



'Engaging learners to enhance their life opportunities and outcomes'



## ABSENCE MANAGEMENT POLICY

### Approved

Signature of CEO	
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Signature of Chair of Board	
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This policy is a mandatory policy for all BEST schools and must be implemented with no amendments.

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## 1. PURPOSE

This Trust Absence Management Policy and Procedure has been adapted from Suffolk County Council's model policy<sup>1</sup> and is designed to assist Headteachers and Local Governing Bodies / School Improvement Boards to manage sickness absence and to create a culture of attendance, underpinned by clear reporting procedures for the active management and monitoring of absence throughout the school.

Everyone feels the impact of ill-health and absence. It can significantly affect how the school performs and affects the service which the school provides.

## 2. SCOPE, AIMS AND PRINCIPLES

This policy and its procedure apply to all staff, except during any probationary period, when probation procedures will apply.

The use of the term 'manager' throughout this policy refers to the person who has responsibility for managing attendance of an employee or group of employees.

In this policy the term "Governing Body" means the Local Governing Body of the school concerned or School Improvement Board, where one is in place, and any committee of the Governing Body acting with delegated authority, or the body acting in a similar way to a governing body.

The Governing Body of the school aims to:

- Create a positive culture which supports the health, safety and wellbeing of staff;
- Minimise disruption to the education of pupils;
- Maintain high levels of attendance;
- Treat employees' absence in a consistent, fair and sensitive manner;
- Provide a reasonable and safe working environment, appropriate welfare support, and advice on general health issues;
- Enhance employee relations;
- Ensure prompt action is taken;
- Recognise where relevant training is necessary.

The school's attendance principles are:

- Good attendance is recognised and valued;
- All absences are treated as genuine, unless there is reason to doubt this;
- The absence management procedure is designed to be proactive and supportive rather than punitive;
- Management of absence will be dealt with in a non-discriminatory way;
- Individuals and health-related information will be treated with respect and in confidence, in accordance with the requirements of the Data Protection Act and the Access to Medical Reports Act;
- Open communication between managers and employees is greatly encouraged.

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<sup>1</sup> Suffolk County Council's SSC 007 LA Sickness Absence Policy V3 - June 2021.

### 3. ROLES AND RESPONSIBILITIES

The **Governing Body** is responsible for minimising the disruption to the school due to the absence of its employees. The purpose of this policy is to ensure that:

- The school exercises its duty of care and has proper regard to the health, safety and welfare of its employees;
- The Governing Body's and, where appropriate, the Trust's broader responsibility to promote a healthy workforce is acknowledged;
- All members of staff understand that repeated or long-term absence has a demotivating impact on their colleagues and impacts on the learning and achievement of pupils;
- All members of staff understand that absence always has a cost, whether direct or indirect.

The **Trust** will monitor and review this policy from time to time; delegate to the Governing Body and Headteacher the necessary discretion to operate absence management procedures and arrangements; and ensure that fair and consistent standards are applied to the management of absence.

The **Headteacher** (with the assistance of senior staff) is responsible overall for the day-to-day management of sickness absence. They will also ensure that all management employees have appropriate training/coaching on this policy and its guidelines to ensure consistency of its application. The Headteacher is also responsible for ensuring that all employees have a return-to-work meeting on their first day back from every absence, or as soon as reasonably practicable, regardless of its duration, and that the relevant forms are completed and then passed to the Business Manager / HR Manager, in a timely manner, for recording and monitoring absence.

The **Business Manager / HR Manager** will ensure that the school has suitable arrangements for enabling employees to notify absence; for communicating information about absence, in a timely manner, for payroll and other necessary purposes; and for following up absence in appropriate circumstances, in line with HR guidance.

**Employees** have a duty to attend for work unless they are unable to do so through sickness or injury, or unless their absence has been otherwise approved. They have a responsibility to report their own absence through sickness or other emergency using the school's procedures, and to produce medical evidence, as required. Employees are also expected to participate fully in any occupational health or other appropriate medical review process/provision offered by the school, or other agencies, in support of their health and attendance at work. Failure to do so may limit the support or information that the school is able to consider when making decisions under this procedure.

