Managing Health & Attendance Policy for Schools based Staff

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1. Introduction

1.1. This model Health and Attendance policy has been created to assist Headteachers and Governing Bodies of Schools to support employees who are experiencing ill health and absence from work in an equitable manner whilst promoting the management of sickness absence to establish a culture of high attendance underpinned by good monitoring and management systems.

1.2. The Council wishes to provide a supportive environment for those members of staff affected by ill health as well as identifying and attempting to resolve any underlying causes of absence.

1.3. The ultimate aim is to continue to encourage and develop a positive culture towards attendance at work.

1.4. The procedure is intended to ensure that sickness absence is handled promptly, sensitively, fairly, confidentially and consistently by Headteachers.

1.5. Within the framework of the procedure, Headteachers will have a vital role to play in monitoring the well-being of their staff and influencing employee behaviour and performance.

1.6. It follows from paragraph 1.5 above, that the principles of the 2003 Workforce Agreement underpin the Health & Attendance Policy and the intention is to provide a positive, reasonable and consistent approach to the management decisions which need to be taken from time to time supported by medical evidence as appropriate. Nothing in the Policy overrides the statutory position as set out in the School Teachers' Pay & Conditions Document.

1.7. The Schools Human Resources Provider can be contacted at any stage during the application of this procedure to provide advice and assistance on absence related matters.

2. Scope and Principles

2.1. The Governing Body has a responsibility to minimise disruption to the school caused by the Ill health absence of its employees. The purpose of this policy and procedure is to ensure that:

- the school exercises its duty of care and has proper regard to the health, safety and welfare of its employees and provide support where appropriate;
- the Local Authority's and the Governing Body's broader responsibility to promote a healthy workforce is acknowledged;
- all members of staff understand the Health & Attendance policy and procedure and understand that repeated or long term absence may have a demotivating effect on colleagues; and is likely to have an adverse effect on pupils education;

- all members of staff understand that absence through sickness of teachers incurs indirect costs, often considerable, particularly if supply cover is required; and
- sickness absence of support staff may also be disruptive and costly, particularly in the case of those who provide direct support to teachers and pupils in the classroom.

2.2. The Policy applies to all employees of the school, including the Headteacher; employees of the school in units or bases that are attached to a school or on multiple sites. The Policy does not apply to:

- peripatetic staff who are centrally employed by the Council;
- employees of external contractors and providers of services. (Such staff are covered by the relevant procedures of their employer).

2.3. This policy is to be applied in accordance with:

- Equality Act 2010
- Public Sector Equality Duty
- Conditions of Service for School Teachers in England & Wales (Burgundy Book)
- National Joint Council (Green Book)

2.4. Headteachers or managers should ensure that employees are made aware of the School's Procedure for reporting sickness absence as part of their induction. Employees should be made aware that sick pay may not be authorised if they fail to comply with this procedure. Employees may refer to the Employee Guide to Sickness Absence. Where formal procedures are invoked, Trade Unions/Professional Associations may seek evidence that the employee has been made aware of the schools' procedure.

2.5. Managers should be aware that sickness absence may be an indicator of other organisational factors, e.g. high workload, reduced levels of staffing, poor staff morale. Additionally, managers should consider whether staff are committed to the work and philosophy of the school, whether they are encouraged and supported in their work, or whether stress at work, victimisation or harassment could be an issue resulting in absence from work. Information on the management of stress in the workplace can be found within the Health and Safety in Schools pages of the Schools Portal.

2.6. Employees should be made aware that they should not attend for work if they are sick.

2.7. Where there is medical evidence that an employee is no longer fit to fulfil the requirements of the job, the governing body reserves the right to terminate employment before the expiry of contractual sick pay, in accordance with this procedure. See section 10 (Referral to Occupational Health) and section 11 (Outcome of Occupational Health Referral).

2.8. The governing body may have agreed a leave of absence scheme to assist employees when time off work for instances other than sickness is required, such as compassionate leave (see Chapter 3, Section 3.4 in the Schools Personnel Handbook).

In such cases absence will not be treated as sickness absence. This information should be made available to staff.

2.9. All sickness matters must be treated with the strictest of confidence and dealt with sensitively, fairly, consistently and promptly.

2.10. The School's Equal Opportunities Code, and equal opportunities legislation, must be adhered to throughout the management of sickness absence.

2.11. The reasons for and extent of all absences will need to be carefully monitored. Absences relating to pregnancy and maternity must be given further consideration when managing sickness absence. Absences relating to certain other illnesses or medical conditions which occur uniquely or with greater frequency in one gender or race must also be carefully considered. Management will also need to ensure that persons with disabilities are not unfairly discriminated against through this process. The Schools Human Resources Provider are able to provide advice where necessary.

2.12. Headteachers and governing bodies must give regard to any legislation which impinges on the management of sickness in the workplace.

2.13. This procedure is not designed to deal with unauthorised absence, nor failure to provide appropriate certificates. These would be considered as disciplinary matters and the disciplinary procedure should be followed (see Chapter 4, Section 4.1 in the Schools Personnel Handbook).

2.14. Employees may be accompanied by a Trade Union/Professional Association representative or work colleague in a supporting role, at any stage of the procedure.

3. Guidelines for Headteachers / Managers, Governing Bodies and Employees

Roles and Responsibilities

3.1. The purpose of these guidelines is to provide a framework and process for headteachers, managers, governing bodies and employees to recognise and deal efficiently with problems as they arise and, also, for individual employees to be aware of the assistance available to them. Managing absence is primarily the headteacher's responsibility, although this may be delegated to a senior member of staff. Many managers may not find it easy to discuss employees' personal problems and feel reluctant to address the issue. However, the problem is unlikely to go away. The management of attendance at work is as much the manager's responsibility as any other aspect of performance. The process will include both a positive concern for the wellbeing of the individual member of staff and an awareness of the needs of the school.

Governors

Dealing effectively with absence calls for a continuous and co-ordinated effort by schools' senior management and governing bodies.

The governing body has a duty to ensure that:

- The school has a policy on managing sickness absence
- There is a clear procedure for reporting absence
- The headteacher carries out their responsibilities
- It monitors the absence of the headteacher and applies the appropriate procedure

Governors should have regard to absence levels and ensure the management investigate any areas of particular concern

Headteachers

The role of the headteacher is to manage the attendance of teaching and support staff. This can be achieved by :

- Making sure everyone knows who to inform if they are off sick, especially the importance of reporting sickness on or before the first day of absence as far as possible and what they need to do if the absence continues (see notification guidance, Section 7).
- Reporting all sickness absences on a proforma, noting the number of absences and the working time lost in each spell.
- Monitoring and regularly reviewing sickness absence, considering whether overall absence levels, or the numbers of absence are high. Measure absence against defined trigger points as a prompt to further investigation.
- Keeping in touch when staff are away. If you have not heard from someone, it is important to contact them by telephone. Consider making a visit, particularly if you are concerned about their welfare or they live alone. This can be carried out by the headteacher or other suitable senior member of staff. Agree a date and how contact will be made. The wishes of the employee should be taken into account in choosing a suitable member of staff.
- Keeping absent staff up to date with changes at the school. For example you may wish to send minutes of staff meetings, newsletters, and copies of letters to staff, as appropriate, taking into account the well-being of the employee.
- Conducting a Return-to-Work discussion after every period of sickness absence. Take the opportunity to welcome and update the member of staff about what is happening in the school and talk over any concerns. In cases of prolonged absence, structure the return through a return-to-work plan (please refer to section 9).
- Paying particular attention to absence that may be work related, for example, due to stress. Information on the management of stress in the workplace can be found within the Health and Safety in Schools pages of the Schools Portal.

- Always treat sickness absence sensitively, flexibly, fairly, confidentially and consistently.
- Taking steps to investigate more closely if someone has a pattern of short-term absences which triggers concerns and / or has a frequent or long-term absence that throws doubt on the prospect of their return to regular work.
- Treating unauthorised absence as a matter of conduct and, if necessary, deal with under the school's disciplinary procedures.

Keeping in touch with employees should be supportive and positive; it should not be used as an opportunity to expect or cajole staff to work from home.

Employees

It is important that employees familiarise themselves with their school's reporting procedures and are aware of the school's policy on the management of sickness absence

Employees are required to comply with the following as far as reasonably practical

- Attend work when fit to do so.
- Comply with the school's sickness absence reporting procedures.
- Ensure medical advice and treatment, where appropriate, is received as quickly as possible in order to facilitate a return to work.
- Provide the school with completed self-certification forms or statement from the doctor, nurse, occupational therapist, pharmacist or physiotherapist as required.
- Keep the headteacher (or chair of governors, in the case of the headteacher) informed of any significant developments.

It is the responsibility of every employee to notify their headteacher or nominated representative if they are unable to attend for work when expected. If the employee is unable to do this personally, a relative or friend may do this on behalf of the employee but in any event, the headteacher or nominated person, must be normally informed at least one hour before the usual start time. The reason for absence should be given and where possible an indication of the likely length of the absence.

All new employees complete a pre-employment medical questionnaire and medical clearance would have been received before employment at the school commences. If an employee has a medical condition which falls within the terms of the Equality Act 2010, agreement will have been reached between the employee and headteacher concerning reasonable absence relating to the condition and any workplace adjustments which may be required.

Any further absences not covered by the Equality Act 2010 will be treated under the school's Absence Management Policy.

Further information for employees relating to Occupational Sick Pay Schemes can be found within Appendices 7 and 8 of this Policy. Further information relating to notification and certification of sickness absence can also be found within this Policy.

Advice should be obtained from the schools HR provider where the circumstances outlined above are identified.

4. Recruitment and Pre-Employment Medical Screening

4.1. A first step in controlling absence is to reduce the risk of recruiting people with poor work attendance records. References must be obtained during the recruitment procedure however as part of the Equality Act employers are not permitted to ask a specific question on the candidate's work attendance record e.g. how many days / periods of absence has the candidates had in the past twelve months and for what duration until after a job offer has been made. Accurate interpretation of the reference can be extremely difficult and information given in relation to attendance records must be handled very carefully.

Care must also be taken not to treat anyone unfairly on grounds of disability (e.g. levels of attendance could be affected by the need to attend medical appointments or treatment). Where there is cause for concern there is a need to investigate further as to the reason for the absences as there may be a perfectly legitimate reason. The Schools' HR provider should be consulted for further advice.

4.2. If a candidate is subsequently refused a post because of a poor reference e.g. reporting a high absence record, then they may have the right to see the reference if they applied to an Employment Tribunal.

4.3. When drawing up the person specification, any physical requirements that are essential to perform the duties of the job should be clearly shown as this may have a self-excluding effect.

4.4. All new employees must be asked to complete a pre-employment health questionnaire. This will be available through the schools Occupational Health Provider. It is the responsibility of the appointing panel to provide the necessary paperwork to the candidate. The pre-employment health questionnaire should only be completed after an offer of employment has been made and should only be completed by the successful candidate.

4.5. The Occupational Health Adviser in a majority of cases will give immediate medical clearance but will, if necessary, seek the views of the individual's GP or Occupational Health Physician if there is any doubt as to a candidate's medical suitability for a post**. It is a strong recommendation of Central Bedfordshire Council that a candidate should not commence employment until medical clearance is given.**

4.6. All new employees should be made aware of and understand the school's rules and procedures for absence. Details on the sickness reporting procedure and sick pay arrangements are given in Section 5. New employees should also be aware of and understand Section 4 of the Employee Handbook for School Based Staff.

5. Recording, reporting, and monitoring sickness absence levels

5.1. Accurate, accessible and well presented recording of sickness absence is essential in order:

- to form part of any evidence in the event of formal action taken, particularly if the matter is referred to an Employment Tribunal
- to enable a consistent approach to be adopted and to counter, where appropriate, any claims from employees that their absence record is no worse than others
- to provide information for absence statistics and enable costs to be calculated
- to ensure employees are paid correctly
- to identify patterns of absence
- to detect problems at an early stage

5.2. The individual absence record should form part of an employee's record of employment and is confidential to the appropriate management. However, employees should be allowed to access their individual record if they so wish.

