



New York Primary School
Federated with
Frithville Primary School

SICKNESS ABSENCE POLICY

Plan approved by Governors

Review in Summer 2017

Signed on behalf of Governors: **Sue Brackenbury** Date: **16/07/2015**

Presented to the governors for approval.

1. The levels of absence amongst staff are of vital importance to the success of any organisation.

Health and Safety legislation requires that employers are responsible, as far as is reasonably practicable, for the health, safety and welfare of their employees. The management of the school are convinced of the need to properly manage the levels of sickness absence which may occur, not least for the reasons of staff welfare and to try to ensure that where staff are experiencing problems relating to sickness absence, we are able to provide the appropriate support.

There are a number of benefits to be gained from the proper management of sickness absence. Not only can staff welfare and support be provided but also the highest level of continuity can be achieved both for the school and the pupils where absence is properly managed.

The financial implications of sickness absence are inescapable and whilst this is certainly not the paramount issue it would not be right for us to ignore such implications.

The principles of this policy are to be applied to all staff employed.

2. **Objectives**

The federation is placing great emphasis on the management of absence. The main objectives are to try to achieve full attendance and to properly manage cases of absence.

- To improve attendance
- To protect the health and safety of employees by providing a safe environment
- To identify work related causes of absence
- To ensure that paid sick leave is available as appropriate

These objectives will be underpinned by the following principles:-

- Staff will be treated fairly and compassionately with all appropriate support being given (for example, the services of the Employee Support and Counselling Service)
- Management will be consistent in their approach to the procedure for dealing with individual cases
- High standards in health, safety and welfare will be a constant objective for all
- Any information received during the application of the procedures involved in absence management will be treated confidentially and sensitively.

3. **Monitoring of Sickness Absence**

Proper absence management can only occur if the appropriate monitoring of absence takes place.

The responsibility for monitoring absence on behalf of the Governing Body will be placed with the Headteacher. (This responsibility may be delegated to another senior member of staff as appropriate).

The role of the Headteacher in this respect will be to:-

- ensure that all staff receive a copy of the school's sickness absence management policy;
- ensure that a procedure for the reporting of absence has been agreed and is followed;
- ensure that both the duration and the reasons for absence are recorded;
- conduct return to work interviews as appropriate;
- consider 'reasonable adjustments' for disabled employees;
- discussing work and family life balance;
- monitor absences, analysing the appropriate information in order to identify any problems which may develop regarding employee's absences.

NB: Monitoring of the absence of the Headteacher will be undertaken by the Governing Body although day to day recording will be administered by an appropriate member of staff.

4. **Managing Sickness Absence**

It is intended that sickness absence records for each member of staff will be maintained and that the Headteacher will review these records on a periodic basis. Each record will provide details of the number of occasions the member of staff has been absent, the total number of days for each absence, and a running total of that member of staff's level of absence. Reasons for absence will also be maintained on these records.

The review of each absence record will be carried out with a view to deciding, where appropriate, that measures need to be taken regarding individual cases and what those measures should be.

It is recognised that it is of paramount importance to ensure that any decisions regarding action to be taken in individual cases are made on an entirely objective basis. In order to ensure consistency and objectivity, when absence records are reviewed, a comparison of each record will be made against standard, agreed levels of absence. Those levels when reached will 'trigger' an automatic consideration of further action in those particular circumstances.

It is intended that these agreed 'trigger' levels will be reviewed on an annual basis by the Headteacher and will be the subject of consultation with staff and Trade Unions.

Initially the following levels of absence may indicate the need to consider further measures:-

- 4 or more episodes of unrelated sickness absence in every rolling 12 month period and/or
- 12 days of unrelated sickness absence in every 12 month period
- And/or where the number of absences in a short period warrants immediate action. e.g. 3 episodes or 9 days in 6 months.

Where the level of absence in a particular case has reached the stage where further action is to be considered, such action will depend on the circumstances of the case, including:-

- the frequency and duration of absences
- the reasons for absence
- the numbers of days absent
- the nature of duties undertaken and the effects on service provisions
- the outcome of any previous reviews and any previous action taken.

Please also refer to Appendix 2e outlining the personal responsibility for staff to manage their own attendance.

5. Short Term Absence Procedure

Please refer to Appendix 1 outlining a Short Term Absence Procedure. This includes the following:

Trigger points

Sickness reporting – this provides guidance for staff.

Return to work discussion

Informal absence interviews

Formal review meeting(s)

Final review meeting

Appeal against dismissal

6. Long Term Absence Procedure

Please refer to Appendix 2 detailing a Long Term Absence Procedure. This includes the following:

Management referral

Communication

Action on medical advice

Formal review meeting(s) including sections on: unclear prognosis/further review; unfit to return for a prolonged period; permanently unfit.