Further information about monitoring is set out in section 11.

### 4. DISABILITY

The Equality Act 2010 makes it unlawful for the school to treat unjustifiably a person with a 'protected characteristic', such as a disability, less favourably than a person who does not

have a disability for any reason related to the person's disability. Disability should not be equated with poor health.

The Act also requires employers to consider all reasonable adjustments in the school, which would enable an employee with a disability to continue to work. Therefore, the school will ensure that all reasonable adjustments are considered and, where possible, provided in discussion with the employee.

The definition of disability, according to the Equality Act 2010 is "a physical or medical impairment which has a substantial and long-term negative effect on his or her ability to carry out normal daily activities". Long-term in this definition is taken to mean more than 12 months (i.e. where from the diagnosis, the illness is likely to last more than 12 months). This definition also includes long-term illness such as cancer; HIV; and mental health problems, such as clinical depression.

### **5. PREGNANCY-RELATED ABSENCE**

It is recognised that a pregnancy may result in various medical absences, at different stages, and the school will treat these supportively. No action under the provisions of this procedure will be taken against an employee who is absent from work due to a pregnancy related illness. However, absence levels will continue to be monitored and where the school has concern about the reasons or lengths of absence, it reserves the right to investigate formally the nature and cause of the absences. Absences in the four weeks leading up to the expected week of childbirth may result in maternity leave starting early at the request of the employer. For further information, see separate Maternity guidance.

### **6. ABSENCE DUE TO ALCOHOL OR SUBSTANCE MISUSE**

Where poor attendance is related to alcohol or drug use, the Headteacher/line manager should refer to the Alcohol and Substance Misuse Policy and seek advice from their HR Caseworker.

### **7. REFERRAL TO OCCUPATIONAL HEALTH**

Early occupational health advice can be a significant part of supporting an employee to improve their attendance; recover their health; or achieve a successful and sustained return to work. The school will consider accessing appropriate professional occupational health advice and support, as necessary.

The Headteacher will normally make any referral, although this responsibility can be delegated to another senior member of staff.

The employee will be advised that a referral is going to be made and be encouraged to seek the support of the school's wellbeing programme and the support of their professional association if they have not already done so. In some circumstances, it may be necessary to inform the employee in writing.

An employee will not be compelled to attend a meeting with Occupational Health but will need to be made aware that the school may have to make a decision about his/her continued employment without the help of a medical opinion, which may be to the employee's disadvantage, if they choose not to participate in any review offered. Failure

to engage with Occupational Health support may also affect the entitlement to occupational sick pay.

The support of Occupational Health can be sought, at any stage, and need not wait until the employee is absent due to ill health. Normally, however, the Headteacher (or other nominated senior manager) will refer an employee when a return-to-work interview or a 'trigger point' (see section 13) suggests it may be appropriate, or where the employee continues to be absent after 20 working days. However, this does not prevent an earlier referral taking place, if required. In some circumstances, referral may not be necessary, for example, where the nature of the medical condition is clear, the prospect of return to work is well-defined (e.g. a broken limb or routine surgery) and advice regarding appropriate support and/or adjustments in the workplace is readily available, for example, from the employee's GP or a consultant.

Where it is known at the outset of the absence that an employee will be absent for an extended period, particularly in the case of stress-related absence, an earlier referral will be considered.

There is no self-referral process for employees, although an employee may request to be referred by the school.

### 7.1 Factors to be considered by Occupational Health

Depending on the questions asked by the school, as part of the referral, the Occupational Health provider is likely to consider some or all of the following:

- Whether or not the employee is likely to attend work regularly and resume the full duties of the post, in the foreseeable future;
- Whether there is a disability; how any disability affects the employee; and whether any adjustments are required;
- Any recommendations on convenient and effective ways in which duties or circumstances could be re-arranged, on either a temporary or permanent basis, considering the fitness and ability of the employee and recognising the individual circumstances of the school and its over-riding need to provide a high-quality education for its students;
- Whether there are other kinds of work which would suit his/her abilities, or which with further training, could be considered;
- Whether there is any other support the school, or other agencies, could reasonably consider offering;
- Whether ill-health retirement is an option.