All absences must be recorded

Headteachers must ensure that all sickness absence is reported to their HR provider on a monthly basis using the sickness absence pro-forma

Absence levels should be monitored

It is the responsibility of headteachers to monitor absence levels within their teams and take further action as necessary when Attendance Review Points are reached and / or where there are concerns about an employee's absence levels. (*See Sections 10 'Occupational Health Referral' and Section 12 'Attendance Management Review Formal Procedure''*) for advice on possible further action.

Headteachers should monitor sickness absence levels at least on a monthly basis and report regularly to the governing body.

Attendance Review Points are set in order to determine when absence levels become a matter for further consideration and / or investigation. The following Attendance Review Points are recommended and all monitoring information provided to schools will be based on these Attendance Review Points:

- Unacceptable patterns of absence (e.g.: regular Friday and /or Monday absences; repeated absences linked to holidays)
- 3 periods or 8 or more working days absence in a rolling 3 months' period
- 4 periods or 15 or more working days absence in a rolling 6 months' period
- 5 plus periods or 20 or more working days absence in a rolling 12 months' period
- All long-term absences (over 20 consecutive working days)

The headteacher must monitor continuing absence

It is recommended that the headteacher maintains regular contact with the absent employee in order that the situation can be monitored effectively.
Discussions can include an update on the employee's condition, the treatment they are receiving and some idea of when they expect to return to work. It may also be appropriate for the headteacher to keep the employee updated with changes in the school

6. Sickness Absence Definitions

6.1. There are two main types of sickness absence:

Long Term Absence

Any period of absence from work because of ill health lasting more than 20 working days in total, will be deemed to be long-term sickness. This includes

- Long-term absence because of a single illness or disability;
- Repeated periods of absence arising from a single illness or disability.

The management process should be started as soon as there is a reasonable expectation that the employee will be off for a significant period. Headteachers and Line managers have the right to make reasonable contact with the employee - consulting and obtaining medical evidence are what the law requires managers to do.

Where it is clear at the outset or becomes clear after a time that the absence will be long term, a referral can be made to the Schools Occupational Health Provider. The Headteacher or nominated person will inform the member of staff that the Occupational Health Provider will be asked to provide a health report and give an opinion. The employee will be asked to give consent for the release of medical information should this be sought from their GP or Specialist. The Headteacher or nominated person will then contact their HR Provider to seek advice on making a referral to the Occupational Health Provider prior to the referral being made.

A referral to the Schools Occupational Health Provider can be made at any time when managing attendance. It is not necessary to wait until sick pay has expired before meeting with the employee or making a referral the Occupational Health Adviser.

Advice should be sought from the Schools HR Provider when considering an Occupational Health Referral.

Frequent short-term absences

Frequent short-term absence involves patterns of absence due to minor illnesses that are usually not connected. Such patterns could vary from a relatively large number of single days of absence, to fewer occasions of absence involving a loss of up to a week or more.

This type of absence needs to be explored under the terms of the processes set out in this procedure.

Frequent absence through sickness may indicate general ill-health that requires a medical investigation to find the underlying cause.

It is essential that frequent short-term absence is dealt with promptly, fairly, confidentially and consistently.

7. Notification of Absence

7.1. The following procedure must be followed. Failure to follow this procedure may result in disciplinary action and / or non-payment of sick pay.

First day of Absence

All employees who are unable to attend for work should normally inform their line manager or nominated person of their position, by telephone, at least one hour before the usual start time. They should give the reason for the absence and state when they expect to return to work.

Many schools, however, have their own procedure for reporting absence in which case notification should be in line with the schools' requirements.

If the absence is the result of 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 to must be documented and recorded as an accident or injury using the Council's AssessNET reporting database and, where necessary, taken remedial action.

If an employee becomes unwell over a weekend, rest day, school closure period or public holiday, they should inform their headteacher of this when reporting their absence. Schools need to have arrangements in place for staff to report absences during school closure and holiday periods.

Employees should only report themselves absent owing to their own sickness. If an employee is unable to attend for work for some other reason, e.g. illness of a child, domestic emergency, car breakdown, etc the situation must be discussed with the headteacher, and the absence will be dealt with under the school's leave of absence arrangements depending on the individual circumstances. Medical certificates submitted which do not relate to the sickness of the employee will not be accepted.

In some cases employees may have genuine difficulties in making contact, for example if they live alone or have been taken into hospital. In these cases, management should take all reasonable steps to contact them.

Management may need to make alternative arrangements if this type of contact is difficult due to an employee's disability.

Fourth Day of Absence

If the absence continues into a fourth day, (including weekend, rest days, school closure periods and public holidays), the employee should again notify their line manager giving some further indication of the nature of the illness and the likely length of absence.

Returning to Work

The return-to-work date should be the date that the employee was fit for work irrespective of there being any requirement to have worked on that day. Therefore, the return-to-work date could be a date during weekends, school closure periods or bank holidays provided that the employee was fit for work, should there have been a requirement for them to do so. The actual date of return should be clarified at the return-to-work discussion where absence has occurred during weekends, rest days, closure periods, or holiday periods.

8. Clarifying Absence

8.1. In order to qualify for sick pay, employees must provide evidence of sickness or injury. Proof of sickness should be a self-certificate and after 7 calendar days' absence, a medical certificate must be submitted. Failure to notify sickness or to produce the required medical certificates may result in the suspension of sick pay until the correct procedure is followed.

Self-Certificate Form

Employees must complete a self-certificate/Return to work discussion form (accessed on the Schools Portal) when their absence lasts longer than three days but less than eight (including weekends, rest days, public holidays and any other non-working days). The self-certificate/Return to Work Discussion Form must be completed by the employee and the Headteacher/nominated person on the first day back at work. The headteacher must ensure that completed forms are filed in the employee's personal file. The self-certification/Return to Work discussion form should be completed on the return to work of the employee on each separate occasion of absence.

Fit for Work certificate or medical certificate (Med 3) – Doctor, nurse, occupational therapist, pharmacist or physiotherapist's Certificate

A certificate must be provided for absences over 7 days. This should be sent to the headteacher or nominated person as soon as it is obtained from a registered medical practitioner. Further Fit for Work certificates/medical certificates (Med 3) must be submitted to the Headteacher or nominated person and must be consecutive; this includes certificated absence during school holidays.

The employee has a responsibility to keep the school informed of their progress. It is the duty of the school to keep in reasonable communication with the employee. Every absence must be certified and recorded to ensure correct payment of sick pay and to ensure that accurate records are maintained. Failure to comply with the certification and reporting procedures may result in loss of sick pay.

It is possible that as an outcome of an attendance review meeting, an employee may be required to provide a doctor, nurse, occupational therapist, pharmacist or physiotherapist's certificate after a single day's absence. Where a certificate is required after one day of absence the school will be requested, in advance, to determine whether they are prepared to meet the cost of providing the certificate. In circumstances where the school is not prepared to meet the cost then a doctor, nurse, occupational therapist, pharmacist or physiotherapist's certificate will be provided for absence over 7 days.

The council will take into consideration the recommendations of the employee's own GP, after consultation with the relevant school, Occupational Health (OH) and HR, especially with regard to certificates marked 'fit to return for some work'.

Where the school has not utilised the services of OH prior to receipt of a 'fit to return to some work' certificate, the school may wish to engage with OH who will obtain additional information on behalf of the school which could enable them to assess the employee's particular medical / health issues and possible adjustments.

This is supportive of the council's current practice of a Phased Return to Work (PRTW) or adjustments, whereby the school has utilised the services of OH and in line with the recommendations from OH. The final decision will rest with the school.

Maintaining Contact

Employees must keep their line manager informed throughout their period of sickness absence, on at least a weekly basis. The form of contact and frequency will be agreed between the employee and their line manager. Headteachers/managers should keep a record of their contact with the employee.

Absent employees should be kept up to date with changes at the school. For example, minutes of staff meetings, newsletters, copies of staff letters, as appropriate may be sent, taking into account the well-being of the employee.

Advice on contact with absent employees should be from the schools HR Provider.

Visiting an Employee

If the Headteacher has not heard from an employee, it is important to contact them by telephone. A visit may be considered, particularly if there is a concern about their welfare or they live alone. This can be carried out by the Headteacher or other suitable senior member of staff. A date for the visit should be agreed and how contact will be made. The wishes of the employee should be taken into account in choosing a suitable member of staff to undertake a visit.

Returning to Work

The employee should, wherever possible inform the school no later than the day before the anticipated date of return in order for the school to make the necessary arrangements for the return (i.e. cease supply cover or other cover arrangements).

In cases where the first medical certificate submitted covers a period exceeding fourteen days, or where more than one certificate is necessary, the employee, before returning to work, must obtain a final statement from the general practitioner with a date declaring the employee fit to resume work.

9. Return to Work Meeting

9.1. A Return to Work Discussion should be conducted upon the return to work of a sick employee. This discussion should be conducted on the day, or as soon as it is practically possible after the employee returns to work, at a mutually convenient time, using the Self Certification/Return to Work Form (accessed on the Schools Portal). Any such meetings would be held during work time, excluding PPA Time. The majority of discussions will be very quick and straightforward, being essentially an acknowledgement of the person's illness and a welcome back to work.

9.2. The Return to Work Discussion is all about supporting employees and helping them to resolve problems. It is likely to be the most effective single technique for identifying contributory factors and reducing absence. It lets the employee know that they were missed which is often enough to deter employees with non-genuine reasons for being away. The meeting should not be used to raise matters that are not absence related

If the employee is near to reaching the Schools Attendance Management Review points (see section 5) they should be informed that reaching an Attendance Management Review Point could result in a First Attendance Management Review Meeting. Employees should be offered support to prevent this. If an employee has reached one or more of the Attendance Management Review points the employee should be made aware that a First Attendance Management Review Meeting will be scheduled and a first written warning relating to attendance could be given at this meeting. A record of the meeting must be made using the Self Certification Sickness Absence and Return to Work Discussion Form (accessed on the Schools Portal), copied to the employee and placed on the employee's personal record file.

A return to work meeting with the employee should take place for each occasion the employee is absent from work in order to identify and inform the employee if they have or are reaching the Attendance Management Review Points.

9.3. Staff would not normally be accompanied by a trade union or professional association representative at a return to work discussion (although they could request an adjournment). There will be circumstances however where the return to work meeting will be of greater significance (for example, after a series of short-term absences, where it is identified that Attendance Review Points have been met or a long period of absence). In these circumstances there is a right to representation, and it could be viewed as unreasonable not to give the opportunity to the employee to be accompanied.

The Meeting

Prior to the meeting gather all necessary information regarding the period of absence. In particular, look for any emerging patterns of absence.

The meeting must be held in private, be informal and helpful to the employee. This meeting should not normally be conducted over the telephone although sometimes it may be appropriate to do this. The self-certification/return to work form should be completed at every meeting.

The employee should be given the opportunity to discuss matters with a manager of their own gender, or a manager other than their own line manager, if they so wish.

The purpose of the interview is to:

- Welcome the employee back.
- Review the absence period
- Check that the employee is ready to work normally.
- Emphasise that they were missed
- Remind the employee of their previous absence record and raise any concerns.
- Provide an opportunity for the employee to raise other, wider issues of concern.

In addition, for longer term absence:

- Make the employee aware of any changes that have occurred during the absence period.
- Brief the employee on how their work was covered during their absence and to help them pick up their work again.
- Discuss their phased return to work if recommended by Occupational Health.
- Agree review periods if applicable.

Complete the paper work

At the end of the discussion the Headteacher or nominated person must complete and sign the Self Certificate/Return to Work Discussion form. Headteachers must ensure that completed forms are filed in the employee's personal file.

10. Referral to Occupational Health

10.1. Prompt action or discussion can often prevent a problem from becoming serious. It is essential where ill health is, or may be, a problem, that line managers make reasonable enquiries to establish the medical position.

10.2. The prime concern of the Occupational Health Service is to help the employee remain in employment and to advise how this may best be done. It should not be seen as the place to go only when the situation becomes desperate.

10.3. Confidential medical information will not be disclosed to headteachers. However, relevant information will be disclosed in order to assist managers in managing an employee's absence.

Referral made by the Head

The headteacher, in conjunction with their Schools HR Provider, may request a consultation with the Schools Occupational Health (OH) provider, using the Occupational Health Referral Form required by the provider.