Final review meeting

Appeal against dismissal

7. Review of Policy/Procedures

The content of this policy and the procedures contained herein have been the subject of consultation with school staff and relevant Trade Union representatives. It is important that regular review of the policy and procedures takes place and to this end consultation with staff and Trade Union representatives will take place on a yearly basis where comments will be

sought regarding the application of the policy and how improvements may be made if appropriate.

SHORT TERM ABSENCE PROCEDURE

Appendix 1

Short term absence is normally identified as absence that has no underlying long term medical condition and is attributable to minor ailments. Often the employee will only be absent for a few days in each episode and in some cases a pattern can be identified. However absences that are medically certified can still be regarded as short-term absences provided they are unrelated.

Trigger Points

The School deems the following absences may be cause for concern:

- 4 or more episodes of unrelated sickness absence in every rolling 12 month period and/or
- 12 days of unrelated sickness absence in every rolling 12 month period and/or
- where the number of absences in a short period warrants immediate action, e.g., 3 episodes or 9 days in 6 months

Sickness Reporting

On the first day of absence an employee should:

- make every effort to contact their Headteacher or appropriate manager (or named contact) as soon as possible but no later than 30 minutes before their normal starting time;
- notify their Headteacher or appropriate manager at the earliest opportunity if they are sick on a day that they would not normally work (including school closure periods*) or during annual leave. If they fall sick during annual leave they will be eligible to reclaim leave from the date of a Doctors certificate;
- if they consider the illness arises from an accident at work they must notify their Headteacher or appropriate manager to complete the form PO3.

**When an employee falls ill during the summer break they must notify the school's appropriate contact within the Payroll Section of HBS.*

On the fourth day of illness they should make contact with their Headteacher or appropriate manager to confirm the position.

On eighth day of illness they should obtain a doctors certificate and submit this to their Headteacher or appropriate manager immediately.

If an employee repeatedly fails to report sickness appropriately, they will be subject to the School's Disciplinary Procedure.

Return to Work Discussions

All employees will be required to have at least a brief discussion with their Headteacher or appropriate manager after every episode of absence. The aim of the discussion is to establish the reason for absence, update the employee, enquire about the welfare of the employee and identify and address any work related causes etc. The discussion should be quite informal in nature although may be recorded if felt appropriate. Appendix 1a, Return to Work Discussion Form may be used for this purpose.

In circumstances where the employee's attendance becomes a cause for concern, this discussion will become an informal absence interview and will be recorded as such (see below).

Informal Absence Interview

Where an employee's absence meets the School's trigger points, the employee will be invited to attend an informal absence interview with their Headteacher or appropriate manager.

At the interview the employee will be provided with a list of their absences with reasons and advised that their attendance at work is a cause for concern. However at the interview other areas possibly associated with the absences will also be explored, e.g., are the absences caused by personal, family or work related problems? If they wish, the employee may be accompanied by their trade union representative or colleague.

Once a full discussion has taken place with the employee about the nature of the absences and possible reasons why, the employee may be referred to Occupational Health (See Appendix 2a, Management Referral). If applicable, the aim of the referral will be to establish whether the employee has a short term absence problem, or, whether as a result of the informal absence interview, the employee has an underlying health problem, which was not previously identified.

Once the medical report is received from Occupational Health, the employee will be invited to meet their Headteacher or appropriate manager to conclude the Counselling Interview.

Where a short term absence problem is confirmed, as well as being advised that their attendance is unacceptable and that there must be an immediate and sustained improvement, they will also be advised that should their attendance not significantly improve they will be subject to a Formal Review Meeting with their Headteacher or appropriate manager and thereafter should their attendance still not improve they could be dismissed by the Headteacher. The employee will be either advised in writing of the main points of the meeting or receive a copy of the notes of the meeting from their Headteacher or appropriate manager.

Where an underlying condition is confirmed, the employee will be dealt with as an employee with a disability (See Appendix 2c, Employees with Disabilities or Ill Health).

Formal Review Meeting(s)

If following an informal absence interview an employee fails to provide an immediate and sustained improvement in their attendance within a reasonable timescale, the employee will be subject to a formal review meeting to discuss the way forward with their Headteacher or appropriate manager. At the meeting the employee can be accompanied by their trade union

representative or colleague and, if required, the Headteacher or appropriate manager may request an HR Adviser to be present.

Prior to a formal review meeting, the employee will be given a full list of their absences and copies of records of return to work discussions since the informal absence interview and advice from Occupational Health.

At the meeting, the employee will be required to give an explanation as to why their attendance has not improved and the Headteacher or appropriate manager will be required to demonstrate what action and discussion has taken place with the employee.

If the employee's Headteacher or appropriate manager is satisfied that the absences are attributable to short term sickness only and that he/she as their Headteacher or appropriate manager has done everything possible, he/she will advise the employee of the following:

- their absence record is still unsatisfactory and they require an immediate and sustained improvement
- should there not be an improvement within the next 3 to 6 months, the employee will be required to attend a Final Review Meeting with the Headteacher.
- at the Final Review Meeting, the Headteacher has the option of dismissal on grounds of medical incapability (if there is an underlying medical condition). OR
- Some Other Substantial Reason – the reason being unsatisfactory attendance levels (if there is no specific underlying reason).