Following an employee being assessed by Occupational Health, a report will be sent to the Headteacher, or to the senior manager who has made the referral. In the case of a headteacher, this will be sent to HR who will liaise with the Chair of Governors.

Where Occupational Health advice is that the employee is fit for normal duties, they should return to work upon expiry of the current medical certificate. The report may recommend a phased return to work and/or light or limited duties for a limited period.

In situations where Occupational Health recommends a therapeutic or a phased return to work, every reasonable assistance will be provided to the employee to facilitate this. All

returns to work should be agreed within a specific timescale and the employee's progress reviewed by the line manager, at regular intervals, throughout the period.

#### 7.2 Possible Outcomes of Occupational Health Assessment

**Fit for work with no adjustments:** the employee is fit to return to work with no adjustments to his/her working pattern. It is vital that the Headteacher or nominated person arranges a Return-to-Work Meeting to discuss the employee's return to work.

**Continue to Monitor:** it may be that no immediate action is necessary other than to continue to monitor the situation and to organise temporary cover. This approach will be appropriate where a full recovery is likely within a timescale that will not cause unacceptable operational difficulties.

**Reasonable Adjustments:** Occupational Health may suggest reasonable adjustments to the employee's working environment or role to facilitate his/her return to work. It is for the school to decide what adjustments are reasonable having considered the suggestions made in the report.

**Therapeutic visits or Phased Return to Work:** there may be certain cases where following a long term illness, Occupational Health recommends that it would be beneficial for an employee to return to work on a reduced hours basis, until his/her health has fully recovered. It is expected that a phased return to work should last no more than 4 to 6 weeks. The school will be required to pay the employee his or her normal full salary during the duration of the phased return but for no longer than 4 to 6 weeks. Where a therapeutic return is recommended, it will usually consist of a series of short visits to the school without the expectation that the employee will perform their normal contractual duties and will normally precede a phased return. During such therapeutic visits, the employee is still absent due to ill health and in receipt of appropriate sick pay benefits.

**Change of Role:** Occupational Health may suggest that the employee would benefit from a change in role or change of duties sufficient for it to be considered a new role. In some cases, it may not be possible to accommodate this suggestion in the same school. In these circumstances, the school will seek advice on any options for supporting the employee to find suitable alternative employment.

## 8. SICKNESS ABSENCE REPORTING PROCEDURE

On the **first day of absence**, the employee must personally notify the school of his/her absence due to ill health, as early as possible in the circumstances, and no later than his/her normal start time. The reason for the absence and an indication of its likely duration should also be given. Unless otherwise agreed, the employee should contact the school on each subsequent day of absence.

Unless the employee is seriously ill or incapacitated, the employee should contact the school, rather than asking a friend or relative to call on their behalf. Only in the most serious of cases, will it be acceptable for a text message or e-mail to be sent instead of making personal contact.

If the employee has been unable to speak to the line manager / another member of staff, at the time of reporting the absence, they may expect further contact from the school to

clarify the nature of the absence, its likely duration, any immediate work commitments that will need to be covered or re-arranged, and to discuss any support the school may offer, as necessary.

Each school will have its own local sickness absence reporting arrangements, which should be well known to its employees. Failure to follow the local reporting arrangements could result in the absence being recorded as unauthorised. Failure to comply with the reporting and certification procedures may result in loss of sick pay; persistent failure to comply may result in disciplinary action.

If the absence is due to an accident or injury sustained during the course of work duties, this information and the name of the person to whom the incident was reported must be made known. This is to ensure that the school's management has properly recorded the incident and, where necessary, taken appropriate remedial action.

### **9. CERTIFICATION**

All employees must complete a self-certification form on their return to work for all absences up to and including 7 consecutive calendar days. For all absences of 8 consecutive calendar days or longer, the employee must provide a doctor's certificate ("Fit Note"). The requirement for sickness absence to be certificated includes school closure periods.

The employee must keep the school informed of progress. For longer term absence, the school will seek to agree a regular pattern of contact, with the absent employee. Headteachers/line managers should keep a record of their contact with the employee. Other than in the most exceptional circumstances, it is not acceptable for there to be no contact between the school and its employee.