The headteacher must advise the employee of the referral procedure and explain why a medical opinion is being obtained prior to any referral. The employee should also be advised, if appropriate, to seek advice from their trade union/ professional association.

Advice should be sought from the Occupational Health Provider to ensure the relevant referral form and associated information is provided to enable a consultation to take place.

The Occupational Health Adviser may arrange for a face to face or telephone consultation to be held with the employee; however schools should check with their provider regarding the employee consultation process.

Following the consultation the OHA will provide a confidential report to the school providing a summary of the meeting, information relating to the employees illness or reason's for absence and provide an opinion on the employee's fitness for work (including estimated timescales for return, where appropriate).

The role of the Occupational Health Adviser (OHA)

If the employee has a disability, information will provided relating to the disability in order for the employer to consider making reasonable adjustments in accordance with the Equality Act. Further guidance on reasonable adjustments can be found within appendices 2 and 3.

Where a phased return to work is recommended advice will be provided to school in relation to a return to work plan.

Where required the employee may be requested to meet with an Occupational Health Physician (OHP). The above process would be followed and information provided to the school in a report following an OHP consultation meeting.

Employee consent for access to medical record

As part of the OH Referral Process, consent is required from the employee to enable the OH provider to receive a medical report from the employee's GP and / or specialist (if necessary).

It is likely to be in the employee's best interest to provide consent, particularly in cases of permanent or ongoing health issues and prolonged absence that may result in dismissal. Should the employee withhold this consent and a thorough medical investigation cannot be

undertaken, then action will be taken by the headteacher, HR and OH in accordance with the information at its disposal.

If the employee chooses not to give consent they need to be aware that the school may have to make a decision about their future employment without the help of a medical opinion, which could be to their disadvantage.

During any informal or formal review meeting, employees must be made aware of this. Employees should be advised to seek support and guidance from a Trade Union/ Professional Association Representative.

An employee may request a referral to the Occupational Health Provider. Although there is no entitlement to self–referral, such a request should always be considered, and the school should answer the request in writing.

11. Outcome of Referral

11.1. The initial OH referral will lead to a variety of outcomes which will depend on the nature and duration of the employee's condition and demands of the job. It should be established with the Schools OH Provider how medical reports will be received by the school and if requested by the employee.

Employee will likely return to work within a week or two:

Line managers must ensure that at the return to work meeting they establish the employee's state of health and whether there is anything that needs to be done to avoid a recurrence of the illness. The situation should be monitored by the headteacher.

Employee is temporarily unfit but will be able to return to work after a period of recuperation / rehabilitation

Regular meetings between the headteacher, an Adviser from the Schools HR Provider and OH should be arranged throughout the period of sickness so that there is a clear understanding of the employee's fitness and future employment prospects.

Further referral to OH or requests for more information from GPs and specialists may be required.

If the employee refuses to comply with a request for medical evidence to be obtained, they should be advised that medical input is required to assist their return. Refusal may result in non-payment of sick pay and appropriate action will be taken by the headteacher, HR and OH in accordance with the information they have. During any informal or formal attendance review meetings, employees must be made aware of this.

Employee is able to continue in their present role with some form of permanent or temporary support / change in working arrangements

At an appropriate time the line manager will need to arrange a meeting with the employee to discuss the options available. A representative from the Schools HR Provider may be

present. The employee has a right to have a Companion (Trade Union / Professional Association representative or colleague) present.

The options that could be discussed include:

- Job re-organisation
- Part-time working
- Disability aids/enabling technology
- Phased return. The employee builds up from reduced hours to their contractual hours over an agreed time period, for a maximum of 6 weeks. This should normally be agreed where it is stipulated by OH advice or medical advice. During this time the employee will receive full pay.

Any change to working arrangements will only be made where operationally and financially reasonable. Consideration will also be given to any impact on pupils' learning.

Employee is permanently unfit to undertake their present duties, but may be able to continue working in a different capacity

Redeployment arrangements - If the employee's medical condition is such that returning to their post will cause a detrimental effect on their health, but they are able medically, to be considered for alternative employment, the redeployment arrangements below should be followed. (Redeployment arrangements can only be conducted within the constraints of the statutory position relating to the rights and obligations of governing bodies to appoint and employ staff in maintained schools).

Redeployment is the process whereby an employee may be transferred to another suitable post within the Authority if they are unable to continue in their old post because of medical reasons indicated by the Occupational Health Physician. The Occupational Health Physician will advise of the type of duties the employee can be considered for.

A Career Profile form will be forwarded to the individual and, if necessary, assistance will be provided in its completion. It is essential if employees are to be considered for a suitable vacancy that HR have details of their qualifications, experiences etc. This information is gathered via the Career Profile which is available on the Schools Portal.

The Career Profile is an essential tool in the redeployment process, and it is crucial that it is completed as fully as possible with care and returned to the Schools' HR Team as soon as possible. It is used to match personal details against the requirements specified in advertisements and it is only on information given in the Career Profile that potential redeployment vacancies will be frozen (stopped). Information to be included on the Career Profile should relate to the entire working life and the result is a miniature curriculum vitae.

The completed Career Profile form will be considered at Redeployment Panel meetings in addition to redeployment in other schools. The employee will be advised if a suitable vacancy arises and if they wish to be considered for the post, they will have to complete an application form in the normal way. If they meet the required personnel specification, they are assured of an interview for the post. If there are other people to be redeployed either

for reasons of redundancy or ill health, they may also be interviewed for the post. The interview will take place and the best person for the post will be appointed. If no-one is suitable, reasons for non-appointment will be given and the post will be advertised externally in the usual way.

The aim will always be to match employees with a vacancy that is suitable alternative employment, however, no protection of earnings level can be given to the "new post" if it is of a lower grade or less hours. This may have a knock-on effect on pension and advice should be sought from the relevant Pensions' Section concerning individual circumstances.

Redeployment will be considered for a maximum period of three months. If redeployment has not occurred by the end of that period, the situation will be reviewed by the school.

The review will involve a further referral to the Occupational Health Physician who will advise if:

a) The employees medical condition has improved sufficiently for them to return to their original post, in which event, the necessary arrangements will be made with the manager;

b) The employees' medical condition has declined to the extent that there are adequate grounds for ill health retirement and this will be actioned in accordance with section 14;

c) The employee's medical condition remains unchanged.

If (c) above is advised by the Occupational Health Physician, the headteacher will be informed and may decide to initiate action under the Procedure for Handling Dismissals on the Grounds of Incapability. *This course of action would only be taken in exceptional circumstances once all other options have been exhausted and full consultation with the employee and / or representative, if applicable, has taken place.*

Employee is unfit to undertake their present or other duties

Consideration needs to be given as to whether the continued employment of the employee is reasonable in the circumstances, also having regard to the effect of the absence on the job.

A dismissal should take place once all other options have been considered. It should be remembered that a dismissal on ill health grounds is through no fault of the individual and therefore must be treated sensitively. An Adviser of the Schools HR Provider must be consulted if there is likely to be a dismissal on the grounds of incapability due to ill health. Central Bedfordshire Council's Statutory Schools HR Team should also be informed.

If the Occupational Health Physician recommends that the individual will never be fit to return to work or to return to work on a regular basis, there will be no alternative but to consider ill-health retirement in accordance with the necessary pension scheme (see section 14).

Where the employee is not a member of their appropriate pension scheme the following option could be made available; in accordance with the policy, and acting in the best interest of the employee and school, such cases where the individual is deemed to be unfit to undertake their present or other duties by a professional physician (either the council appointed doctor or the employee's own General Practitioner (GP) or Consultant), may be permitted to proceed through the formal procedures by means of 'fast track' to the Final Attendance Management Review Hearing. This is subject to confirmation by the relevant health professional and in agreement with the appropriate head teacher or chair of governors after consultation with Central Bedfordshire Council's Statutory Schools Human Resource (HR) department.

In order for the employee to opt for the 'fast track' procedure, they must be made fully aware of the reasons for this option being offered and must sign a prepared document wavering their rights to the full formal stages of the Sickness Absence Procedure.

The 'fast track' procedure would allow the school and employee to proceed directly to section 12.8 of the Policy (Final Attendance Review Hearing), irrespective of the stage they are currently at in the procedure.

12. Attendance Management Review Formal Procedure

12.1. Early involvement by headteachers can play an important part in reducing sickness absence. The recommended attendance management review points, (see section 5), can help management to formally manage an employee's sickness absence. Appropriate action must be taken where there are ongoing concerns about the level of an individual's absence and consideration can be given to taking action at an earlier or later stage depending on the circumstances. In determining what action to take, the facts of each individual case must be taken into account and the Schools HR Provider can provide support in managing absence appropriately.

12.2. Any concerns regarding absence levels should have been raised at the Return to Work Discussion or during contact meetings with the employee if the absence is long term.

12.3. Where problems continue the line manager should arrange to discuss the matter further with the employee and the procedure outlined below must be followed. Employees may be accompanied by a Trade Union/Professional Association representative or work colleague in a supporting role, at any stage of the formal procedure. Schools should consult their HR Provider in order to arrange an HR Adviser to attend meetings where appropriate.

12.4. There is a reasonable management expectation that an employee absent owing to sickness should be available to attend meetings to discuss the absence. Meetings should be held at mutually convenient times and consideration should be made for the meeting to be held away from the school site. If the employee is unable to attend through circumstances outside their control and unforeseeable at the time the meeting was arranged (e.g. illness, representation unable to attend) the employer

should arrange another meeting. A decision may be taken in the employee's absence if they are unable to attend the re-arranged meeting without good reason. If an employee's companion cannot attend on a proposed date, the employee can suggest another date not more than five working days after the date originally proposed by the employer.

In the event that an employee is unable to attend an attendance management review meeting the employee will have the option of (a) submitting relevant information in writing to be considered at the meeting or (b) requesting that their Trade Union / Professional Association representative or employee representative attend the meeting on their behalf.

12.5. Once an employee has been involved in the Attendance Management Review Formal Procedure and has successfully completed a 12-month period without incident of absence any future incidents of absence will be dealt with at the commencement of the procedure i.e. First Attendance Review Meeting, irrespective of the stage the employee was at previously.

12.6. First Attendance Management Review Meeting

Prior to the meeting gather all necessary facts about number of days absence, work related problems, uncompleted tasks etc.

If an employee's sickness absence levels have not improved despite being addressed in their Return to Work Discussions, and the employee has reached one or more of the Attendance Management Review Points as listed in section 5, the Headteacher or delegated person will invite the employee to a First Attendance Review Meeting.

The Headteacher or nominated officer will agree a date with the employee and then should confirm the invitation to the First Attendance Review Meeting in writing giving the employee at least 5 working days' notice. The relevant letter can be found in the Managing Health and Attendance Policy – Draft Letters document accessible on the Schools Portal.

The employee should be informed of the time, date and place of the meeting and the reason for the meeting, and state that they may be accompanied by a Companion (trade union/professional association representative or work colleague) and no one else.

The Headteacher should prepare for the meeting by ensuring that they have clearly identified the employee's sickness absence levels and the support that has been provided.

The procedure for the First Attendance Review Meeting can be found in appendix 2.

The meeting should be a two-way discussion in order to highlight the level of attendance and explore the reasons for and possible remedies to the situation.

A target for improvement should be agreed and the period determined over which the improvement will be monitored. Suggested review period is between 1 to 3 months, depending on the situation. A first written warning in relation to attendance may be issued,

if appropriate and it should be explained that if attendance to the specified level is not met this may lead to a second Attendance Management Review Meeting.

A date for the Second Attendance Management Review meeting should be fixed. (If the absence continues to be a problem, the employee can be interviewed before the set review date.)

In the First Attendance Management Review Meeting, the Headteacher or delegated officer must:

The headteacher, or nominated senior manager, must take notes of the meeting which will include details of agreement reached. It is good practice to have a separate person present to take notes

The outcome of the meeting must be confirmed to the employee in writing within 5 working days. The relevant letter can be found in the Managing Health and Attendance Policy – Draft Letters document accessible on the Schools Portal.

Action following First Attendance Management Review Meeting – target has been achieved during the review period

If the employee has achieved the agreed target during the review period, no further formal action will be necessary.