At the formal review meeting, the Headteacher can also suggest other options to try and improve the employee's attendance, e.g., requirement to produce a medical certificate for all absences, part-time working etc. (Any costs of medical certificates will be picked up by the school).

If the employee's Headteacher is not satisfied that the absences are wholly attributable to short term sickness and/or the appropriate manager has not taken satisfactory action, he/she can consider the following options:

- the need for further involvement of Occupational Health.
- further extend the review period and agree to meet again should there not be a significant improvement

The outcome of the Formal Review Meeting will be confirmed in writing to the employee.

Final Review Meeting

If following the Formal Review Meeting(s), the employee still fails to provide an immediate and sustained improvement in their attendance within the next 3-6 months (or earlier in some cases), the employee will be subject to a Final Review Meeting with their Headteacher. At the meeting the employee can be accompanied by their Trade Union representative or colleague and the Headteacher will be assisted by a HR Adviser.

Prior to a Final Review Meeting, the employee will be given a copy of the written outcome of the Formal Review Meeting, a full list of absences and copies of records of return to work discussions since the Formal Review, and the original advice from Occupational Health. The employee will

also be advised that a possible outcome of the meeting may be dismissal on grounds of SOSR (some other substantial reason) or medical incapability.

At the Final Review Meeting, the employee will be required to give an explanation as to why their attendance has not improved. The Headteacher will be required to demonstrate what action and discussion has taken place with the employee throughout the informal and formal management of the employee's absences. The Headteacher will also take into consideration information provided by the employee, providing the opportunity for the employee to make representations in respect of their potential dismissal from the school.

If the Headteacher is satisfied that the absences are attributable to short term sickness only and everything has been reasonably done by the employee's appropriate manager, he/she will have the option of dismissing the employee with notice on grounds of SOSR (some other substantial reason) the reason being their unacceptable attendance levels.

If the Headteacher is not satisfied that the absences are wholly attributable to short term sickness and/or that the appropriate manager have not taken satisfactory action, he/she can consider the following options:

- the need for further involvement of Occupational Health.
- further extend the review period and agree to meet again (with the employee notified of the possibility of dismissal) should there not be a significant improvement.

If the decision is one of dismissal it will be communicated to the employee orally immediately after it has been reached and will then be confirmed in writing. The letter confirming the initial dismissal decision will inform the employee that he/she can appeal against the decision to a committee of the Governors.

Delete as appropriate:

(a) For community, voluntary controlled, community special and maintained nursery schools:

Following any initial dismissal determination, notification of the decision must be sent to the Authority who will within 14 days issue notice to terminate the individual's contract of employment. If a subsequent appeal reverses the dismissal decision the termination notice will be rescinded. See sample letter a Appendix 1b.

(b) For foundation, voluntary aided and foundation special schools:

Following any initial dismissal determination, notice to terminate the individual's contract will be issued by the school. If a subsequent appeal reverses the dismissal decision the termination notice will be rescinded. See sample letter b Appendix 1b.

The employee will be given ten working days from the announcement of the decision to lodge an appeal with the Clerk to the Governors. The letter from the employee **must** set out the basis for any appeal (see i to iv below). The employee will be given a least one working week's notice of the date of an appeal hearing.

The appeal process will consider disciplinary decisions on one or more of the following grounds:

- i. The procedure: the procedure was not followed.
- ii. The decision: the conclusions of the Headteacher/Disciplinary Committee were unreasonable.
- iii. The penalty: the penalty is considered to be too harsh.
- iv. There is relevant new evidence

Appeal Hearing

The Appeal Committee will be a properly constituted committee of Governors. Members of the committee will be untainted and will not normally include staff governors. The committee will normally be made up of three Governors, one of who will be nominated as Chair.

The committee will be advised by a HR Adviser on matters of procedure (see Appendix 1b). The HR Adviser will also be able to participate in the meeting but the decision regarding the action to be taken will be taken by the committee member only although the HR Adviser will be present throughout their deliberations.

The committee will have the option of two courses of action:

- a) to uphold the decision of the Headteacher or;
- b) that the matter is referred back to the Headteacher for further action and may include specific recommendations made by the committee. Notice from the Authority or school will be rescinded.

SCHOOL:

EMPLOYEE'S NAME:

EMPLOYEE'S POST:

DATES OF MOST RECENT ABSENCE:

REASONS FOR ABSENCE:

DATES OF ABSENCES IN LAST ROLLING 12 MONTH PERIOD:

ANY ISSUES WHICH HAVE ARISEN DURING THE ABSENCE THAT THE EMPLOYEE NEEDS TO BE AWARE OF ?