If an employee receives a Fit Note from the GP, marked as 'May be fit for work' with suggestions for any of the following:

- A phased or therapeutic return to work;
- Amended duties;
- Altered hours;
- Workplace adaptations.

A meeting with the employee should be arranged to discuss appropriate ways to manage the return-to-work process and support the employee in making adjustments. The school may need to seek further advice from Occupational Health. It is for the school to decide what adjustments are reasonable having considered suggestions made by the GP and / or Occupational Health.

If an employee informs the school that they feel well enough to return, despite still being covered by a fit note certifying that the individual is 'not fit for work'; the school should conduct a risk assessment and only agree to the individual returning, if any risks can be satisfactorily managed.

### **10. SICK PAY**

Employees have an entitlement to receive sickness pay during any period of sickness. This consists of Statutory Sick Pay and an Occupational Sick Pay entitlement.



For support staff, full details of sick pay entitlement are given in the Green Book. A summary of the allowances is shown below:

Length of Continuous Service	Full Pay	Half Pay
Up to 4 months	1 month	None
4 – 12 months	1 month	2 months
1 – 2 years	2 months	2 months
2 – 3 years	4 months	4 months
3 – 5 years	5 months	5 months
Over 5 years	6 months	6 months

For teachers, full details of entitlements to sickness payments are set out in the Burgundy Book. A brief summary of those entitlements is set out below.

Length of Service	Full Pay	Half Pay
Up to 4 months	25 working days	None
4 – 12 months	25 working days	50 working days
1 – 2 years	50 working days	50 working days
2 – 3 years	75 working days	75 working days
More than 3 years	100 working days	100 working days

The amounts of full and half pay will be reduced by the number of days of paid sick leave taken during the preceding 12-month period.

In exceptional circumstances, the Governing Body may consider using its discretion to extend an employee’s entitlement to occupational sick pay, in the knowledge that any costs of doing so will fall to the school’s budget. In the case of teachers absent 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, the period of full sickness pay is automatically extended up to the date of recovery, but not exceeding 6 calendar months.

## 11. MONITORING ABSENCE

To ensure we can support fully the wellbeing of our employees, it is important to apply an accurate and consistent method of monitoring absence.

Effective monitoring of absence is dependent on effective recording of absence. As part of their induction, new employees will be made aware of the school’s absence reporting arrangements and the expectations that the school has of good attendance. All employees will be made aware that the school will address concerns about absence levels.

Absence monitoring can also be referenced to ensure any decision leading to action against an employee for unacceptable levels and/or pattern of absence is appropriate. It is the responsibility of the Headteacher to determine whether formal action is taken. The decision will be based on the cause, amount and frequency of the absence.

It should be noted that none of the definitions set out as part of this procedure prevents earlier intervention, if appropriate nor is it necessary to wait until sick pay has expired before further action is taken.

## 12. UNAUTHORISED ABSENCE

It is the employee's responsibility to adhere to the absence reporting procedures as set out above. However, if an employee fails to report to work, without informing their line manager; it is important that the situation is investigated with the employee and they are given the opportunity to explain. If, after all reasonable efforts have been made to contact the employee, they remain absent without leave, it may be treated as an unauthorised absence without pay and may warrant an investigation under the Trust's Disciplinary procedures.

## 13. TRIGGER POINTS

To enable managers to monitor absence levels, trigger points have been agreed. The school's senior leadership team will continuously monitor these levels and will investigate with the employee any levels or patterns of absence which cause concern and having considered the reasons behind them, will decide whether any action (informal or otherwise) is required.

In any event, absence that reaches any of the following trigger points will be investigated in every instance:

- **3 occasions, or 10 working days or more, absence in a rolling 3 months' period;**
- **All absences of 10 or more working days**
- **Unacceptable patterns of absence (e.g. regular Friday and/or Monday absences or school closure periods)**

Due regard must be taken of the Equality Act in relation to disability and pregnancy, so as to ensure employees are not placed at a disadvantage, as a result of these protected characteristics. Therefore, absence relating to rehabilitation, assessment and treatment of a disability and pregnancy related absence should be excluded from the triggers (see the sections 4 and 5 above). Due support and regard should also be given to employees who may be experiencing the effects of, for example, drug or alcohol misuse or domestic abuse. In all cases, the context of the individual's situation should be considered and further guidance sought from your HR Advisor, if required.