In this instance the headteacher, or nominated senior manager, will issue a letter stating that the case will not be progressed any further at that stage. However, should the employee's absence reach one of the recommended trigger points within the next 6 month period, the process will be reinstated at the Second Attendance Review stage. The relevant letter can be found in the Managing Health and Attendance Policy – Draft Letters document accessible on the Schools Portal.

If the agreed target has not been met during the review period then a Second Attendance Review meeting will be arranged.

Action following review meeting – target agreed at the first review has not been met

The headteacher, or nominated senior manager, will issue a letter inviting the employee to the Second Attendance Review meeting. The relevant letter can be found in the Managing Health and Attendance Policy – Draft Letters document accessible on the Schools Portal.

Right of Appeal against First Written Warning in relation to attendance

The employee has the right of appeal as a result of a first written warning in relation to attendance. Any appeal must be made in writing within ten calendar days of the receipt of the decision. If the warning is given by a line-manager the appeal will be to the Headteacher, if the warning is 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 the Chair of Governors.

12.7. Second Attendance Management Review Meeting

This meeting takes place if the target agreed at the First Attendance Review Meeting was not met during the review period.

This meeting must go ahead even if the employee's absence levels have improved sufficiently during the review period set at the First Attendance Review meeting.

Prior to the meeting gather all necessary facts about number of days' absence, work related problems, uncompleted tasks and medical information if available.

Information from Occupational Health must be obtained prior to this review if the absence is still unacceptable.

Advice from Human Resources must be sought prior to the meeting and a HR representative will be in attendance at the review meeting

If the employee has made no improvement by the end of the first Monitoring Period the Headteacher or delegated officer will ask the employee to attend a Second Attendance Management Review Meeting, at which the employee will have the right to be accompanied by a Companion (trade union/professional association representative or work colleague) and no one else.

The Headteacher or delegated officer will agree a date with the employee and then should confirm the invitation to the Second Attendance Management Review Meeting in writing giving the employee at least 5 working days notice.

The procedure for arrangements of the Second Attendance Management Review Meeting should be followed as for the First Attendance Management Review Meeting.

The Headteacher or delegated officer should prepare for the meeting by ensuring that they have clearly identified the employee's sickness absence levels and the support that has been provided.

Advice from the Schools Human Resources Provider may be sought prior to the meeting.

The headteacher, or nominated senior manager, must write to the employee informing them of the mutually agreed date, the reason for the meeting and their right to representation. The relevant letter can be found in the Managing Health and Attendance Policy – Draft Letters document accessible on the Schools Portal.

The procedure for the Second Attendance Review Meeting can be found in appendix 2.

If the level of absence has decreased in line with the agreed target, the employee should be informed that the matter will not be progressed any further at this stage. However, should the employee's absence level reach one of the recommended trigger points within the next 12 month period, the procedure will be reinstated at the Final Attendance Review Meeting.

The relevant letter can be found in the Managing Health and Attendance Policy – Draft Letters document accessible on the Schools Portal.

If the absence is still high reference should be made to the First Attendance Review meeting and the number of absences since then. Consider any new information that may be available about the employee's health, personal circumstances etc., including the report from Occupational Health, which may make specific recommendations. Consider whether redeployment or reasonable adjustments are necessary.

The meeting should be supportive and aim to resolve the situation. It will seek to identify the reasons for the absence and the measures that can be taken to improve attendance, such as variations to working arrangements.

A target for improvement should be agreed and the period determined over which the improvement will be monitored. Suggested review period is between 1 to 3 months, depending on the situation. A second written warning in relation to attendance may be issued, if appropriate and it should be explained that if attendance to the specified level is not met this may lead to a Final Attendance Review Hearing.

A target for improvement should be agreed and the period determined over which the improvement will be monitored. Suggested review period is between 1 to 3 months, depending on the situation.

A date for the Final Attendance Management Review Hearing should be fixed, however, if the absence continues to be a problem the Headteacher may seek further information and the employee may be interviewed before the Final Review Hearing. If there appears to be an underlying medical condition it may be necessary to see whether any changes can be made to the job; explore redeployment opportunities or reasonable adjustments required by the Equality Act. (See Other Considerations, section 15). Headteachers / Line Managers must take advice from an HR Adviser prior to the meeting to discuss the implications of the Equality Act.

Guidance may be sought at this stage from Occupational Health if not previously sought. (See Referral to Occupation Health, section 10.)

If there appears to be no underlying medical condition, confirm the periods of absence and warn the employee that if their attendance levels do not improve by a specified date it could lead to dismissal.

The headteacher, or nominated senior manager, must take notes of the meeting which will include details of agreement reached. Confirm the outcome of the meeting in writing within 5 working days. The relevant letter can be found in the Managing Health and Attendance Policy – Draft Letters document accessible on the Schools Portal.

Action following Second Attendance Review Meeting – target has been achieved during the review period

If the employee has achieved the agreed target during the review period, no further formal action will be necessary.

In this instance the headteacher, or nominated senior manager, will issue a letter stating that the case will not be progressed any further at that stage. However, should the employee's absence reach one of the recommended trigger points within the next 12-month period, the process will be reinstated at the Final Attendance Management Review stage. The relevant letter can be found in the Managing Health and Attendance Policy – Draft Letters document accessible on the Schools Portal.

Action following review meeting – target agreed at the Second review has not been met

The headteacher, or nominated senior manager, will issue a letter inviting the employee to the Final Attendance Management Review meeting. The relevant letter can be found in the Managing Health and Attendance Policy – Draft Letters document accessible on the Schools Portal.

The employee has the right of appeal as a result of a final written warning in relation to attendance. Any appeal must be made in writing within ten calendar days of the receipt of the decision. If the warning is given by a line-manager the appeal will be to the Headteacher, if the warning is 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 the Chair of Governors.

12.8. Final Attendance Management Review Hearing

Prior to the meeting gather all evidence, including medical information. Ensure the employee has copies of all written evidence before the meeting.

Ensure that the feasibility of redeployment or reasonable adjustments have been considered, if necessary.

Advice from the schools Human Resources provider must be sought prior to the meeting to ensure the above procedure is followed and the hearing is planned appropriately. Where the employee is employed by a Community or VC School, Central Bedfordshire Council's Statutory Schools HR Service must be informed and may attend the hearing as a representative of the Director of Children's Services.

If the employee has made no improvement by the end of the second Monitoring Period the Headteacher or nominated officer will ask the employee to attend a Final Attendance Management Review Hearing, at which the employee will have the right to be accompanied by a Companion (trade union/professional association representative or work colleague) and no one else.

The Headteacher or Governing Body (depending on who has the authority to make the initial decision to dismiss) must write to the employee informing them of the mutually agreed date, the reason for the meeting and that they are at risk of being dismissed due to their lack of attendance. The relevant letter can be found in the Managing Health and Attendance Policy – Draft Letters document accessible on the Schools Portal giving the employee at least 5 working day's notice.

Prior to the hearing all evidence should be gathered, including medical information. The employee should be provided copies of all written evidence before the meeting (to be included with the letter of notification). In preparation for the hearing the school should ensure that the feasibility of redeployment or reasonable adjustments have been considered, if necessary.

The employee may provide information they wish to be considered at the Hearing to be received no later than 3 working days prior to the date of the Hearing.

Each case needs to be considered in the light of all information available. There are a number of options to be considered at this point:

- Further action, with an agreed timescale, to try and address the problem. This option will only be pursued if there are clearly identified reasons why further action is likely to lead to an improvement where it has not done so previously. The employee should be told that if their attendance levels do not improve it could lead to dismissal.
- An agreed change to the contract of employment so that it reflects the capabilities of the employee. This may involve a change to the hours of work, the pattern of working hours or the content of the job. The employee should be told that if their attendance levels do not improve it could lead to dismissal.
- Dismissal on the grounds of incapability, in accordance with the School Staffing (England) Regulations 2003 (refer to Section 13).

If there has been a sufficient reduction in the level of absence, the employee should be informed that the matter will not be progressed any further at this stage. However, should the employee's absence level reach one of the recommended attendance management review points within the next 12-month period, the procedure will be re-instated at the Final Attendance Management Review Hearing Stage. The relevant letter can be found in the Managing Health and Attendance Policy – Draft Letters document accessible on the Schools Portal.

The outcome of the meeting must be confirmed to the employee in writing within 7 working days. The relevant letter can be found in the Managing Health and Attendance Policy – Draft Letters document accessible on the Schools Portal.

13. Dismissal on Grounds of Incapability (Ill Health)

13.1. In exceptional cases where prolonged or continued periods of absence cannot be dealt with adequately it may be necessary for a governing body to consider recommending the termination of a contract of employment on the grounds of incapability due to ill health. In these instances the procedure given below should be followed.

(N.B. This would apply where an employee has a poor work attendance record and notification of sickness is being carried out correctly and all periods of sickness are genuine. It is the school's operations that may be suffering and, therefore, such high levels of sickness absence may not be allowed to continue. The employee's ability to carry out the job with such high levels of absence is in question, not the sickness itself).

It should be emphasised that this course of action should only be taken in exceptional circumstances once all other options have been exhausted and full consultation with the employee and / or representative, if applicable, has taken place.

It is strongly recommended that in such cases, advice from the Schools' HR Provider should be sought before any action taken, in order to avoid potential claims for unfair or constructive dismissal.

13.2. Before such a decision can be taken, an employee must be given a right to a hearing either with the head teacher – where the governors have delegated the initial decision to dismiss in accordance with the Staffing Regulations 2003 (see paragraph 13.5) – or the relevant panel of the governors. This meeting will be known as the Final Attendance Management Review Hearing (see paragraph 12.8). The employee will have a right of appeal to the governing body before any final decision to dismiss is taken.

13.3. If the employee disagrees with the medical advice received, then Central Bedfordshire Council and the employee will agree an independent medical adviser to review the advice. The purpose of the independent advice is to arbitrate and parties will agree to accept the final recommendation.

13.4. Pension payments, if applicable, will be arranged. It should be noted that under Regulation 8 of the Education (Teachers) Regulations 1993 and the Education (Teachers) (Amendment) Regulations 1997, the Authority is not permitted to continue employing a teacher where it is satisfied that the person no longer has the health and physical capacity. If the Authority permitted a teacher who was medically unfit to continue working in the school, its public liability could be invalidated. The applicant, therefore, is required to resign from their post if their application is successful, which would normally be the end of the month in which benefit was granted. It is the responsibility of teachers to make their own Ill Health Retirement application to Teachers Pensions, see section 14.

Initial Decision to Dismiss

Who can take the initial decision to dismiss?

Under the Education Act 2002 any procedure which may lead to dismissal must include the opportunity for the individual concerned both to make representations before a decision to dismiss is taken and to appeal against such a decision. The School Staffing (England) Regulations 2003 (in accordance with Sections 35 and 36 of Education Act 2002) allow for the headteacher to have delegated responsibility to make the initial dismissal decision following which there will be an opportunity to appeal to a panel of governors. In relation to the sickness absence procedures this stage comes after the second attendance management review meeting (see paragraph 12.7).

Any decision to delegate responsibility for staff dismissals to the headteacher should be considered by the whole governing body and formally agreed and minuted by them.

- If a Headteacher has delegated responsibility to make the initial decision to dismiss and has not been directly involved in the procedures leading to dismissal, nor has instigated a proposal to dismiss then they are able to take the initial decision to dismiss.
- If a Headteacher does not have delegated responsibility, or if a Headteacher has been directly involved in the procedures leading to dismissal, or has instigated a proposal to dismiss then the Governing Body should take the initial decision to dismiss.

There are, however, possible exceptions to this arrangement anticipated in the Regulations:-

- Where the headteacher is unwilling to perform the function of taking the initial decision.
- Where the Local Authority has made representations to the chair of governors regarding the performance of the headteacher.

Right to a Hearing

It is important that when the formal meetings commence the employee and their trade union or professional association representatives are provided with a clear statement as to the process and who will make any decision, if necessary, regarding the initial decision to dismiss (or determine an alternative appropriate outcome). The employee and their representatives should also be told what appeal mechanism exists. This can be done in the form of a note of the meeting with the employee and their representative or a letter of confirmation.

The hearing will take place at the Final Attendance Management Review Hearing Stage of the procedure. In circumstances where the Headteacher does not have delegated responsibility to make the decision to dismiss, the governing body should establish a hearing panel and delegate to them the initial decision to dismiss (or to determine any other appropriate outcome of the procedure). The governing body should write to the employee

giving details of their right to a hearing before a decision to dismiss is made. A hearing will consist of three governors (excluding governors who are employees).

