

Academies Trust

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# Supporting Attendance Policy

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## Supporting Attendance Policy

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## Supporting Attendance Policy

### 1.0 Purpose

1.1 Co-op Academies Trust is committed to promoting the health, safety and wellbeing of its entire staff and will support and assist colleagues who may have health difficulties. As part of this aim it is essential that throughout the organisation, all colleagues and managers are committed to achieving the lowest possible level of absence.

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 The 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 work related stress (see separate Stress at Work policy) or dignity at work issues;
- 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 procedure 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 Absence data will be monitored to help develop supportive strategies to tackle underlying causes of staff absence.

### 2.0 Applicability

2.1 This procedure applies to all employees of the Trust, whether permanent or on a temporary / fixed term contract. It does not apply to staff on probation, agency workers, contractors or volunteers.

2.2 The sickness absence procedure 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 the Trust's Special Leave policy.

2.3 Formal action under this procedure 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

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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.

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 probationary period

Poor attendance during the probationary period may constitute a failure to perform to the required standards and could prompt the final review to be brought forward. Although poor attendance will be managed through the probationary procedure, the supporting attendance procedure should be referenced to ensure colleagues are supported to remain in work wherever possible, including the consideration of reasonable adjustments. Colleagues must still have return to work interviews after every period of absence and 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 review meetings

### 3.0 Roles and responsibilities

3.1 Headteachers / Principals (Trust CEO for central 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, and 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 procedure, 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 procedure, 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-operate 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, by telephone, 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.

It is expected that staff will seek support through the Trust's healthcare provider when necessary and engage in any suggested treatment particularly where it has been indicated that such programmes may improve their health

3.3 Each academy will have an appointed Occupational Health Provider. Their role is to provide independent occupational medical advice on employee health-related matters. The purpose of the advice is to help the management of the school 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.

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

- advising on the Sickness Absence Procedure 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;
- 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 the Trust.

## 4.0 Principles

4.1 The 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 The 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 procedure 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 procedure set out a guideline for when informal or formal action may be required. Where an indicator is reached the line manager will take into account any relevant factors and if a meeting is not convened at this point will make a record of the reasons why. If a meeting is not held when the indicator is first reached, it will not preclude the manager convening such a meeting at a later date if s/he has concerns about the continued level of sickness absence.

4.6 The colleague will normally be given at least 5 working days' notice of all formal meetings under this procedure. 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.

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

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 procedure may be amended by mutual consent.

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

4.12 The Trust will pay sick pay in line with national terms and conditions for teachers (Burgundy Book – see Annex 3) and support staff (Green Book – see Annex 4).

4.13 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 the 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 by telephone and speak to someone in person, as soon as possible and usually no later than the time that they would normally start work. If the employee is unable to speak to someone in person, they must leave a contact number so that a manager can contact them.

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

- the reason for the absence
- the estimated duration of absence
- 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.

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 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 procedure, 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 absence indicators but may form part of a recurring pattern which is a cause of concern.

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. 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.

#### 5.9 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 will be classified 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 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

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

entitlements. Teachers whose sick leave extends into the school holiday must continue to submit fit notes, even though the school is closed.

## 6.0 Returning from sickness absence – Support Stage

### Return to work discussions

6.1 It is good practice that 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 should be a brief 5-10 minute conversation and should, wherever possible, be conducted in a private area. 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.

6.2 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);
- update the colleague on work matters as necessary;
- identify if an individual work place risk assessment needs to take place;
- ensure that the absence is correctly recorded;
- inform, if appropriate, that further action is required.

6.3 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.

6.4 Where a GP 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. If they have 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

6.5 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.

6.6 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 school office, so that accurate personnel and payroll records can be maintained.

6.7 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.

6.8 The colleague does not need to have a statement from the doctor that they are fit for work, although where there are concerns particularly of a safety nature then the manager may advise the colleague to



obtain a private statement from the GP in which case any costs should be met by the academy, or may arrange an occupational health appointment.

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

6.10 If a colleague becomes unwell during a work day and needs to leave before their normal finish time they should follow academy notification procedures. The colleague should be recorded as being absent from the time that they leave work for absence monitoring purposes, however this part day will not be deducted from sick-pay entitlements.

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.

The 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, the 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.

Medical suspension should not be considered an alternative to sick pay in relation to a period of long term sickness absence, or as an alternative to an agreed phased return.

Medical suspension is the Headteacher / Principal / Trust CEO’s decision. 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 HR and Occupational Health.