It should be noted that the above trigger points do not prevent earlier intervention, if appropriate. Any employee, who the school finds to be abusing the school's sickness absence management arrangements, will be subject to disciplinary procedures, which may lead to dismissal.

## 14. SHORT-TERM AND LONG-TERM ABSENCE DEFINITIONS

For the purpose of this procedure, short-term absence has been defined as including any of the following scenarios:

- Occasional short-term absence, or
- Recurrent short-term absence where the causes differ and appear to be unrelated, or
- Recurrent short-term absence with an underlying medical condition, or
- Unacceptable patterns of absence (e.g. regular absences either side of weekends or school closure periods).

For the purposes of this procedure, long-term absence is defined as follows:

- Continuous absence for a period exceeding 20 or more working days, or
- Where the actual and anticipated future health of the employee makes a return to their current role very unlikely, at least in the immediate future, or
- Recurrent long-term absence with an underlying medical cause.

The school recognises that an employee facing a substantial period of absence from work due to ill health may feel anxious and vulnerable. School managers will be sensitive to these feelings and provide support and reassurance, wherever possible. It is important to maintain contact during the absence; the nature and frequency of which is best defined, as early as possible, between the manager and the employee. On occasion, it may be appropriate to meet at a neutral venue, or to make a home visit (although, this should only occur with the express permission of the employee and in accordance with the Lone Working Policy). Employees should also be asked if they would like to receive news, information or briefings available to other colleagues. If an employee requests that there should be no contact at all during sickness, the reason for this should be explored with him/her (or a nominated representative) - the assistance of the HR Caseworker should be sought, if necessary.

As with short-term absence, there is a need to follow a consistent procedure. At all stages, the Headteacher / manager should advise the employee of their rights.

### **15. INFORMAL STAGES: RETURN-TO-WORK MEETING / INFORMAL MEETING**

Wherever possible, the employee should inform the school no later than the day before the anticipated date of return.

The school will conduct return-to-work meetings for all absences, irrespective of length. The meeting should take place on the first day of the employee's return to work, wherever possible. The aim of the meeting is to:

- Ensure the employee is fit to return to work;
- Ensure, as appropriate, the employee has taken / is taking all reasonable steps to manage their health and attendance, including accessing medical support, as necessary;
- Help to identify the cause(s) of the absence and any underlying problems that the employee may be experiencing;
- Offer any appropriate support available, including a referral to OH, if appropriate and sign-posting any employee well-being services;
- Ensure the employee feels valued and knows that their absence was noticed and that they were missed;

- Update the employee on anything that they need to know and, as necessary, assist with reprioritising their workload following their absence;
- Signal to the employee that attendance (and therefore absence) is a high priority for the school;
- Ensure that the absence is recorded and the relevant documentation completed;
- Make the employee aware if s/he is approaching a trigger point (see section 13), discuss what other support / action might be needed to reduce the employee's level of absence and advise the employee that unless attendance improves; the school will be left with little choice but to adopt a formal approach (see section 16).

A record of the return-to-work meeting will be made, a copy given to the employee and kept on the employee's personal file.

### Informal Meeting

Where absence is causing a concern (i.e. the employee has met a trigger point), the employee should be informed in writing and invited to a meeting to discuss the evidence, in more detail, before action is taken under the formal stages of this procedure. At this meeting:

- Discuss attendance;
- Review support and advice given to date, as necessary;
- Set expectations for improvement and;
- If appropriate, confirm in writing that the employee's attendance will be reviewed at a first health review meeting.

There is no right to be accompanied during informal stages, as they are part of normal management, but it may be helpful for the employee's trades union representative to be involved at an early stage.

In many circumstances, significant evidence will have already been gathered as part of the return-to-work process, which the school will simply collate and summarise as evidence.

## **16. FORMAL STAGES: ILL HEALTH CAPABILITY REVIEW PROCEDURE**

Once the level of absence has been identified as a concern and having taken into consideration the points in earlier sections of this procedure, the Headteacher should consider taking action, as outlined in this ill health capability review procedure.