At the hearing, the employee may produce any further medical evidence for consideration and have the right to be accompanied by a friend or relative. See the Procedure at hearing or appeals on ill health matters.

At the end of the meeting where the initial decision to dismiss is taken the notice period will commence in accordance with the employees contractual and statutory entitlement. During this period the employee will be entitled to full pay irrespective of their current sick pay status.

Right of Appeal

The letter sent to the employee confirming the recommendation to dismiss should include details of the employee's right of appeal to the governing body against the decision. An appeal should be lodged within 10 working days of the date that the employee was informed of the recommendation to dismiss. An appeals committee should consist of three governors (excluding governors who are employees of the school). If the recommendation to dismiss was taken by the governing body then the appeal committee should consist of three governors who were not involved in the previous hearing and who are not employees of the school.

If an appeal is not lodged within the necessary timeframe, or if an appeal is lodged and is unsuccessful, the governing body should then arrange for a letter of termination to be sent to the employee. The letter of termination should include the following information:

- The reason for dismissal i.e. that the contract of employment is being terminated on the grounds of incapability due to ill health.
- The period of notice (the employee will be allowed the appropriate period of notice which should be the contractual period or the statutory period, whichever is the greater). Individuals will receive full pay during their notice period irrespective of their contractual sick pay situation.
- The date of termination of employment (the final day of notice)
- If applicable, the date pension benefits become payable (the day following the final day of employment).

Checklist to be undertaken before any decision is made to dismiss on the grounds of incapability or ill health

- Has medical opinion been obtained and considered?
- Has the member of staff and / or their representative been given the opportunity for full consultation?
- Have other options been fully explored such as:
  - adjustments to duties
  - working environment
  - redeployment
  - ill health retirement
- Has the school's position been made clear?
- Has the procedure been followed, and warnings been issued?
- Has the employee been given the right to a hearing before a decision to dismiss is made?
- Has the employee been given the right of appeal against dismissal to the governing body?

Procedure at Hearings or Appeals on Ill Health Matters

Presentation of the Case against the Employee

a) The headteacher or representative of the personnel committee makes an opening address outlining the case.
b) The headteacher or representative of the personnel committee will submit any medical evidence available.
c) The headteacher representative of the personnel committee calls witnesses, if any, so that taking each one in turn.
d) they question each witness.
e) the member of staff or their representative has the opportunity to put questions to each witness.
f) the headteacher or representative of the personnel committee may clarify any issues by further questions to the witness.
g) the members of the governing body have the opportunity to question each witness.
h) each witness withdraws after giving evidence.

Presentation of the Employee's Case

a) The member of staff or their representative makes an opening address outlining their case.
b) The member of staff or their representative will submit any medical evidence available to them.
c) The member of staff or their representative calls their witnesses, if any, so that taking each one in turn.
d) they question each witness.

e) the headteacher or representative of the personnel committee has the opportunity to put questions to each witness.
f) the member of staff or their representative has the opportunity to clarify any issues by further questions to the witness.
g) the members of the governing body have the opportunity to question each witness.
h) each witness withdraws after giving evidence.

Summing Up and Withdrawal

a) The headteacher or representative of the personnel committee and the member of staff, or their representative, have the opportunity to sum up their case if they so wish, the member of staff to have the last word.
b) Both parties then withdraw.

The Decision

a) The personnel committee of the governing body, with their HR adviser and a representative of the Council if either is in attendance, are to deliberate in private, only recalling the parties to clear points of uncertainty on evidence already given. The committee shall consider the evidence, the presentations and other medical evidence available, including such evidence which has been furnished in confidence. If recall is necessary both parties are to return, even if only one is concerned with the point giving rise to doubt.
b) The decision will be announced at the close of the hearing whenever possible. The chairperson of the committee or governing body, as appropriate, will confirm the decision in writing within five working days of the decision.

14. Ill Health Retirement

Instances of ill health retirement can arise either by direct application from an individual employee or through investigation into absence problems. Ill health retirement is only applicable if medical opinion confirms the individual as permanently unfit and all other options have been exhausted. The processes involved will depend on whether the employment of the individual concerned is subject to the Local Government Pension Scheme (LGPS) or to the Teachers' Pension Scheme (TPS), regardless of whether or not they are actually a member of that scheme. At the point of application for ill health retirement, any capability procedures invoked will be temporarily suspended for an agreed period, with the right reserved by the headteacher to reinstate the procedures should the application be unsuccessful.

14.1. Ill Health Retirement – Non-Teaching Staff (LGPS)

14.1.1. If an employee wishes to be considered for ill health retirement the headteacher should refer immediately to the Schools' HR Team using the OH medical referral form.

14.1.2. The employee will be informed of the referral procedures and, if applicable, pension estimates will be provided.

14.1.3. The Occupational Health Department will contact the employee and arrange to obtain medical reports from their GP and / or Consultant with the individual's consent.

14.1.4. Where there has been a previous referral to the Occupational Health Physician as a result of ongoing absence, it may be that the Physician concludes from the medical evidence available that ill health retirement is indicated.

14.1.5. The Occupational Health Physician will make a decision based on all the available medical evidence. When the medical decision is received the headteacher will be informed and arrangements discussed with the employee.

14.1.6. If ill health retirement is recommended a termination date will be agreed which will be no more than three months after receipt of the medical decision.

14.1.7. If the medical decision does not support ill health retirement there may be no alternative but to terminate the employee's services on the grounds of permanent ill health (see section 13).

14.2. Ill Health Retirement – Teaching Staff (TPS)

14.2.1. Ill Health Retirement applications should only be submitted after all other avenues such as redeployment have been exhausted – refer back to section 11 Outcome of Occupational Health Referral.

14.2.2. Teachers are required to apply for ill health retirement by making an application on the 'Ill- Health App' and 'Ill Health Med' forms to Teachers' Pensions through the Central Bedfordshire Council's HR Team. The teacher may reach the decision to apply for ill health retirement on the advice of their GP or other medical adviser. The teacher must provide medical evidence that the illness permanently prevents them from teaching.

14.2.3. Upon receipt of the application forms, TP will assess the degree of incapacity to determine whether the teacher is eligible for ill health retirement and if so, at what level. Total Incapacity Benefits (TIB) will be awarded where it is determined that the employee is permanently unable to teach and unable to undertake any other gainful employment. At this level, service will be enhanced to more than the teacher has completed when their application is accepted. The total enhancement is half of the service that could have been completed before normal pension age. Partial Incapacity Benefits (PIB) will be awarded where it is determined that the employee is permanently unable to teach but able to do other work. At this level no enhancement will be made and PIB will be based on benefits accrued.

14.2.4. The teacher may nominate a doctor to submit medical evidence on their behalf to be considered by medical advisers for the Department for Education (DFE), who may call for additional evidence before a decision is reached. Further information on the process and copies of the application forms may be sought from the schools HR provider.

14.2.5. If ill health retirement is granted then the teacher must resign from their post and will be required to give an undertaking of this when making their application.

14.2.6. Once deemed unfit to work by the DFE, a teacher should not be allowed to attend work and should cease employment immediately

14.2.7. Ill Health Retirement benefits are awarded to teachers who are deemed by the DFE to be permanently medically unfit to teach, so if a teacher returns to teaching their ill health retirement benefit must stop immediately. Teachers in receipt of a TIB pension who intend to return to employment outside of teaching and wish their TIB pension to continue must provide the Secretary of State with a certificate from a registered medical practitioner stating that they still meet the medical condition for TIB to be paid. In all cases TP must be informed.

14.2.8. Appeals

Teachers have the right to make two appeals against any aspect of the ill health retirement decision that has been made. Appeals must be made in writing to TP submitting any relevant information.

15. Other Considerations

Absence for reasons other than sickness

There will be occasions when an employee may need time off from work to deal with sudden unexpected incidents or emergencies. Sickness absence must not be taken under these circumstances and if an employee claims to be sick in order to take time off for other reasons, this will be treated as a conduct issue and is likely to lead to disciplinary action.

There are a number of time-off from work arrangements designed to help employees cope with these occasions. These include compassionate leave, time off for dependants, parental leave and flexible working. Details of these arrangements and further types of leave are available on the Intranet in the Schools Personnel Management Handbook or from the Schools HR Provider.

Doctor, Dentist, hospital, or other appointments

Employees are expected to arrange appointments for the doctor or dentist in their own time, as far as possible. Special leave for these purposes will only be granted in the most exceptional circumstances. If an employee has a hospital appointment that they have been unable to arrange to suit off duty hours, special paid leave to attend may be granted at the discretion of Governing Body.

Treatment as an outpatient, or ongoing rehabilitation, is regarded as sick leave and should be recorded accordingly.

Elective procedures which have a verified medical reason should be taken as sick leave, and certified as such, in accordance with section 8 of this policy. Elective procedures with no

verified medical reason should be taken within school closure periods or as unpaid leave with management agreement. Elective procedures may include cosmetic surgery and laser eye treatment.

Necessary paid time off shall be granted for the purpose of being screened for breast and cervical cancer and other appropriate life-threatening conditions.

IVF Treatment: Staff wherever practically possible should be encouraged to arrange treatment outside of school hours or outside term time. In the event that this is not possible, the governing body may, at its discretion grant up to five days paid leave in any one year on compassionate grounds. If treatment is unsuccessful and further absences are required within any one-year period the governing body may, at its discretion, grant unpaid leave of absence. (see Leave of Absence Policy, Chapter 3, Section 3.4 for more details).

Employees will be granted necessary paid time off for the purpose of donating bone marrow.

Details of these arrangements are available on the Intranet in the Schools Personnel Management Handbook or from the Schools HR provider.

Holidays and Sickness

The majority of Schools employees work term time only however those that are employed throughout the year have a right to book and take annual leave while they are on sick leave. An employee employed throughout the year who falls sick during annual leave shall be regarded as being on sick leave from the date of a statement of fitness for work (fit note). Employees shall be entitled to take the balance of holiday at a later date after return to work.

Staff have no right to be paid in lieu of holidays not taken, unless their employment terminates. Taking annual leave whilst on sick leave does not constitute a return to work and therefore does not trigger an increase in sick pay entitlement. However, any period of holiday authorised and taken during a period of sick leave will be paid at their normal full pay rate.

Where a public or extra-statutory day occurs during sickness leave no substitute public or extra-statutory holiday will be given.

Should a teacher or term time only employee wish to take annual leave while they are certified as sick they should notify their headteacher.

Carrying out other appropriate duties

If an employee has been asked to refrain from work with a medical certificate by their GP and is not considered fit to undertake their normal duties (e.g. if they have a broken limb) but the employee wishes to undertake other appropriate duties, such duties can only be undertaken if the employee's GP gives written permission that the employee is fit to carry out these other duties and the headteacher is in agreement. In all cases the duties will only

be undertaken following a risk assessment, usually conducted by the headteacher and (where appropriate) the Health & Safety Adviser and / or OH Adviser.

Medical Suspension

In the instance of conflict of medical advice, e.g. where an employee believes they are fit for work and the employer believes the employee is unfit to work and / or their continuation at work may pose a risk to colleagues / pupils, medical suspension may be considered and further medical advice sought. Payment during medical suspension shall be full pay. For further guidance relating to medical suspension see appendix 3.

Confidentiality and Dignity

If a formal attendance review process is undertaken, the proceedings will remain confidential.

Medical reasons for all sickness absence are considered strictly confidential in accordance with the General Data Protection Regulations (GDPR) and Access to Medical Records Act and should normally only be divulged to a third party external to the organisation with the prior consent of the employee.

Terminal Illness

Where employees have terminal illnesses, their situation should be treated with the greatest sensitivity and sympathy. Headteachers are strongly advised to seek help and support from OH and the HR services team when managing staff with terminal illness.

Employee Support

Schools should ensure they have access to an Occupational Health and Employee Support Services provider and that employees are informed of the Employee Support Service available to them.

The Disability Discrimination Act 1955 and the Equality Act 2010

The Disability Discrimination Act 1995 came into effect in December 1996 and was superseded by the Equality Act 2010. This Act renders it as potentially unfair to discriminate against an employee on the grounds of disability, with no maximum compensation ceiling if a claim of discrimination is upheld.