**7.0 Informal Monitoring/Action**

7.1 Academies are responsible for monitoring absence levels, and if a colleague’s sickness absence starts to reach levels of concern then it is recommended that informal action is taken to draw this to the colleague’s attention prior to them reaching the absence levels which would prompt the start of a formal procedure. 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> If the absence(s) is/are potentially related to an underlying medical condition OR is cause for concern (e.g. work-related stress) a stress risk assessment made be carried out or an Occupational Health referral made prior to further action so that support is provided at an early stage.</p>
Frequent / recurring patterns of absence which are causing concern	

	<b>Action:</b> If following the review and support stage (where relevant) and the absence remains a cause for concern, then the case should be managed as documented within this policy.
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.</p> <p><b>Support:</b> Maintain ‘welfare contact’ with the colleague through an appropriate link person during their absence, which may include home visits or visits at agreed venue. If appropriate refer to OH for advice and/or counselling.</p> <p><b>Action:</b> Following the support stage, and where appropriate depending on the individual circumstances the case should be managed as documented within this policy.</p>

7.2 A colleague’s manager can take informal action by meeting with the colleague to highlight the concerns and discuss their absences, and any steps that could be taken by either party to help facilitate the colleague to maintain good attendance. The focus of the discussion should be supportive, and the manager should direct the colleague to support providers such as the Employee Assistance Programme, and/or the Trust’s Stress at Work Policy. The manager may also bring to the colleague’s attention the Trust’s Supporting Attendance Policy and the possible consequences of further absences.

7.3 This discussion will not be formally documented, but the manager may confirm by email that the discussion has taken place and any actions agreed. A copy of any record of the discussion should be shared with the colleague.

7.4 Although good practice, it is not mandatory to have gone through a process of informal action prior to commencing formal action.

## 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>.
- An unacceptable pattern of absence, e.g. Fridays and/or Mondays, before or after Bank Holidays or school closure periods;  
A period of sickness of more than 4 weeks
- Other concerns about levels of absence, such as an increase in absence following expiry of a monitoring 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 Modification of these indicators may be considered when reviewing an individual’s personal circumstances (for example, as a reasonable adjustment under the terms of the Equality Act).

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

8.4 If a formal meeting is not held when the indicator is first reached, it will not preclude the manager convening such a meeting at a later date if they have concerns about the continued level of sickness 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 monitored. As a 'starting point' guide, a target and 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. However, it must be remembered that the manager, when setting targets for improvement, will need to take into account the individual circumstances of any case, medical advice received and the impact of any disability.
- 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 Procedure
- 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 monitoring period, support to be given / actions to be taken, and a reminder that failure to reach 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
- 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 the 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 Stress at Work 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 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 monitoring 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 monitoring period the colleague will be removed from the sickness absence procedure. It is, however, expected that the improvement will be sustained for a minimum of 12 months (if the agreed monitoring period was less than this) and if it is not then the procedure will recommence at the stage it was stopped.

8.15 If however, there have been further absences, 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 monitoring period should be agreed.

9.4 A stage two review period will usually be no less 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 monitoring 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 them that continued long term absence could lead to a formal hearing which could result in their dismissal on the grounds of ill health capability.

#### Next steps

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

9.11 Short term absence: if a colleague's attendance improves to the required standard for the specified monitoring period the colleague will be removed from the sickness absence procedure. It is, however, expected that the improvement will be sustained for a minimum of 12 months (if the agreed monitoring period was less than this) and if it is not 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 monitoring 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. 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 before governors 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. 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.

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 receive pay for their normal contracted hours during the phased return period, 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 will 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 the 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.

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 the Trust. In this case, pay will be at the rate for the job; there is no pay protection.

## 12.0 Formal action – Stage Three Hearing

12.1 The colleague will normally 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
- 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 advisement 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 6 weeks 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. The 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 procedure**

	<b>Informal discussions on sickness absence and returning to work</b>	<b>Stage One &amp; Stage Two Meetings</b>	<b>Stage Three – Hearing</b>	<b>Appeal against dismissal</b>
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 Local Governing Body (LGB)	Panel of three from the LGB
Headteacher / Principal	Chair of Governors and/or Chief Education Officer	Chair of Governors and/or Chief Education Officer and/or Trust CEO, or panel of three from the LGB	Panel of three from the Trust Board	Panel of three from the Trust Board
All central team colleagues except the Trust CEO	Line manager	Member of the Trust's Executive Leadership Team and/or Trust CEO	Panel of three, including at least one member of the Trust Board	Panel of three from Trust Board
Trust CEO	Chair of the Trust Board (or nominated delegate)	Chair of the Trust Board (or nominated delegate)	Panel of three from the Trust Board	Panel of three from the Trust Board

Note: whilst it would be usual to draw panel members from an individual academy's LGB, in exceptional circumstances the 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 the 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 the 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 procedure will be reviewed to respond to any changes in the employment legislation, and at least every three years, in conjunction with the Trust's recognised trade unions. The procedure should be Equality Impact Assessed each year and the details shared with Trade Unions.




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 Academies Trust
 

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**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 colleague's return to work? (if so, please use the space below to give details)	YES / NO		
Have arrangements been made to update the colleague on work issues they may have missed?	YES / NO		
<b>Agreed actions:</b> 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 agreed 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 the Trust's Supporting Attendance Policy.</i>	
Colleague's signature:	Date:
Manager's signature:	Date:

### **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 in to 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 think 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>

**Burgundy Book (Teachers)****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 service 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 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 extra curricular 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 Absence 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.

**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 decide 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.