The Headteacher should decide whether he/she or another senior colleague should conduct the meetings, at each stage. If the Headteacher is the subject of concern, it is normally the Chair of Governors who would be responsible for such a case.

The First and Final Health Review Meetings of this procedure are designed to deal with persistent short-term ill-health cases.

When long-term ill-health, in the opinion of the Occupational Health Physician, makes it impossible for the individual employee to discharge efficiently the duties of the post, then consideration of early retirement on grounds of ill-health may be considered, where the employee is a member of the pension scheme. If retirement is not considered an option but there is little likelihood of the person returning to work within a reasonable period, it is quite possible to start the procedure at the Ill-Health Capability Hearing stage.

Return-to-work meetings will continue to be conducted for absences that arise between any formal meetings.

### 16.1 First Health Review Meeting

If an employee's sickness absence levels have not improved despite being addressed in their Return-to-Work Meetings, and the employee has reached any of the trigger points (see section 13), the Headteacher <sup>2</sup> will invite the employee to a First Health Review Meeting.

The invitation will be in writing, giving the employee at least 5 working days' notice and setting out the date and place of the meeting, the reason for the meeting, and stating that they may be accompanied by a trade union/professional association representative or work colleague. As necessary, the school's HR Caseworker and a note-taker may also be present at the request of the school.

The Headteacher<sup>2</sup> will prepare for the meeting by ensuring that they have clearly identified the employee's sickness absence levels and the support that has been provided.

At the First Health Review Meeting, the Headteacher <sup>2</sup> will:

- Explain the concern about the absence level and reasons for that concern, such as operational difficulties caused;
- Listen to reasons and respond appropriately;
- Consider whether to refer the employee to Occupational Health, if not already done;
- State that sustained improvement in attendance is expected and set an appropriate monitoring period and targets for improvement, and the next meeting date;
- Identify any support required;
- If appropriate, give the employee a first written warning and explain that continued failure to improve attendance to the specified level may lead to further action under the school's sickness absence management procedure, which could lead to his/her employment being put at risk.

Following the meeting, the Headteacher <sup>2</sup> will write to the employee confirming all the details of this meeting, including a response to any specific points raised by the employee / the representative, any conclusions reached / attendance targets for the monitoring period / points of disagreement and the date of the next (final) review (see 16.2).

If there is a further, significant deterioration in attendance, the Headteacher may bring forward the date of the next meeting, provided that 5 days' written notice is given.

### 16.2 Final Health Review Meeting

At the end of the agreed monitoring period, the employee's attendance will be reviewed at a final health review meeting. At this meeting, the employee will have the right to be accompanied by a trade union/professional association representative or work colleague.

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<sup>2</sup> or the senior manager leading the case, where it is not being led by the Headteacher.

At the Final Health Review Meeting, the Headteacher <sup>2</sup> will advise the employee of one of the following outcomes:

**1) The required standard of attendance has been met and sustained**

The employee's attendance will be managed under normal absence management arrangements and the written warning will remain active for 6 months from the date of the Final Health Review Meeting;

**2) The required standard of attendance has not been met or significant progress has not been made towards meeting the required attendance level, in which case the Headteacher <sup>2</sup> will:**

- Explain the concern about the continued absence level and reasons for that concern, such as operational difficulties caused;
- Listen to reasons and respond appropriately;
- Consider whether any (further) occupational health advice should be sought;
- State that sustained improvement in attendance is expected and set an appropriate monitoring period and targets for improvement, and the next meeting date;
- Identify any support required;
- If appropriate, give the employee a final written warning and explain that continued failure to improve attendance, to the specified level, will lead to an Ill-Health Capability Hearing (see section 16.3), which could result in dismissal.

Following the meeting, the Headteacher <sup>2</sup> will write to the employee confirming all the details of this meeting, including a response to any specific points raised by the employee / the union representative, any conclusions reached / targets set for the final monitoring period / points of disagreement and the date of review.