In terms of the law, "a person has a disability if he has a physical or mental impairment which has substantial and long term adverse effect on his ability to carry out normal day to day activities".

A long term adverse effect is defined as lasting for at least twelve months, or the period it is likely to last is at least twelve months, or for the rest of the person's life, whichever comes sooner.

An assessment of a long term adverse effect on normal day to day activities must constitute one of the following :

Mobility; Manual dexterity; Physical co-ordination; Continence; Ability to lift, carry or otherwise move everyday objects; Speech, hearing or eyesight; Memory or ability to concentrate, learn or understand; Perception of the risk of physical danger

An occupational health assessment must always be sought if it is likely that an employee meets this definition of disability.

It is also a requirement of the law that reasonable adjustments be made to enable a disabled person to work.

Extensive new regulations came into effect in January 1993 requiring effective systems and action to be taken to identify, prevent and reduce risks to the health and safety of employees. Many of these responsibilities, including the management of sickness absence, can only be implemented effectively with the active support of the headteacher and the management team.

Employment Protection (Consolidation) Act 1978

In accordance with the Employment Protection (Consolidation) Act 1978, ill health is potentially a fair reason for dismissal if it relates to the capability of the employee to do the work they were employed to do. This may arise in cases of prolonged absence due to chronic or acute medical condition. In cases of long term sickness the employer should consult the absent employee, the employee's doctor and other medical practitioners, as appropriate. In seeking medical reports there should be regard to the Access to Medical Reports Act 1988 and the Access to Health Records Act 1990. Failure to consult fully and follow fair procedures will render a subsequent dismissal unfair in most cases.

Health and Safety at Work etc, Act 1974

The Health and Safety at Work etc. Act imposes a general obligation that "it shall be the duty of every employer to ensure as far as is reasonably practicable, the health, safety and welfare of all its employees".

Absences due to work related stress have become more evident within the Education Service. Headteachers and governing bodies should note that the Health and Safety at Work Act gives the employer a responsibility to provide a safe working environment, taking into account the physical and mental well-being of all staff.

If an employee is thought to be suffering from a stress-related illness, the employer's duty is the same as for any other health problem. If the employee's attendance or work is affected by stress-related illness it may be fair to dismiss on the grounds of ill health, provided appropriate procedures are followed. It should be noted that once an employer is aware that a member of staff has suffered from a stress related illness, the employer is expected to take this into account and not place them directly back into the same situation where they would remain at risk. Again, there have been successful claims made through the High Courts, resulting in large compensatory payments being made to individuals. Information on the management of stress in the workplace can be found within the Health and Safety in Schools pages of the Schools Portal.

To succeed in a claim for failure to provide a safe system of work, the employee must first show that the employer was, or should have been, aware of the risk to health and safety. When the employee is known to have suffered a mental illness, the employer must be aware of that risk. Secondly, the employee must show that the employer has failed to take the steps a reasonable employer would have taken to protect them at work. Thus, once a condition becomes known, it is foreseeable that it could recur and the employer has a duty to discuss organisational factors with the employee in order to attempt to prevent recurrence or aggravation of a medical condition. Lastly, the employee will have to show that ill health was caused by the employer's failure to amend or ameliorate working conditions.

The employer's liability depends on its knowledge of the risk and its ability to identify where an employee is known to be particularly at risk. Extra care must be taken to take reasonable steps to alleviate the situation and avoid litigation. Consultation with the employee is therefore vital.

Stress also has particular relevance to maternity. Under Regulation 13a of the Management of Health and Safety Regulations 1992, the employer must emphasise the risks to employees who are of child-bearing age and who may be pregnant, have given birth within the last 6 months, or who are breast-feeding. Stress is one of the factors employers are asked to take into account. If the employer fails to assess the risk and the employee or the baby suffers damage, they can sue for breach of statutory duty. The woman can also bring a claim for failure to provide a safe system of work and the child can sue under the Congenital Disabilities Act 1976.

Use of the Disciplinary Procedure

Poor attendance due to genuine ill health or injury should not be considered a disciplinary matter and all formal and informal action taken by managers should be taken under the provisions of this procedure.

In clear cases of misconduct the disciplinary procedure should be used instead of this procedure, for example:

- If an employee fails to follow the proper notification procedure
- If the reason for not being at work is unsatisfactory and vague
- If the absence is unauthorised resulting from failure to provide certificates
- Carrying out an activity which cannot be reasonably consistent with the nature of their sickness absence

Preventing work-related stress in schools' guidance

The Health and Safety Executive (HSE) provides a guidance toolkit on preventing work-related stress in schools which can be accessed on their website. This toolkit will help Headteachers to recognise symptoms of stress and how to deal with these as far as reasonably possible.

Keeping in Contact

Headteachers have a duty to make reasonable contact with the employee during a period of absence. Employees should keep their headteacher informed if their normal contact details change, for instance if they go into hospital or if they are being cared for away from home.

Sickness following an accident at work

If the absence is the result of 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 to must be documented and recorded as an accident or injury using the Council's AssessNET reporting database and, where necessary, taken remedial action.

If sickness absence is related to an accident at work, the Council may have a duty to report the incident to the Health and Safety Executive (HSE). Further information can be obtained from the CBC HR Health and Safety Team.

Sickness absence which is related to an accident at work should be treated with particular care and sensitivity. The Sickness Absence Policy for Schools Based Staff should be followed in the normal way but discretion may be needed as to how the specific case is dealt with dependent on the particular circumstances. Further advice and guidance must be sought from the Schools HR Provider in liaison with the OH Adviser.

Probation

Where appropriate, attendance should be dealt with as part of the review stages of the probationary period.

Teachers' Regulations

Teachers' Regulations identify the following illnesses as medical conditions which may lead to the suspension of a teacher from duty :

- pulmonary tuberculosis or other infectious diseases likely to infect pupils in a school situation
- epilepsy
- psychiatric disorder (including alcohol and drug abuse)

It is necessary to obtain a full medical report from the Occupational Health Physician before returning to work if an employee is absent, or has been suspended as a consequence of suffering one of the above.

Appendix 1 - Guidance for Schools on Identifying Reasonable Adjustment Relation to Disability

Who is this guidance for?

All employees and workers of Maintained Schools of Central Bedfordshire Council

What else should I read?

You may also wish to read the Schools 'Managing Attendance and Sickness Absence Policy

What do we mean by disability?

A person has a disability if they have a physical or mental impairment that has a

substantial and long-term negative effect on their ability to do normal daily activities.

An impairment is substantial if it prevents them from doing something they might otherwise do, or if it takes them longer to do a particular task than it might otherwise take.

Long-term means lasting 12 months or longer.

The Equality Act 2010 – the duty to make reasonable adjustments

Equality law recognises that bringing about equality for disabled people may mean changing the way in which we work, the removal of physical barriers and/or providing extra support for a disabled employee. This is the duty to make reasonable adjustments.

The duty to make reasonable adjustments aims to make sure that, as far as is reasonable, a disabled employee has the same access to everything that is involved in doing and keeping a job as a non-disabled person.

Schools have a positive and proactive duty to take steps to remove, reduce or prevent the obstacles and barriers a disabled employee or job applicant faces.

It is also important to remember that discrimination against a disabled person occurs if an employer fails to make reasonable adjustments.

Employees and job applicants can be reluctant to disclose a disability due to a fear that it may affect their future career prospects. It is important therefore for Schools to create a culture that is positive about disability and helps encourage employees to feel safe in enclosing any disability.

2. What are Adjustments?

Schools and the Council are required to take reasonable steps to:

- Ensure that any formal or informal policies, rules, practices, arrangements or qualifications do not put a disabled person at substantial disadvantage compared to those who are not disabled

- Remove or alter physical features, such as steps, stairways, parking areas and fixtures in our premises where they put a disabled person at a substantial disadvantage compared to those who are not disabled or provide a way for them to avoid this feature.
- Provide equipment or aid where, if it was not provided, the disabled person would be put at a substantial disadvantage.

3. Who does it apply to?

It applies to someone who:

- works for a School, or
- applies for a job with a School

It applies to all stages and aspects of employment. It does not matter if the employee was a disabled person when they began working for the School, or if they have become disabled during employment.

Schools are required to make an adjustment if you know, or could reasonably be expected to know that an employee has a disability or where someone who has applied for a job has told you that they have a disability.

However, it's important that you do not make a fine judgement as to whether a person falls within the definition on page 2 but instead focus on meeting the needs of each employee and job applicant.

4. How to consider reasonable adjustments

Headteachers and Managers should be pro-active and ask disabled team members if they need any changes making to their job, the way it is done or to the working environment so they can work as effectively as possible.

You should work, as much as possible, with the disabled person to identify the kind of disadvantages or problems that they face and also the potential solutions in terms of adjustments. It may be that several adjustments are required in order to remove or reduce a range of disadvantages and sometimes these will not be obvious to you.

Even if the disabled employee does not know what to suggest, you must still consider what adjustments may be needed.

One approach would be for the Headteacher or Manager and disabled employee to discuss the requirements of the job and break these down into core tasks. For each task, you will need to identify how it is to be done and to what standard. If both you and the employee are satisfied with things as they are, then there is nothing more to do, apart from recording the decision in writing and retain the decision on the employee's personal file.

Sometimes, the adjustment may impact on other team members and would require their co-operation. If your employee is reluctant for other staff to know explain that you cannot

make the adjustment unless they are prepared for some information to be shared. It does not have to be detailed information about their condition; just enough to explain to other staff what they need to do.

Headteachers should also:

- Ensure that agreed changes are properly planned and implemented as a piece of management action
- Ensure that agreed changes are documented and retained in the employees' personal file.
- Ensure that you review the adjustments regularly, in case of any changes in someone's impairment. This could be done during supervision, one to ones and performance management meetings.

5. Deciding whether an adjustment is reasonable

Various factors influence whether an adjustment is reasonable and Schools personal opinion should not have a bearing on what should be an objective assessment. You should work with your HR Provider to consider the following when making this determination:

- how effective the change will be in avoiding the disadvantage the disabled employee would otherwise experience
- its practicality
- the cost, the financial resource/ position of our organisation has a bearing on this
- resources and size
- the availability of financial support.

Resources should be looked at across the School, not just for the team or department where the disabled person is or would be working and needs to be balanced against the other factors.

If, as a Headteacher or manager you feel that an adjustment is not reasonable you should seek the advice from your Schools HR Provider.

6. Reasonable adjustments in practice

Reasonable adjustments can be:

- allocating some minor duties to someone else
- altering working hours
- giving appropriate training
- providing or modifying equipment
- modifying procedures for testing or assessment during the recruitment process
- providing a reader or interpreter to support the disabled employee in their job
- Considering reasonable levels of sickness absence, linked to a disabled employee's disability.
- transferring the disabled employee to an existing vacancy
- making adjustments to premises, maybe considered appropriate

Further information on these adjustments can be found below in section 8.

6. Costs

Many adjustments don't cost anything and others can cost very little.

4Financial help for a whole range of equipment and for support employees can be applied for by employees from the Access to Work Scheme.

Access to Work is a government scheme which can help a person whose health or disability affects their work by giving them advice and support. Access to Work can help with extra costs which may not be reasonable for the School to pay.

For example, Access to Work might pay towards the cost of getting to work if the disabled person cannot use public transport, or for assistance with communication at job interviews.

It is important to note that the advice and support from Access to Work is given to the employee themselves, not the Council.

7. Further advice

It is advised that Schools seek advice from their HR Provider when considering reasonable adjustments.

8. Examples of Reasonable Adjustments

Changes to the usual way of working

For some disabled people, the usual systems, arrangements and ways of doing things in the workplace may be inaccessible. This may mean that the job becomes impossible to do, even though the individual tasks do not really cause a problem. It may be possible to change the 'usual' way of doing things in the workplace so that it includes every employee. This is the best way of approaching the adjustments, not as 'special' and individual to the disabled employee. Managers need to find the most effective way for the whole workplace to function together. These types of changes may also be the most cost effective.