IF APPLICABLE - HAS THE EMPLOYEE BEEN MADE AWARE OF FUTURE ACTION IN ACCORDANCE WITH THE COUNTY COUNCIL MANAGING ATTENDANCE POLICY IF THEY ARE ABSENT AGAIN IN THE NEAR FUTURE?

ANY ISSUES THAT EMPLOYEE WISHES TO RAISE FOLLOWING THEIR RECENT ABSENCE WHICH MAY INCLUDE ANY WORK RELATED CAUSES FOR ABSENCES?

DATE OF RETURN TO WORK DISCUSSION:

HEADTEACHER'S OR APPROPRIATE MANAGER'S NAME and SIGNATURE:

EMPLOYEES SIGNATURE

1. Management representative, employee and colleague or representative enter together.
2. The Chair of the Committee describes the procedure. Any procedural questions are resolved at this point.
3. The appellant and/or colleague/representative present case based on the grounds specified when submitting the appeal. The appellant can refer to documentation and call witnesses.
4. The management representative may ask questions of the appellant and/or colleague/representative and any witnesses.
5. Members of the Committee and HR Adviser may ask questions of the appellant and/or colleague/representative and any witnesses.
6. The Management representative responds to appellant's presentation and may call any witnesses in connection with the grounds for appeal.
7. The appellant and/or colleague/representative may ask questions of the management representative and any witnesses.
8. Members of the Committee and HR Adviser may ask questions of management representative and any witnesses.
9. The appellant and/or colleague/representative summarise and conclude.
10. The management representative summarises and concludes.
11. The management representative and appellant and colleague/representative withdraw whilst Committee advised by the HR Adviser consider the appeal.
12. The management representative and appellant and colleague/representative return and the decision is announced.

Sample letter 1a sent by the Headteacher to the employee following dismissal decision – Community, voluntary controlled, community special and maintained nursery schools .

Dear

SHORT TERM ABSENCE – FINAL REVIEW
TERMINATION OF YOUR EMPLOYMENT

Following your final review I am writing to confirm my decision to dismiss you on the grounds of SOSR “some other substantial reason”, the reason being your unacceptable attendance level. *(This letter if no underlying medical condition. If there is an underlying medical condition use “medical incapability” instead of SOSR)*

I have forwarded a copy of this letter to the Director of Children’s Services to formally request that your employment be terminated on these grounds with effect from _____.

You have the right to appeal against this decision to a committee of governors and if you wish to exercise this right you should do so in writing to the Clerk to Governors within 10 days of the date of this letter. The appropriate arrangements will then be made.

Yours sincerely

Headteacher

Sample letter 1b sent by the Headteacher to the employee following dismissal decision – Foundation, voluntary aided and foundation special schools.

**SHORT TERM ABSENCE – FINAL REVIEW
TERMINATION OF YOUR EMPLOYMENT**

Following your final review I am writing to confirm that my decision to dismiss you on the grounds of SOSR “some other substantial reason”, the reason being your unacceptable attendance level. *(This letter is for no underlying medical condition. If there is an underlying medical condition use “medical incapability” instead of SOSR)*

Therefore, I am writing to terminate your appointment as _____ on _____ on the grounds of #. This date provides you with the appropriate period of notice in accordance with your terms and conditions of employment and the requirements of employment legislation.

You have the right to appeal against this decision to a committee of governors and if you wish to exercise this right you should do so in writing to the Clerk to Governors within 10 days of your receipt of this letter. The appropriate arrangements will then be made.

Yours sincerely

Headteacher

Long term absence is normally identified as an absence from work with an underlying medical condition for one month (or more) and/or where there is no indication of a return to work for the employee in the near future.

Management Referral

As soon as the employee has been absent from work for one month and there is no indication of a return to work, a management referral should be made to Occupational Health (See *Appendix 2a* Management Referrals). A referral will also be made where it is clear from the beginning of an absence that the employee is unlikely to return to work in the near future or where an employee is attending work but they have a medical problem that is, or could, potentially impact on their role or their future absence from work.

Communication

The employee's Headteacher or appropriate manager will maintain at least monthly contact with the employee throughout their absence, even where they are subject to regular review by Occupational Health regardless of the individual's condition. The employee will also be made aware of the Employee Support and Counselling Service.

All meetings with an employee about the way forward as a result of medical advice from Occupational Health will be recorded in writing, either by a letter to the employee confirming the main points of the discussion, or by sending the employee a copy of the notes of the meeting. They should be communicated in an appropriate and sensitive manner. At any such meetings employees will also be offered the opportunity of being accompanied by their trade union representative or colleague.

Action on Medical Advice

A medical report from Occupational Health will usually advise one of the following options:

- Fit to Return/Phased Return to Work (see *Appendix 2b*, Rehabilitation following Long Term Ill Health and *Appendix 2c*, Employees with Disabilities or Ill Health)
- Reasonable Adjustments (see *Appendix 2c*, Employees with Disabilities or Ill Health)

Once in place, "reasonable adjustments" will be given reasonable time to work and will be subject to regular review. However where adjustments have not worked, consideration will be given to further adjustments, or, if such adjustments are deemed unreasonable, a period of time should be given to the employee to find redeployment elsewhere within the school or within the County Council. Thereafter if no suitable employment can be found then, subject to consultation, the employee will be dismissed with notice on grounds of medical incapability (See *Appendix 2d* Ill Health Checklist).

