

## PROCEDURE FOR THE MANAGEMENT OF STAFF SICKNESS ABSENCE

**Approved by:** Cumbria Education Trust Board

**Date:** May 2016

**Review Date:** To be reviewed annually and updated as required following changes in legislation

**Owner:** Human Resources Manager, Cumbria Education Trust

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### 1. Introduction

The following procedure is designed to establish a framework for the effective management of staff sickness absence across the Trust. It aims to enhance the delivery of education through improved cost efficiency, while taking into account both the welfare of employees and the requirements of each of the Trust's academies.

This procedure shall apply to all staff who are employed to work across the Trust.

Headteachers may delegate responsibility for dealing with different stages of this procedure to another senior member of staff depending on reporting arrangements within the academy and the specific circumstances of individual absences. The Executive Headteacher shall act as nominated person in managing any absence of the Headteachers except where, in her/his absence, the Chair of the Local Advisory Board may also act.

### 2. Policy Statement

This procedure aims to:-

- promote staff health, safety and welfare.
- secure effective and efficient utilisation of all staffing resources.
- sustain continuity and stability in the classroom, and by doing so avoid undue disruption to student/pupils' education.
- explore reasons for staff sickness absence in order to prevent or minimise the possibility of the absence recurring.
- address any underlying staff welfare problems.
- ensure occupational health advice and other appropriate medical advice is obtained achieve and maintain optimum staff attendance levels.
- sustain harmonious staff relations.
- comply with good employment practice and adhere to the law.

### 3. General Principles

- Never ignore sickness absence.
- Ensure that short term absences do not go unnoticed.
- Some immediate action may be necessary if the absence is work related.
- Keep accurate, up to date, employee attendance records.
- Develop and maintain an atmosphere that encourages people to come to work. Deal with each person as an individual — getting to know them will assist in exercising managerial judgement.
- Handle attendance problems promptly and sensitively, in a supportive manner.
- Treat all staff fairly and consistently.
- Keep the Local Advisory Board (LAB)/Trust Board informed about the sickness absence rate in individual academies and across the Trust.
- Seek support and advice from the Trust HR Manager/provider.
- Comply with the Equality Act 2010.

### 4. Roles and Responsibilities

#### 4.1 Role of the Headteacher

The role of the Headteacher (and other members of the senior Leadership Team) is to brief the middle leader team and support staff managers and ensure absence management information is available, manage the attendance of teaching and support staff and the effective operation of the sickness management process. This will be achieved by:

- Acting fairly and consistently in applying the appropriate parts of this procedure.
- Ensuring that accurate sickness records are maintained.
- Ensuring return to work interviews are held on the first day back to work following every absence.
- Monitoring and regularly reviewing sickness absence in the academy.
- Ensuring all staff are made aware of this procedure for the management of staff sickness absence, and that they follow every aspect of the sickness absence notification procedures.
- Ensuring that employees are made aware that advice and support is available outside the academy, including occupational health services. The Teachers Support Network is available on Tel: 08000 562 561.

#### 4.2 Role of the Trust Board

The role of the Trust Board is to ensure that:

- An effective policy and procedure for the management of staff sickness absence is in place and that management responsibilities are properly carried out under the procedure.

#### 4.3 Role of Employees

The role of each employee is to:

- Comply with the academy's sickness notification procedure. (Section 6.2 below)
- Ensure medical advice and treatment, where appropriate, is received as quickly as possible in order to facilitate a return to work.
- Keep in regular touch and inform the academy, of any significant developments affecting the period of absence.

### **5. Avoiding Disability Discrimination**

In accordance with the provisions of the Equality Act 2010 or any subsequent amending or substituting legislation, the Trust Board shall endeavour to accommodate an employee in their current post if they are absent or may otherwise become absent because of a disability as defined by the Act. The Trust Board shall not discriminate against disabled employees or prospective employees, or persons who have had disabilities in the past.

In seeking to accommodate and/or re-deploy staff under this procedure, the Trust shall obtain such advice and support from external agencies as may be appropriate, under all the circumstances.

In seeking such accommodation, consideration shall be given (normally in consultation with the employee) as to whether reasonable adjustment(s) might be made to the job, the working hours and/or the working environment. For example, the duty to make reasonable adjustments arises where a provision, criterion or practice applied by or on behalf of the employer, or any physical feature of premises occupied by the employer, places a disabled person at a substantial disadvantage compared with people who are not disabled. An employer has to take such steps as it is reasonable for it to have to take in all the circumstances to prevent that disadvantage. In other words, the employer has to make a reasonable adjustment. Where a duty arises, an employer cannot justify a failure to make a reasonable adjustment.

