1 above, it shall be his/her duty to notify the employer thereof (in accordance with sub-paragraph 8.1 below as if the days of closure were working days) so that the employer may either pay Statutory Sick Pay (where appropriate) or make the appropriate deductions.

## 8. Conditions

8.1 A teacher shall not be entitled to sick pay unless:

- (i) notification is made to the employer as may be required, not later than the fourth working day of absence;
- (ii) a doctor's statement is supplied not later than the eighth day of absence;
- (iii) subsequent doctor's statements are submitted at the same intervals as they are required for D.S.S. (N.I.) purposes and on return to duty in those cases where the absence extends beyond the period covered by the initial statement and at similar intervals during a period of entitlement to Statutory Sick Pay;
- (iv) in the case of prolonged or frequent absence, the teacher undertakes any examination that the employer may require by an approved medical practitioner nominated by them, subject to the provisions of the Access to Medical Reports Act 1988 where applicable. The cost of the examination shall not be borne by the teacher. The teacher's own doctor may be present at such an examination at the teacher's request.
- (v) the teacher declares to the satisfaction of the employer his or her entitlement to benefits under the relevant Acts as well as any alteration in the entitlement to such benefits.

8.2 When a teacher enters a hospital or similar institution a doctor's statement on entry or discharge shall be submitted in the place of periodic statements.

## 9. Absences arising from accidents, injury or assault at work

9.1 In the case of absence due to accident, injury or assault attested by an approved medical practitioner to have arisen out of and in the course of the teacher's employment, including attendance for instruction at physical training or other classes organised or approved by the employer or participation in any extracurricular or voluntary activity connected with the school, full pay shall in all cases be allowed, such pay being treated as sick pay for the purposes of

paragraphs 3 to 7.5 above, subject to the production of self certificates and/or doctors' statements from the day of the accident, injury or assault up to the date of recovery, but not exceeding six calendar months.

9.2 After that maximum period of six months' full pay, in the event of the teacher not returning to duty he/she shall be entitled to normal sick leave and pay under the terms of paragraph 2.1 according to his/her length of service as prescribed by that paragraph

9.3 Absences resulting from accidents, injuries or assaults referred to in sub-paragraph 9.1 shall not be reckoned against the teacher's entitlements under paragraph 2 above, though such absences are reckonable for entitlement to Statutory Sick Pay.

9.4 For the purpose of sub-paragraph 9.1 "absence" shall include more than one period of absence arising out of a single accident, injury or assault.

## 10. Contact with infectious diseases

10.1 When the approved medical practitioner attests that there is evidence to show a reasonable probability that an absence was due to an infectious or contagious illness contracted directly in the course of the teacher's employment full pay shall be allowed for such period of absence as may be authorised by the approved medical practitioner as being due to the illness, and such absence shall not be reckoned against the teacher's entitlement to sick leave under paragraph 2 above, though such absences are reckonable for entitlement to Statutory Sick Pay.

10.2 Where the absence is attested by the approved medical practitioner to be due to pulmonary tuberculosis and the teacher carries out an approved course of treatment full salary shall be paid in respect of the first twelve calendar months of the period of absence after attestation and further full or half-pay shall be allowed at the discretion of the employer

10.3 A teacher residing in a house in which some other person is suffering from an infectious disease shall at once notify the employer and the teacher shall, if required, take such precautions as may be prescribed, provided that if in the opinion of the approved medical practitioner it is considered inadvisable, notwithstanding such precautions, for such teacher to attend duty, full pay shall be allowed during any enforced absence from duty, such pay being sick pay for the purpose of paragraphs 3 to 7.5 above. This provision will also apply where, in the opinion of an approved medical practitioner, it is inadvisable for a teacher to attend duty for precautionary reasons due to infectious disease in the workplace. The period of the absence under this paragraph shall not be reckoned against the teacher's entitlement to sick leave under paragraph 2 above, though such absences are reckonable for entitlements to Statutory Sick Pay.

## 11 Absences caused by negligence

11.1 If the absence of the teacher is occasioned by the actionable negligence of a third party in respect of which damages are recoverable, he/she shall advise the employer forthwith and the employer may require the teacher to refund a sum equal to the aggregate of sick pay paid to him/her during the period of disability of 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 employer will require full details and will determine the actual proportion of sick pay to be refunded by the teacher.