Medical Intervention

Occupational Health may advise the use of a physiotherapist or payment for certain hospital diagnostic procedures etc. to either assist the employee return to work sooner or help the employee to remain at work, whilst their medical condition is treated. There may be additional costs to the school in such circumstances.

Unclear Prognosis/Further Review

Where an employee's prognosis is unclear, Occupational Health will normally undertake a further assessment at a specified time in the future, e.g., 3 months.

Usually in such circumstances this will be a case of “wait and see” until the next review. However where the absence is 6 months or more and the prognosis is still unclear, realistic timescales, e.g., 3 months or more, can be set to bring matters to a conclusion, i.e., return to work in some capacity or dismissal on grounds of medical capability.

If after the review period, the prognosis is still unclear, the employee cannot return in the near future and/or redeployment is not possible, then subject to consultation and discussion with the school's HR Adviser, the employee will be dismissed with notice on grounds of medical incapability (See Appendix 2d, Ill Health Checklist).

Unfit to Return for a Prolonged Period

Where an employee is deemed unfit to return to their original job for a prolonged period of time then if this is not specified further advice should be sought from Occupational Health as to whether redeployment can be considered.

If redeployment cannot be considered or if it has been possible to redeploy for only a limited but reasonable period (e.g., 3 months) then subject to consultation, the employee will be dismissed with notice on grounds of medical incapability (See Appendix 2d, Ill Health Checklist).

Permanently Unfit

Support Staff only -where the employee is deemed permanently unfit, subject to consultation, the employee will be dismissed with notice on grounds of permanent ill health with the release of appropriate pension benefits (if applicable).

Dismissal Cases

Before the decision to dismiss is taken, the Headteacher should ensure that a face to face meeting has taken place where there has been discussion on what adjustments the employee feels may be appropriate in order to facilitate a return to work or what alternative employment may be available. The Headteacher will then take any suggestions into consideration. This is particularly relevant where Occupational Health have suggested adjustments.

If in any of the above situations the decision is one of dismissal it will be immediately communicated to the employee in writing with an offer to the employee to make representations (within 10 days) to the Headteacher in respect of this decision. If the employee wishes to exercise this right then arrangements will be made to meet with the Headteacher at the earliest opportunity. At any meeting the employee may be accompanied by a work colleague, workplace representative or their trade union representative **but cannot be a qualified legal adviser or relative**. Usually an HR Adviser will also be present.

If following this meeting the decision to dismiss still stands this will be communicated to the employee immediately. The letter confirming the initial dismissal decision will inform the employee that he/she can appeal against the decision to a committee of the Governors.

Delete as appropriate:

(a) For community, voluntary controlled, community special and maintained nursery schools:

Following any initial dismissal determination, notification of the decision must be sent to the Authority who will within 14 days issue notice to terminate the individual's contract of employment. If a subsequent appeal reverses the dismissal decision the termination notice will be rescinded. See sample letter 2a within Appendix 2e.

(b) For foundation, voluntary aided and foundation special schools:

Following any initial dismissal determination, notice to terminate the individual's contract of employment will be issued by the school. If a subsequent appeal reverses the dismissal decision the termination notice will be rescinded. See sample letter 2b within Appendix 2e.

The employee will be given ten working days from the announcement of the decision to lodge an appeal with the Clerk to the Governors. The letter from the employee **must** set out the basis for any appeal (see i to iv below). The employee will be given a least one working week's notice of the date of an appeal hearing.

The appeal process will consider disciplinary decisions on one or more of the following grounds:

- i. The procedure: the procedure was not followed.
- ii. The decision: the conclusions of the Headteacher/Disciplinary Committee were unreasonable.
- iii. The penalty: the penalty is considered to be too harsh.
- iv. There is relevant new evidence.

Appeal Hearing

The Appeal Committee must be a properly constituted committee of governors. Members of the committee will be untainted and will not normally include staff governors. The committee will normally be made up of three governors, one of whom will be nominated as Chairman.

The committee will be advised by an HR Adviser on matters of procedure (see Appendix 1b). The HR Adviser will also be able to participate in the meeting but the decision regarding the action to be taken will be taken by the committee members only although the HR Adviser will be present throughout their deliberations.

The committee will have the option of two courses of action:

- a) to uphold the decision of the Headteacher or;
- b) that the matter is referred back to the Headteacher for further action and may include specific recommendations made by the committee. Notice from the Authority or school will be rescinded.