Examples:

- Having a general school policy of removing clutter and keeping gangways clear of boxes and open drawers.
- Ensuring that employees with diabetes have access to refreshments
- Having a range of chair styles in the workplace, including chairs with and without arms.
- Colleagues of a Deaf / hearing impaired employee learning basic sign language or having Deaf awareness training.
- Changing the layout of the workplace so that gaps between desks, machinery and cupboards are big enough for a wheelchair user to get through.
- Changing where things are kept so that they are more accessible.

- Making sure that when you order new workplace equipment, it meets the needs of all the employees. For example, computer systems that are compatible with Braille software; telephones that have inductive couplers to link to a hearing aid; fax machines with clear buttons and readouts.

Altering premises

For a disabled employee to do the job in the same way as anyone else, they may need:

- Access to all areas of the School, including classrooms, other people's workspaces, store rooms, general work equipment and machinery, toilets and kitchens.
- Structural or other physical changes such as widening a doorway, providing a ramp or moving furniture for a wheelchair user.
- Altering the position of light switches, door handles or shelves for someone who has difficulty reaching.

There is often no simple solution if the workplace is inaccessible and a disabled employee needs a highstandard of access. The best way forward is first to discuss the access fully with the disabled employee.

Examples of access solutions are:

- Relocating the existing work location within the school, where this would be reasonable and practicable.
- Agreeing for a disabled employee with mobility difficulties to work from classrooms or offices on the ground floor of a multi-story building should a lift not be available or able to be installed for cost or other building related issued.

Allocating some of the disabled person's duties to another employee

Minor or occasional duties might be reallocated to another employee if a disabled team member has difficulty in doing them because of their impairment. For example, if a job occasionally involves going onto the open roof of a building one might have to transfer this work away from an employee whose impairment involves severe vertigo.

This does not mean expecting other colleagues to do more work. It is about considering what activities a non-disabled employee can do more easily. This could mean swapping work between team members.

Examples

- allocating occasional telephone duties from a deaf or hearing impaired employee to hearing colleagues
- allocating minor driving duties to another employee for someone who is unable to drive because of their impairment

It is reasonable to make slight changes to jobs, but they must be discussed and agreed with the disabled employee and then recorded. They may prefer to do the inaccessible part of the job by finding another solution.

Major changes to a job should not be made without seeking advice from your HR Provider. Other employees need to be consulted if tasks are to be exchanged or new ways introduced. This is an important reasonable adjustment under the Equality Act.

Adjusting travel arrangements

Some roles in school may involve travelling or moving between sites as part of the same school or visiting other schools or work locations. Employees usually use their own car, public transport, cycle or walk. For some disabled employees, the usual transport may be inaccessible and so alternatives should be considered.

Altering working hours

Some disabled employees with particular impairments may find the usual working hours difficult. The Equality Act says we have to be flexible in these cases.

Examples:

- some impairments may mean that people tire easily or need breaks or shorter hours
- some disabled people may need regular breaks during the day for injections or other forms of treatment
- some impairments may result in unpredictable spells of pain, preventing the disabled employee from working effectively when this happens
- the need for support at home may restrict a disabled employee's flexibility over start and finish times. The need for some time out for someone who has panic attacks.

Examples of how to be flexible include:

• Agreeing a modified contract for fewer working hours or when and how the contracted hours will be worked.

• Agreeing times and location, where reasonable, during the day should injections or other forms of treatment be required.

Allowing the disabled employee to be absent during working hours for rehabilitation, assessment or treatment.

This should be considered on a case by case basis for each individual employee. Further advice should be taken from your HR Provider before a decision is made.

Arranging additional training for the disabled employee

If someone is starting a new job, it is usual to have induction training. You may also need to consider some additional training for a disabled employee such as:

- training on how to use specific or modified equipment or how to use equipment in a different way

- mobility training for a visually impaired employee
- training for others in the workplace such as in basic sign language
- job training for someone who has a learning difficulty.

Supplying or modifying equipment

Sometimes, the best adjustment that can be made to enable a disabled employee to do the job effectively is to get a particular piece of equipment or modifying existing equipment. This should be considered after all the possibilities of changing the general way that things are done are worked through.

Some equipment is fairly cheap and may be able to be purchased from the school budget. Other equipment can be very expensive, but help to buy this may be available from the Access to Work Scheme.)

Examples of equipment include:

- desks at different heights and desks which move up and down
- support rests for arms or hands
- computers and appropriate software that speak words on the screen and suggest different spellings for people with dyslexia
- text telephones for Deaf people
- telephones with inductive couplers linked to hearing aids or telephones with volume controls
- talking clocks and calculators
- large computer screens and magnifiers which fit on top of screens
- computer software which turns print into large print
- computers that talk, reading out everything on the screen for visually impaired people
- vibrating mobile phones

Altering instructions and other written material

The way instructions are usually given to employees might need to be changed when showing a disabled employee how to do a task.

Altering procedures for testing or assessment

This could involve making sure that tests do not cause particular barriers for disabled people with specific impairments. For example, someone with restricted manual dexterity might be disadvantaged by a written test, so you may need to give them or an oral test.

Modifying disciplinary or grievance procedures

There may be a need to adjust the way the School's Disciplinary or Grievance procedures are implemented. For example, a disabled employee wanting to raise a grievance may need assistance from their manager or another colleague in producing the written grievance if they are unable to complete it themselves due to their disability.

During a disciplinary hearing, extra breaks may need to be taken throughout the meeting depending on the employee's disability.

Managers must ensure that the cause of disciplinary action is not due to any reason relating to the employee's disability.

Providing a support employee such as a reader or interpreter

Support employees can be employed to provide individual, specific, work-related support to a disabled employee. The Access to Work Scheme can usually help with the cost of this support.

Examples of support employees include:

- someone who supports a Deaf person by helping with access to meetings, such as a British Sign Language interpreter, note-taker or lip-speaker
- someone who supports a visually impaired employee by helping them to access printed material and other systems in the workplace
- someone who can do minor duties that a wheelchair user cannot do, such as putting up notices on a notice board

Considering reasonable level of sickness absence, linked to a disabled employee's disability.

Managers need to consider the impact of a disability when managing and supporting an employee who is absent from work due to sickness. Further advice when managing sickness absence where the employee has or may have a disability should be sought from your HR Provider.

Appendix 2 - Procedure for the First and Second Attendance Management Review Meetings.

This procedure should be read in conjunction with paragraphs:

(a) The Headteacher or delegated person welcomes all parties to the meeting and sets out the reason for the meeting, ensuring that all parties have a copy of the letter inviting the employee to the meeting, a copy of the Health & Attendance Policy and any other documentation to be discussed at the meeting.

(b) The Headteacher or delegated person will inform the employee and their companion that a record of the meeting will be taken and a letter providing a summary of the outcome of the meeting will be provided to the employee within 5 working days of the meeting.

(c) The Headteacher or delegated person will explain the concern about the absence level and reasons for that concern, such as operational difficulties caused.

(d) The employee will be provided an opportunity to discuss their absence.

(e) The Headteacher or delegated person will listen to the employee and respond appropriately.

(f) The Headteacher or delegated person will consider whether to refer the case to the Schools Occupational Health provider, if not already done and discuss this with the employee.

(g) The Headteacher or delegated person will outline the sustained improvement in attendance is expected and set an appropriate monitoring period and targets for improvement.

(h) The Headteacher or delegated person will discuss with the employee and their Companion if any support should be considered to assist the employee to achieve the targets for improvement.

(i) Where the employee has a disability as defined in the Equality Act 2010 consideration should be given to reasonable adjustments to support the employee. Appendix 1 – Guidance For Schools On Identifying Reasonable Adjustments Relating to Disability should be read when considering reasonable adjustments along with seeking advice from the schools HR provider.

(j) The Headteacher or delegated person may give the employee a first or final written warning (depending on the stage of the meeting) in relation to attendance, if appropriate, and explain that if attendance to the specified level is not met this may lead to a Second Attendance Management Review Meeting or Final Attendance Management Review Hearing (depending on the stage of the meeting).

The employee must be informed that they have the right to appeal against a warning and the right of appeal will be outlined in the letter confirming the outcome of the meeting.

(k) The details of the meeting should be fully completed

(l) The Headteacher or delegated person should thank all parties for attending and check whether the employee or companion wish to provide any further comment or information before the meeting is concluded.

(m) The Headteacher or delegated person to send a letter to the employee confirming the details and outcome of the meeting.

Appendix 3 - Guidance on suspension from work on medical/health and safety grounds

In certain circumstances the employer may need to suspend the employee from work for health and safety reasons. This guidance outline the considerations of the employer, sets outs the employees rights during a period of suspension on medical/health grounds and the rights of an employee if they are pregnant.

Suspension from work on medical grounds

The employer has a duty to take all reasonable steps to ensure the health and safety of employees. This means the employer can suspend an employee from work if they think there may be at particular risk from certain substances which are hazardous to health. For example, an employee may be suspended if they become seriously allergic to a chemical at work, or if they are a newly expectant mother working in a lab that uses radiation. The decision to suspend on medical grounds should only be taken after completion of a risk assessment. Should a risk assessment be required advice should be sought from your HR Provider prior to taking any further action.

An employee is regarded as suspended from work only if he continues to be employed by his employer but is not provided with work or does not perform the work normally performed before suspension.

The employee does not have the right to paid suspension on medical grounds if, for example:

- They unreasonably refuse other suitable work offered by the employer
- They don't meet any reasonable requirements the employer may have to make sure the are available for other/alternative work when required

Pay

In accordance with the employees contract of employment they have the right to receive full pay for the period of their suspension. The pay should be equal to a normal week's pay. However, if the employee is offered other suitable work they must take it. If alternative work is unreasonably refused this may result in the employee losing the right to be paid. Should this situation occur advice should be sought from your HR Provider prior to taking any further action.

Pregnant Employees

The employer must make a special assessment of the risks to pregnant mothers and their babies (Insert link). If there are risks, the employer must protect the employee and their baby by:

- adjusting working conditions and/or hours of work
- offering other suitable work if there is any
- suspending the employee from work for as long as necessary

An employee who is pregnant, or has recently given birth, or who is breast-feeding may have to be suspended from work on maternity grounds if continued attendance might damage her, or the baby's health.

An employee suspended on pregnancy medical/health grounds is entitled to full pay. The suspension should last until the risk to the employee or their baby has been removed. A risk assessment should be undertaken prior to the lifting of a pregnancy related suspension. Suitable alternative work may be considered for the employee as an alternative to suspension. If an employee unreasonably refuses suitable alternative work this may affect the rights of the employee to receive full pay. Should a risk assessment to consider a pregnancy related suspension or consideration of alternative work be required advice should be sought from your HR Provider prior to taking any further action.

It should be noted that an employee is entitled to make a complaint to an employment tribunal if there is suitable alternative work available which her employer has failed to offer her before suspending her from work on maternity grounds.

Appendix 4- Occupational Sick Pay and Statutory Sick Pay (SSP)

1. Non-Teaching Staff

1.1. Employees are entitled to receive Occupational Sick Pay for the following periods of absence on account of sickness, disease, accident or assault.

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

1.2. Occupational Sick Pay entitlement is based on service completed as at the first day of sickness. When determining payment for sickness, account is taken of all periods of sickness during the preceding twelve months as at the first day of sickness.

1.3. For absences due to injuries at work, Occupational Sick Pay Entitlement is based on service completed as at the first day of sickness. No account is taken of sickness during the previous twelve months. Where absence is due to an accident in respect of which damages may be recoverable from a third party, the Council will pay sick but you must include this in the damages claim and repay this money to the Council if the claim is successful.

1.4. Service generally relates to continuous service under any employing authority, including for this purpose, service with any public authority to which the Redundancy Payments Modification Order 1983 applies. If you are doubtful about the amount of service you can count as continuous service for the purposes of the Occupational Sick Pay Scheme, please contact the Payroll Division for further details.

Statutory Sick Pay:

1.5. Statutory Sick Pay (SSP) will be paid in accordance with current UK legislation and government guidance. This includes rules on eligibility, rates, maximum duration, linked periods, and any other statutory requirements. The school will apply the statutory SSP rules in force at the time of your sickness absence. You can access the most up-to-date SSP information on the GOV.UK website.

1.6. Where, under your conditions of service, you are entitled to Occupational Sick Pay of an amount equal to "full pay" during sickness, SSP payments will be taken into account and WILL NOT be paid in addition to "full pay". Depending on entitlement there may be occasions when you will be eligible to receive half Occupational Sick Pay, plus SSP.