### 16.3 Ill health capability review hearing

Where the long-term absence of an employee continues due to the nature of the illness, or for short-term absence cases, where there has been no or insufficient improvement in attendance, or where any improvement has not been sustained; the case will be presented for full review. This may be to the Headteacher, if he/she has not been the decision-maker, at earlier stages of the procedure and has the delegated authority to consider dismissal, or to a panel of governors on the school's Hearings' Committee.

The meeting will be set at the earliest possible date, but normally by no later than 15 working days following the decision to move to an ill health capability review hearing. For cases relating to long-term absence, it is anticipated that the school will have maintained appropriate, regular contact with the employee.

The employee will be advised in writing that a possible outcome of the meeting could be that the Headteacher / panel of governors determines that they should be dismissed.

Details of the case and notification of any witnesses to be called will be circulated to all parties at least 10 days before the hearing. The employee will be invited to submit documentation and details of all witnesses, as appropriate. This must be provided at least 5 days before the hearing.

At the hearing, the manager presenting the case will detail the level of absence, and its impact, that has given cause for concern and refer to any documentation that has been

circulated prior to the meeting, including any medical reports.

The employee (or representative) will have the opportunity to present evidence explaining why their level of absence is at its current level (a level of formal concern) and what action they have taken / will take to reduce it to an acceptable level.

In deciding what type of action to take, the Headteacher / panel of governors will review:

- The record and pattern of absence;
- The support provided to the employee to date;
- Whether there is an underlying illness or any other issues raised by the Occupational Health Service;
- The likelihood of an improvement in attendance;
- The attitude and response of the employee in recognising and addressing the impact of their absence;
- The problems caused by the employee's absence;
- Whether all appropriate options, for example, Ill Health Retirement procedures, have been properly explored;
- The needs of the school and the best interests of the employee concerned.

#### 16.4 Possible Outcomes of the Ill Health Capability Review Hearing

The Headteacher / panel of governors, as appropriate, will confirm one of the following outcomes:

##### **1) The required standard of attendance has been met and sustained**

The employee's attendance will be managed under normal absence management arrangements and the final written warning will remain active for 12 months from the date of the Ill Health Capability Review Meeting;

##### **2) The required standard of attendance has not been met and / or has not been sustained**

The employee will be dismissed with appropriate notice. If the decision is dismissal, wherever practicable, the employee will be informed immediately and advised of the right of appeal. The decision of the Headteacher/ panel of governors, the reasons for it and the appeal arrangements will be confirmed, in writing, to the employee normally within 5 working days.

A copy of the letter will be sent to the Trust's Chief Executive Officer within 14 calendar days who will then confirm dismissal formally by letter to the employee.

## **17. APPEALS**

All employees have the right to appeal against any formal actions, i.e. warnings or dismissal, taken against them under this policy.

**Warnings:** any appeal arising as result of a Warning, must be made in writing within 14 calendar days of the receipt of the decision and include full details of the grounds for appeal and any relevant supporting information. If the Warning is given by a line manager, the appeal will be to the Headteacher. If the Warning was given by the Headteacher, the appeal is to the Chair of Governors. If the Headteacher is the subject of the formal action, the appeal will be to an appropriated constituted panel of governors or trustees.

**Dismissal:** Any appeal arising as a result of a Dismissal must be made in writing within 14 calendar days of the receipt of the decision. The appeal will be to a panel of the Governing Body's Appeals Committee and must not include any governors who have been previously involved in the case.

At any appeal, any sanction or penalty imposed will be reviewed, but cannot be increased.

The employee has the right to be accompanied by a trade union /professional association representative or work colleague. The Headteacher is likely to present the school's case at the appeal hearing. If the Headteacher is the subject of formal action, the Chair of Governors will assume this role.

All parties will withdraw. The Headteacher or the committee will deliberate. An HR advisor may be present at these deliberations to advise on legal and procedural matters. In any case where dismissal is proposed, the HR advisor will advise the committee as to whether they concur with the committee's decision.

If the recommendation for Dismissal is not upheld, the Appeals Panel may decide to issue a further warning or in appropriate cases, to demote the employee rather than dismiss. Demotion involves a change in the employee's contract that requires his/her consent to the new arrangement.