General Guidance

Where an existing employee has been absent through illness or injury for a considerable period of time and where the nature of the problem is such that a return to work within a reasonable period is in doubt or where an individual's sickness record is a cause for concern, a medical review should be considered. This can be a particularly sensitive process as it involves an individual's health and welfare.

Similarly, where an employee is at work, but not performing at an acceptable standard and where it appears the reason may be ill health, a medical review should be considered. All requests for management referrals of existing staff should be referred to your named HR Adviser.

The Headteacher or appropriate manager should discuss the referral with the employee so that he/she:

- knows why the referral is required;
- understands what is involved;
- has an opportunity to discuss any concerns;
- is able to discuss any 'disabling barriers' in the working environment or reasonable adjustments required if they have a disability;
- does not feel threatened by the process;
- understands the provisions of the Access to Medical Reports Act 1988 (AMRA) and the Data Protection Act 1998.

This discussion is also essential if, as a result of the medical review, the employee is dismissed. The employee should be made aware that he/she may consult his/her trade union representative and be reassured that no decisions will be made nor action taken without further discussion with him/her.

It is recommended that arrangements for the referral are made as early as possible, taking into consideration individual circumstances, for example:

- to enable arrangements to be considered before a return from long-term sickness absence;
- to enable early consideration of 'reasonable adjustments' under the Disability Discrimination Act 1995 (DDA)
- to minimise periods of sickness absence.

Acknowledgement

A medical consultation cannot take place without the employee's acknowledgement. It is best that this is sought when the need for referral is being discussed. If the individual is unwilling to attend, a decision will be made using the information available. However, it needs to be explained that this can be done and the potential problems discussed with them. For teachers, there is a requirement in the Burgundy Book for them to undertake any medical examination that the employer may require. Refusal to attend does stop entitlement to sick pay.

Medical Advice

The Medical Adviser can provide a range of advice including:

- ~~what duties the employee can and cannot do;~~

- whether arrangements can be made to help with an early return from sickness absence;
- for how long the situation is likely to continue;
- whether any 'reasonable adjustments' under the DDA are required to enable the individual to remain in post;
- whether the employee would be able to be redeployed, taking into account the requirements of the DDA;
- medical advice following an accident at work which has resulted in serious injury;
- a workplace assessment where the advice needed is beyond the competence of non medical professionals.

Any referral should include in section 2 of the form WW2, specific questions for the Occupational Health Professionals to respond to:

Typically, these may be such questions as (depending on the circumstances) –

What is the prognosis for a return to work?

Will the employee be able to render regular and reliable service?

Do you consider any reasonable adjustments necessary?

Is ill health retirement an appropriate course of action?

Is this condition likely to be covered by the DDA?

Outcome of the Review

Human Resources will be provided with a copy of the Occupational Health Adviser's report and will then discuss them with the Headteacher or manager as appropriate. Advice will be given as to what action then needs to be taken. The employee can also request a copy of the report and will be given this option by the Occupational Health Adviser.

The Headteacher will discuss the conclusions of the report and any consequences, with the employee and take the appropriate decision, as far as possible, in agreement with the employee. Advice should be sought from Human Resources as soon as possible where there is no agreement on an appropriate way forward.

It will be for the Headteacher to decide, in appropriate cases and based on any medical advice, whether or not the employee's contract should be terminated on grounds of medical incapacity or otherwise. Following a medical review where employment is terminated on the grounds that an employee is no longer capable of carrying out their duties because of their health this will be regarded in law as dismissal on capability or SOSR grounds as applicable. Any representations or appeal arising from the decision to dismiss would be heard by governors.

In the case of a teacher's employment being terminated on these grounds the individual will have to apply to Teachers Pensions for consideration of the early release of their pension on the grounds of infirmity. In certain cases it would be prudent for an individual to make any application prior to any recommendation by the Authority's medical adviser.

In the case of support staff, pension estimates may be requested by managers on behalf of employees from Human Resources, which will reflect any enhancement of pension benefits payable on termination of employment for reasons of permanent ill health.

Advice for teaching staff on pensions due to ill health is available from Human Resources.

The Employee Support and Counselling Service is available at HBS on (01522) 836198.

Return to Work

Where an employee's GP or the OH Physician state that the employee is fully fit to return to work it is advisable for the line manager to arrange to meet with the employee upon their return, particularly if they have been absent from work for some time, as part of the rehabilitation process (Return to work interview).

Headteacher or Appropriate Manager's Checklist:

- welcome the employee back to work
- discuss what has happened at work whilst the employee has been absent (such as changes in staffing systems, location of equipment, etc)
- identify any training or development needs (e.g. training on new IT systems that have been implemented whilst the employee has been absent)
- agree with the employee how they want their return to be treated by others – are they happy for other team members to ask them how they are, know why they have been absent, etc?
- review the risk assessment.

Rehabilitation Within the Current Job

An employee may be experiencing difficulties with undertaking the full range of tasks in their current job or may experience difficulties in coping with the work situation. These difficulties may be temporary or permanent. Consideration should be given to whether the employee can return to their current job and whether any adjustments may be required. Adjustments within the current job could relate to phased returns, reduced or changed hours or changes in work practices. It is important that the employee is fully consulted on any proposed arrangements.