1.7. If the absence of an employee is occasioned by the actionable negligence of a third party in respect of which damages are recoverable, they shall advise the Authority immediately and the Council reserves the right to require the employee to refund a sum equal to the aggregate of sick pay paid to them during the period of disability or a part thereof (as appropriate) but not exceeding the amount of damages recovered. In the event of the claim being settled on a proportional basis, the Council will require full details and will determine the actual proportion of sick pay to be refunded by the employee.

1.8. If the Authority is of the opinion that the disability which has occasioned the employee's absence from work is due to their misconduct, or if the employee has failed to observe the conditions of this scheme, or has been guilty of conduct prejudicial to their recovery then the payment of any sick pay under the scheme may be suspended by the Authority. This action shall inform the employee of the grounds upon which sick pay has been suspended and afford them an opportunity of submitting their observations in writing. Where a matter remains unresolved the employee can raise a grievance in accordance with Chapter 3, Section 9 of the Personnel Handbook for School Based Staff.

1.9. When an employee is ill immediately preceding the closure of the school and has exhausted their sick leave entitlement, or is on less than full pay and recovers during the period of closure, such an employee shall be deemed for the purpose of calculating the amount of salary due, to have returned to duty on the day they are authorised medically fit to do so by means of a statement of fitness for work (fit note) obtained for that purpose, provided they actually return to school on the first day after the period of closure.

2. Teaching Staff

2.1. For the purposes of calculating entitlement to sick leave, the year shall be deemed to begin on April 1 of each year and end on March 31 of the following year. In the case of a teacher whose service commences on a date other than April 1, such service shall be deemed, for the purpose of this scheme, to have commenced on the preceding April 1, subject to the completion of four calendar months' actual service before actual half pay can be claimed. In the case of a teacher who is absent owing to illness on March 31 of any year, such teacher shall not begin new entitlement to sick leave in respect of the following year until they have resumed teaching duties, the period from April 1 until the return to duty, being deemed to be part of the preceding year for the purpose of this scheme. In the case of a teacher being transferred from the service of one authority to that of another, any sick pay paid during the current year by the previous Authority shall be taken into account in calculating the amount and duration of sick pay payable by the new Authority.

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

During the first year of service - Full pay for 25 working days and after completing four calendar months' service, half pay for 50 working days

During the second year of service - Full pay for 50 working day and then 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 fourth and subsequent years - 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. The following deductions save, in the circumstances set out in 2.4 below, shall be made from sick pay where it is of an amount equal to full pay :

The amount of sickness benefit receivable under the Social Security Acts 1975 - 1982 (provided, however, that in any case where sickness benefit is, or may subsequently prove to have been receivable in respect of the first three days of any sickness, the amount of benefit shall be deducted from such pay only if such benefit has in fact been received in respect of any such period of three days).

Compensation payments under the Workmens' Compensation Acts where the right to compensation arises in respect of an accident sustained before July 5, 1948.

The dependency element (but not the disability element) of any treatment allowance received from the Department of Health and Social Security.

2.3. Deductions shall also be made from sick pay where it is of an amount less than full pay if a teacher would otherwise, with the benefits receivable in respect of insurance under the Social Security Acts 1975 - 1982, become entitled to an amount exceeding the sum of their full (ordinary) pay.

2.4. In the event of a teacher exhausting in part or full, their entitlements under the above and being given notice of the termination of their contract without returning to work on the grounds of permanent incapacity or for some other reason, they shall be paid full salary for the notice period with normal deductions only.

2.5. Deductions equivalent to those set out in paragraph 2.2 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 1973, provided that, where a widow is in receipt of a widow's or a 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 in excess of the amount received by the teacher from the Department of Health and Social Security in weeks of full normal employment.

2.6. Two half school days shall be deemed to be equivalent to one working day. Whilst sickness during school holidays will not affect the period of a teacher's entitlement to sick leave under the above, it will be relevant so far as education of benefit is concerned. Thus, the rate of sick pay applicable to a teacher in respect of sickness during closure of a school, is the rate applicable to them on the last day before the closure. Where a teacher, therefore, is ill immediately preceding the school holiday and:

- they are on full sick pay

they shall continue on full sick pay but the closure period is not counted against their entitlement of the above;

- theyare on half sick pay

they shall continue on half sick pay but the closure period is not counted against their entitlement ;

- they have exhausted their sick pay entitlement and is not receiving any pay

they shall continue to receive no pay.

2.7. Subject only to the provision in 2.4, the deductions enumerated under 2.4 and 2.3 above will be made if the teacher is eligible to receive such benefits, payments or allowances, whether or not they take the necessary steps to obtain it.

2.8. When a teacher is ill immediately preceding the closure of the school and has exhausted their sick leave entitlement, or is on less than full pay and recovers during the period of closure, such a teacher shall be deemed for the purpose of calculating the amount of salary due, to have returned to duty on the day they are authorised medically fit to do so by means of a statement of fitness for work (fit note) obtained for that purpose, provided they actually return to school on the first day after the period of closure.

2.9. 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 2.4 above, it shall be their duty to notify the Authority thereof (in accordance with sub paragraph 2.11 below as if the days of closure were school days) so that the Authority may either pay Statutory Sick Pay (where appropriate) or make the appropriate deductions.

Conditions

2.10. For the purpose of this scheme a teacher shall be under an obligation to declare to the satisfaction of the Authority their entitlement to benefit under the foregoing Acts (as above 2.4) and any subsequent alteration in the circumstances on which such

entitlement is based in default of which the Authority shall be entitled to determine the benefit by reference to the maximum benefit obtainable.

2.11. A teacher who is absent for more than three school days owing to personal illness shall submit such statements as the Authority in their discretion shall require provided that statements of fitness for work (fit notes) shall not be required, save in special circumstances, more frequently than on the eighth day of absence, at the end of each month of absence and on return to duty, unless fitness for return to duty has already been ascertained and the teacher returns to duty on the date specified on the previous statement of fitness for work (fit note). In the case of a prolonged or frequent absence a teacher may be required at any time to submit to examination by an approved medical practitioner. The teacher's own doctor may be present at such examination on the teacher's request.

2.12. A teacher entering a hospital or similar institution shall submit a statement of fitness for work (fit notes) on entry and on discharge in substitution for periodic statements.

2.13. In the case of absence due to accident 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 Authority or participation in any extra curricular or voluntary activity connected with the school, full pay shall in all cases be allowed, such pay being sick pay for the purposes of paragraph 2.9 above, subject to the production of self certificates and / or statements of fitness for work (fit notes) from the day of the accident up to the date of recovery but not exceeding six calendar months, after which the case will be reviewed before a decision on any extension of the period of sick pay should be reached. Absence resulting from such accidents shall not be reckoned against the teacher's entitlement to sick leave, though such absences are reckonable for entitlement to Statutory Sick Pay.

2.15. 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 to be due to the illness and such absence shall not be reckoned against the teacher's entitlement to sick leave, though such absences are reckonable for entitlement to Statutory Sick Pay.

2.16. 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 Authority.

2.17. A teacher residing in a house in which some other person is suffering from an infectious disease shall at once notify the Director of Children’s Services and the

teacher shall, if required, take precautions as may be prescribed, providing 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 purposes of paragraph 2.9 above. This provision will also apply where, in the opinion of an approved medical practitioner, it is advisable for a teacher to attend duty for precautionary reasons due to infectious disease in the workplace. The period of absence under this paragraph shall not be reckoned against the teacher's entitlement to sick leave, though such absences are reckonable for entitlement to Statutory Sick Pay.

2.18. If the absence of the teacher is occasioned by the actionable negligence of a third party in respect of which damages are recoverable, they shall advise the Authority forthwith and it shall be competent of the Authority to require the teacher to refund a sum equal to the aggregate of sick pay paid to them during the period of disability or such part, therefore, as is deemed appropriate but not exceeding the amount of damages recovered. In the event of the claim for damages being settled on a proportional basis, the Authority will require full details and will determine the actual proportion of sick pay to be refunded by the teacher.

2.19. If the Authority is of the opinion that the disability which has occasioned the teacher's absence from work is due to their misconduct, or if the teacher has failed to observe the conditions of this scheme, or has been guilty of conduct prejudicial to their recovery, the payment of any sick pay under the scheme may be suspended by the Authority, provided that in any such case the Authority shall inform the teacher of the grounds upon which the payment of sick pay has been suspended and afford them an opportunity of submitting their observations thereon and, at their request of appearing and, at their option for being represented before the Education Committee, thereupon, decide that the disability was due to the misconduct of the teacher or that they have failed without reasonable cause to observe the conditions of this scheme, or has been guilty of conduct prejudicial to their recovery, then the teacher shall forfeit their right to any payment or further payment of sick pay in respect of that period of absence.

2.20. Sick pay shall not be made in case of accident due to active participation in sport as a profession unless the local Education Authority by resolution decide otherwise, though Statutory Sick Pay may be payable.

2.21. Clarification on the sick pay scheme may be obtained from the Schools' HR Team.

Health and Attendance Management Process Flow Accessible Version

Step 1

Consider using Occupational Health (OH) from the start of sickness (e.g. stress, back problems)

Step 2

Record Sickness

Step 3

Employee returns to work

Step 4

Hold a return to work interview.

Focus on health and wellbeing of the employee. Be positive and emphasise the value of the employee to the organisation

Question: Have attendance review points been reached?

If no, proceed to steps 5.

If yes, disregard steps 5 and proceed to step 6.

Step 5

Monitor future attendance, as with all staff

END OF PROCESS

Step 6

Discuss the review point reached.

Attendance Review Points:

- Unacceptable patterns of absence (e.g. regular Friday and / or Monday absences, repeated absences linked to holidays)
- 3 periods or 8 or more working days absence in a rolling 3 months' period
- 4 periods or 15 or more working days absence in a rolling 6 months' period
- 5 plus periods or 20 or more working days absence in a rolling 12 months' period
- All long-term absences (over 20 consecutive working days)

Headteachers have the ultimate responsibility to take appropriate action to manage sickness absence within their team. In determining what action to be taken, the facts of each individual case must be taken into account. The Schools HR Provider can provide support in managing absence.

Step 7

Headteacher or Nominated Senior Manager to invite employee in writing to First Attendance Review Meeting.

Key points:

- Right of representation.
- Explain attendance is a concern
- Explore reasons and possible remedies.
- Set targets for improvement and a review period – suggested review period is between 1 to 3 months, depending on the situation. Confirm this in writing.
- Set a date for Second Attendance review meeting.

Copy of notes go to member of staff.

Question: After continuing to monitor attendance levels, has agreed target been met during the review period?

If yes, proceed to step 8.

If no, disregard step 8 and proceed to step 9.

Step 8

Confirm in writing no further action at this stage but if employee reaches a review point stage within the next 6-month period, the procedure will be reinstated at 1st Formal Review Stage.

END OF PROCESS

Step 9

Progress to Second Formal Review stage with HR's Involvement

Invite employee to meeting in writing. Employee to be made aware that they are at risk of dismissal due to their poor attendance.

Key points to consider:

- Any new information
- Including report from OH and specific recommendations
- Where underlying medical conditions exists, explore alternative working arrangements and reasonable adjustments or redeployment
- Agree actions and targets
- Set the next review date, 1 to 3 months depending on the situation
- Confirm the outcome of the meeting in writing
- Set date for Final Attendance Review Hearing Meeting

Question: After continuing to monitor attendance levels, has satisfactory improvement to attendance been made by the review date?

If yes, continue to step 10.

If no, disregard step 10 and proceed to step 11.

Step 10

Confirm in writing no further action at this stage, but if the employee reaches a trigger point within a 12-month period, the procedure will be reinstated at the next Formal Review Stage.

END OF PROCESS

Step 11

Progress to Final Formal Review Stage.

Headteacher or Governing Body to invite in writing, present recommendations, review case.

Possible outcomes:

- Where an improvement is felt to be likely, further action within set timescales may be agreed
- Agreed changes to contract (Chairs role)
- Dismissal
- Confirm outcome in writing
- Notify member of staff of the right to appeal action taken against them

Step 12

Member of staff has a right to appeal within 10 days

END OF PROCESS