11.2 If the employer, in consultation with the governing body as appropriate, are of the opinion that the disability which has occasioned the teacher's absence from work is due to his/her misconduct, or if the teacher has failed to observe the conditions of this scheme, or has been guilty of conduct prejudicial to his/her recovery, the payment of any sick pay under the scheme may be suspended by the employer. In any such case the employer shall inform the teacher of the

grounds upon which the payment of sick pay has been suspended. He/she will then be given the opportunity to submit his/her observations and to appear (accompanied by a representative if he/she so wishes) before the employer, or governing body, as appropriate. The employer, in consultation with the governing body as appropriate, will thereupon decide whether the disability was due to the conduct of the teacher or whether he/she has failed without reasonable cause to observe the conditions of the scheme, or has been guilty of conduct prejudicial to his/her recovery, in which case the teacher shall forfeit his/her right to any payment or further payment of sick pay in respect of that period of absence.

11.3 Sick pay shall not be paid in a case of accident due to active participation in sport as a profession unless the employer decides otherwise, though Statutory Sick Pay may be payable.

## Annex 5 - Green Book (for school-based support staff)

### 10. Sickness Scheme

10.1 The scheme is intended to supplement Statutory Sick Pay and Incapacity Benefit so as to maintain normal pay during defined periods of absence on account of sickness, disease, accident or assault.

10.2 Absence in respect of normal sickness is entirely separate from absence through industrial disease, accident or assault arising out of or in the course of employment with a local authority. Periods of absence in respect of one shall not be set off against the other for the purpose of calculating entitlements under the scheme.

10.3 Employees are entitled to receive sick pay for the following periods:

During 1st year of service 1 month's full pay and (after completing 4 months service) 2 months half pay

During 2nd year of service 2 months full pay and 2 months half pay

During 3rd year of service 4 months full pay and 4 months half pay

During 4th and 5th year of service 5 months full pay and 5 months half pay

After 5 years service 6 months full pay and 6 months half pay

Authorities shall have discretion to extend the period of sick pay in exceptional cases.

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

10.5 In the case of full pay periods sick pay will be an amount which when added to Statutory Sick Pay and Incapacity Benefit receivable will secure the equivalent of normal pay.

10.6 In the case of half pay periods sick pay will be an amount equal to half normal earnings plus an amount equivalent to Statutory Sick Pay and Incapacity Benefit receivable, so long as the total sum does not exceed normal pay.

10.7 Normal pay includes all earnings that would be paid during a period of normal working, but excluding any payments not made on a regular basis.

10.8 The social security benefits to be taken into account for the calculation of sick pay are those to which an employee is entitled on the basis that the employee has satisfied so far as is possible:

- (i) the conditions for the reporting of sickness as required by the authority;
- (ii) the claiming of benefits
- (iii) the obligation to declare any entitlement to benefits and any subsequent changes in circumstances affecting such entitlement.

10.9 An employee who is prevented from attending work because of contact with infectious disease shall be entitled to receive normal pay. The period of absence on this account shall not be reckoned against the employee's entitlements under this scheme.

10.10 If an employee abuses the sickness scheme or is absent on account of sickness due or attributable to deliberate conduct prejudicial to recovery or the employee's own misconduct or neglect or active participation in professional sport or injury while working in the employee's own time on their own account for private gain or for another employer sick pay may be suspended. The authority shall advise the employee of the grounds for suspension and the employee shall have a right of appeal to the appropriate committee of the authority. If the authority decides that the grounds were justified then the employee shall forfeit the right to any further payment in respect of that period of absence. Repeated abuse of the sickness scheme should be dealt with under the disciplinary procedure.

#### NJC - Other National Provisions (Green Book, part 3, sickness scheme)

- 4.1 An employee shall not be entitled to claim sick pay under the scheme unless:
- (i) notification is made immediately to the person identified for this purpose by the authority;
  - (ii) further notification is made as required by the authority;
  - (iii) a doctor's statement is submitted to the authority not later than the eighth calendar day of absence;
  - (iv) subsequent doctor's statements are submitted as necessary;
  - (v) in cases where the doctor's statement covers a period exceeding fourteen days or where more than one statement is necessary, the employee must, before returning to work submit to the authority a final statement as to fitness to resume duties;
  - (vi) on return to work the employee signs a statement detailing the reasons for absence for all absences up to and including seven days.
- 4.2 An employee shall, if required by the authority at any time, submit to a medical examination by a medical practitioner nominated by the authority, subject to the provisions of the access to Medical Reports Act 1988 where applicable. Any costs associated with the examination should be met by the employing authority.
- Where it is necessary to obtain a second medical opinion, it should be provided by an independent medical referee.
- 4.3 Where, for the purpose of qualifying for sick pay under the scheme, an authority requires a doctor's statement from an employee, the authority will reimburse the employee the cost of such a statement on the provision of a receipt.
- 4.4 An employee who falls sick during the course of annual leave shall be regarded as being on sick leave from the date of a doctor's statement.
- 4.5 Where an employee is receiving sick pay under the scheme, sick pay should continue if a public or extra statutory holiday falls during such sickness absence. No substitute public or extra statutory holiday should be given.