When considering rehabilitation within the current job, the general points below should be considered, as well as specific issues related to the adjustment being pursued:

- is rehabilitation a reasonable and practical option
- if the adjustment is only for a specific period, have review mechanisms been agreed and implemented?
- if the adjustment is permanent, does the employee understand and agree to the implications of this?
- will the employee require any additional support to aid their rehabilitation?
- has the risk assessment review indicated any health and safety implications for the individual or their work colleagues? Are further controls required?

Phased Returns to Work

There may be circumstances where it is advised that an employee phases their return to work over a period. A phased return can help the employee to acclimatise themselves back to the work routine and work tasks, whilst also checking that they are in fact fit enough to return. This option may also mean:

- that the employee is able to return to work earlier than they might have been able to, were they to come back only when they were capable of performing their full hours and/or duties
- that the employee is able to sustain their improvement in health and sustain their return to work.

N.B. Where a phased return is agreed the certification arrangements need to be clarified to ensure that the appropriate amount of sick leave is recorded and that the individual's pay is adjusted accordingly.

Options:

- normal salary will be paid for the day(s) during the period in which the employee works. The days not worked will be paid in accordance with the appropriate sick pay schemes.
- use annual leave, flex time, or time off in lieu to make up any time the employee is not at work, subject to this arrangement not affecting the employee's health.

Reduced or Changed Hours in the Same Job

The OH Physician may advise that the employee is unable to continue undertaking their normal working hours on a permanent or semi-permanent basis and consideration and consultation should therefore be given to reducing their contractual working hours.

Changes in Work Practices in the Same Job

Instead of, or in addition to, changes in working hours, the OH Physician may suggest that changes in work practices help an employee return to work. Changes in work practices could include making adjustments to the equipment used or changing the actual tasks involved. Changes in work practices could be a permanent or temporary arrangement. Although there may be changes in work practices, the employee remains employed in the same job, within the boundaries of the role and its terms and conditions.

Medical Redeployment (Support Staff Only)

Where changes in hours or work practices are impractical, have been unsuccessful or are inappropriate and when supported by a medical recommendation, this option can be used. The investigation of redeployment opportunities is a requirement of the ill health retirement provisions of the Local Government Pension Scheme, which states that an authority has to ensure that the employee cannot undertake any available comparable employment. The timescale chosen to re-deploy someone must ensure that a reasonable period is given for options to be considered.

The redeployment process may take some time so there will be a need to determine what the employee will do during this period. Available options are:

Continue in Substantive Job

In some circumstances, the employee may be able to continue to work in their substantive role, perhaps undertaking their normal working hours and full range of duties or with some adjustments to the work and/or working patterns as a temporary measure whilst redeployment is pursued. It is important that advice is sought from the OH Physician to ensure that this arrangement is medically satisfactory. Also review and support mechanisms should be put in place to help the employee ~~continue within the job or raise concerns if they are unable to cope. It is important to be clear~~

about why the employee can continue within their job for this short-term and not on a longer term basis. The employee will be given preferential status throughout any notice period in terms of a right to prior consideration for appointment to any vacancy at the same or lower salary level to their existing post, for which they meet the basic requirement, or would do, given suitable training. . This process will include County Council posts as the same rules apply to schools for medical redeployment as all other redeployment but we cannot insist. Prior consideration means that they will be entitled to an interview before any other candidate.

'Supernumerary' Work or Secondment

It may be possible for the employee to take up a secondment or undertake some other work for a short-term that is not a specific job within the School, e.g. project work. This can help the employee to gain experience of work in a different area whilst helping to maintain their work routine. However it is important that the work complies with the medical advice and that both manager and employee are clear about the reasons why the 'supernumerary' work cannot become a more permanent redeployment opportunity.

Typical groups

Newly appointed employees with a disability.

Employees who develop a disability during their employment.

Employees with medical conditions short of a disability.

Employees returning to work following sickness absence.

Checklist

The risks to employees with disabilities or medical conditions must be identified:

- prior to new employees beginning work;
- prior to return from sickness absence where sickness or injury has resulted in long term or short term impairment or disability;
- when any disabilities or conditions become known.

Employees Returning from Sickness Absence – Recommended Approach

This sensitive issue should be handled at the appropriate management level and with the involvement of the employee.

An assessment of possible risk should be made before the employee returns to work, e.g. if there have been any changes that may affect the employee's ability to carry out their duties safely. (This need not necessarily be within the scope of the Disability Discrimination Act.) For example, this could result from injury, stress-related illness, violence at work, degenerative illness, Repetitive Strain Injury.

A return to work discussion is recommended following any period of sickness absence, taking a counselling approach (See Appendix 1, Short Term Absence Procedure). Such a discussion could include:

- the nature of the illness and any consequences for the employee's return to work;
- any concerns the employee had about normal work activity,
- use of equipment, working hours, etc.