Wherever possible, the employee will be informed immediately at the conclusion of the appeal hearing and, in any case, in writing normally within 5 working days, giving the reason for the decision.

There will be no further right of appeal for the employee following the decision of the Appeals' Panel of the Governing Body. The employee will not be able to re-open matters that have been considered by looking to invoke a different procedure, such as the Grievance Procedure.

## **18. MEDICAL REDEPLOYMENT OR RETIREMENT**

Any employee who is deemed to be permanently unfit for work, will leave the school's service in a managed and supported way with any pension benefits to which they are entitled.

In managing medical redeployment or retirement, all staff will be treated equally and consistently. Medical redeployment and retirement will not be applied, as a punitive or disciplinary measure.

The school will always endeavour to:

- Monitor and support staff on long-term sickness absence;
- Promote and liaise with the Occupational Health Service, keeping staff advised of the process;
- Make reasonable adjustments to existing jobs and workplaces to achieve a return to work, wherever possible.



**19. DOCUMENT HISTORY**

## Changes History

<b>Version</b>	<b>Date</b>	<b>Amended By</b>	<b>Details of Change</b>
v2.0	23/08/2021	Viv Hughes	Updated in line with SCC 007 Model Policy V3 - June 2021
V3.0	10/09/2022	Jan Hatchell	Policy reviewed, working with current SCC Model Policy dated 23-8-2021

## 20. APPENDIX 1 - PROCEDURE FOR A HEARING

Hearings will be held in, as informal a manner as possible, and the employee will be afforded every reasonable assistance to put his/her case. The conduct of the hearing is at the discretion of the Headteacher, Chair of the committee or manager hearing the case, but s/he will allow the parties every reasonable opportunity to present their case.

In the case of an appeal, the order of presentation set out below would normally be reversed, with the employee as appellant presenting his/her case first. However, by prior agreement or where the appeal constitutes a re-hearing of the full case, the case against the employee may be presented first, as at the initial hearing. Chairs of appeal committees or managers hearing appeals should ensure that all parties have a common understanding and agreement on the order of presentation.

### 19.1 Introduction

The Headteacher, Chair of the appropriate committee, or manager hearing the case will ensure that those present are introduced to each other and that they are aware of the procedure to be followed.

### 19.2 Presentation of the Case

The person presenting the case against the employee may make an opening statement, outlining the case. The person or committee hearing the case, and the employee responding to it, may ask questions.

S/he will then call any witnesses and ask them to give their evidence. The employee or his/her representative may then ask questions of each witness. The person or committee hearing the case may also ask questions of any witness. The person presenting the case may then re-examine the witness.

Where evidence is presented in the form of documents, the person presenting the case or an appropriate witness will explain the nature and significance of the documents.

### 19.3 The Employee's Case

The employee or his/her representative may make an opening statement. The person or committee hearing the case and the person presenting the case against the employee may ask questions.

S/he may call any further witnesses and invite them to give their evidence. The person presenting the case against the employee may ask questions of each witness after s/he has given his/her evidence. The person or committee hearing the case may then ask questions. The employee or his/her representative may re-examine the witness.

Where there is any documentary evidence, the employee or any witness on his/her behalf will explain its significance.

### 19.4 Re-examination

Both parties will be asked if they wish to re-examine any evidence. The person or committee hearing the case may also do so at its discretion.

#### 19.5 Final Statements

The person presenting the case against the employee may make a final statement. The employee or his/her representative may then also make a final statement.

#### 19.6 Adjournment

Either party may ask for an adjournment, at any stage. The decision to adjourn is at the discretion of the Chair, who will consider a request in the light of the reason given for it.

#### 19.7 Consideration of the Case

All parties will withdraw. The Headteacher or the committee will deliberate. Where relevant, an HR advisor may be present at these deliberations to advise on legal and procedural matters.

If it is necessary to recall either party or any witnesses, to resolve a point of uncertainty; both parties will be invited to be present, whether the point of doubt concerns one party or both.

#### 19.8 Decision

If possible, the decision will be communicated, orally, to the employee after the hearing. The decision will be confirmed in writing to the parties involved, usually within 5 working days or as soon as possible, after the hearing.