If the return to work discussion has highlighted new requirements or concerns, a risk assessment should be carried out to determine what action is needed.

A "re-introduction to work" programme is advisable where an employee has been absent for more than a month. This may also be necessary for shorter periods of sickness absence where the risk

assessment or return to work discussion has identified particular areas of concern. (See section below on arrangements that could be considered.)

Arrangements for Employees with Disabilities and/or Ill-health

Some areas to consider are:

- a 'staged' return to work, such as temporarily reduced hours or more flexible working day/week;
- acquiring or modifying equipment;
- making adjustments to premises;
- assigning to a different place of work;
- car parking arrangements;
- access/egress routes;
- special emergency evacuation arrangements;
- accessibility of toilet and welfare arrangements;
- workstation design (e.g. seating arrangements);
- restricting or re-organising duties to avoid or provide assistance with tasks that create problems (e.g. lifting, carrying, reaching);
- explaining systems which have been introduced during the period of sickness absence, such as new information technology, new evacuation procedures;
- information to colleagues/First Aiders regarding any particular action to take in an emergency. (This should be with the permission of the individual concerned.)

Medical Advice

Advice on whether employees are medically suitable for their work is available from the County Council's Occupational Health Service provider. They can also give advice on whether adjustments could be made to the duties of a post or the working environment. The procedures for requesting this are:

- the pre-employment health clearance procedure for new employees;
- the management referral procedure for existing employees.

It is expected that schools will act with consideration before dismissing employees whose health no longer makes it possible for them to carry out their work to the required standard.

The ill health checklist below is intended as a guide to Headteachers when terminating employees on the grounds of medical incapability or permanent ill health. Where possible a Headteacher or appropriate manager should be able to answer “yes” to each question, if not, they should seek advice from their HR Adviser.

Issues to Consider before Dismissal

- Has advice been sought from our Occupational Health Department about the employee's condition/prognosis?
- Does the advice indicate, at least, that the employee is unlikely to return in the foreseeable future or that a prognosis for a return to work cannot be given?
- Are we satisfied or have we checked that given the contents of the report, no 'reasonable adjustments' of the employees post are possible to allow the employee to remain in post? Has a meeting between the Headteacher and employee taken place to discuss any possible adjustments/alternative work?
- Do we genuinely believe that the school can wait no longer for the employee's attendance to improve, bearing in mind the length of absence, interests of the school and the position the employee holds?
- Does the medical report mention suitability for alternative employment, if so, have we considered/offered/discussed the option of alternative employment with the employee?
- Has the employee been consulted and given an opportunity to give his/her own views on the matter since the medical report was received and have any points been put forward by the employee for consideration?
- Has the employee been fully aware of the possibility of dismissal in the likelihood he/she could not return to work? Is he/she fully aware that it is a possible outcome of the meeting regarding the medical report?
- Have we offered the employee the option of trade union representation prior to the meeting?
- Is the employee in agreement with the school's decision to dismiss with appropriate notice?

Sample letter 2a sent by the Headteacher to the employee following dismissal decision– Community, voluntary controlled, community special and maintained nursery schools .

Dear

LONG TERM ABSENCE – FINAL REVIEW
TERMINATION OF YOUR EMPLOYMENT

Following your final review meeting on (date) I am writing to confirm that my decision is to dismiss you on the grounds of your medical incapability.

I have forwarded a copy of this letter to the Director of Children’s Services to formally request that your employment be terminated on these grounds with effect from _____.

You have the right to make representations against this decision. I would be grateful if you would advise me in writing, no later than...if you wish to do so in order that I can arrange a representations meeting with you.

Following representations, if the decision to dismiss still stands, you have the right to appeal against this decision to a committee of governors and if you wish to exercise this right you should do so in writing to the Clerk to Governors within 10 days of the date of this letter. The appropriate arrangements will then be made.

Yours sincerely

Headteacher

***Sample letter 2b sent by the Headteacher to the employee following dismissal decision–
Foundation, voluntary aided and foundation special schools.***

**LONG TERM ABSENCE – FINAL REVIEW
TERMINATION OF YOUR EMPLOYMENT**

Following our meeting of I am writing to confirm that my decision is to dismiss you on the grounds of your medical incapability.

Therefore, I am writing to terminate your appointment as _____ on _____ on these grounds. This date provides you with the appropriate period of notice in accordance with your terms and conditions of employment and the requirements of employment legislation.

You have the right to make representations against this decision. I would be grateful if you would advise me in writing, no later than...if you wish to do so in order that I can arrange a representations meeting with you.

Following representations, if the decision to dismiss still stands, you have the right to appeal against this decision to a committee of governors and if you wish to exercise this right you should do so in writing to the Clerk to Governors within 10 days of the date of this letter. The appropriate arrangements will then be made

Yours sincerely

Headteacher