To avoid possible discrimination against a disabled person in managing sickness absence it is necessary to establish whether the employee has a disability as defined by the relevant Act and to identify which, if any, absences are related to the disability. This will necessitate seeking medical advice and consulting with the employee. Where disability is identified, advice should be sought from the Trust HR Manager/provider before exploring options and deciding on the best course of action.

## 6. Procedure

### 6.1 Pre-Employment Health Screening — Medical Clearance

Successful applicants shall complete a pre-employment medical questionnaire which shall be sent to the academy's retained Medical Adviser who will carry out screening appropriate to the job. The outcome of this medical screening shall be reported back to the Headteacher. No-one who is medically unfit to teach or be employed in a support capacity shall be confirmed in employment in an academy.

### 6.2 Sickness Notification Procedure

You must follow the academy's sickness notification procedure. All staff shall be made aware of the procedure which must be followed when they become unfit to attend work.

#### DAY 1

- You must ring in as soon as possible on their first day of absence (or arrange for someone else to ring in if unable to do so personally) and notify the academy of the absence.
- You should contact the academy by 7.15 am
- The following information must be given:
  - Nature of sickness absence  
(Employees may have a condition or an impairment that they wish to keep confidential, and they are not obliged to disclose this, unless it is a condition that may endanger colleagues, the public or themselves)
  - When the sickness began
  - Expected date of return to work
  - Any relevant information about current workload e.g. lessons, appointments, work deadlines etc. This will help the academy plan for ongoing work to be done
  - Telephone number for calling back

NB: If the employee states that their absence is due to an accident that happened at work, the employee should indicate if the incident has been reported, when it was reported and to whom. The Headteacher or nominated person must ensure that an Accident Form is completed and this is reported to the Trust's Infrastructure and Assurance Director.

#### CONTINUING ABSENCE

- If you are still unfit for work after three successive working days or beyond the expected date of return to work as outlined on day 1 – you must once again contact the academy to update them on the situation as to the likely duration of the absence.
- Doctor's Certification must be provided by all staff where sickness absence lasts beyond 7 calendar days. The Statement of Fitness for Work (Fit Note) must be forwarded to the academy to reach them ideally on or before the eighth day of absence.
- If more than one Fit Note is required for any period of absence, you must keep the academy informed of developments on a weekly basis.

Employees who fail to notify the Headteacher or nominated person within a reasonable timescale will lose their entitlement to sick pay for that absence, subject to the scheme rules. In addition, failure to notify may result in disciplinary action.

### 6.3 Work Related Absence

Where absences are due to work related injury or ill-health:

- The academy must seek advice from their Health & Safety lead.
- Appropriate steps shall be taken to investigate the circumstances and action taken, where reasonably practical, to prevent recurrence.
- Advice should be obtained from the Trust Occupational Health provider.

### 6.4 Pregnancy related illness

Where the underlying reason for ill health is pregnancy related, including post-natal complications, advice should always be sought on what if any action may be taken by the academy in accordance with this procedure from the Trust's HR provider.

## 6.5 Return to Work Interviews

- On the return to work of a member of staff following any period of sickness absence the line manager should conduct a return to work interview. The degree of formality and length of the interview will depend on the circumstances.
- The line manager will at this meeting sign the employees self-certificate.

## 6.6 Medical Suspension (Directed Medical Absence)

Where there is a genuine concern and belief that the employee's continued presence at work may constitute a hazard, either to the individual concerned, to student/pupils, or to both, an immediate referral to the Trust's Occupational Health Advisor should be made. It may be necessary to suspend the employee on full pay pending the outcome of the referral.

Any decision to refer an employee to the Occupational Health Advisor should be communicated to the individual prior to the referral.

The following principles should be followed:

- undertake an immediate risk assessment of the dangers.
- discuss the situation with the employee (in person if possible and appropriate) to obtain as much information as possible, and to seek their views and opinions.
- involve the Trust HR Manager/provider and a Trade Union Representative at an early stage.
- inform the employee of the need for a referral to the Trust's Occupational Health Advisor.
- discuss the immediate options with the employee (pending receipt of medical advice) and determine the appropriate immediate action. This might include:
  - interim adjustment of duties
  - temporary alternative duties
  - sickness absence
  - 'Directed Medical Absence' i.e. suspension from duty
- complete the referral to the Occupational Health Advisor as soon as possible. It is important to seek advice from the Trust's HR provider at the point of making this referral.
- review action/decision and undertake a further risk assessment with the employee concerned in light of the medical information/advice. Possible outcomes might include:
  - immediate return to work
  - reasonable adjustment in the job/workplace
  - alteration of duties (temporary or permanent)
  - redeployment/transfer to other duties (temporary or permanent)
  - sickness absence (for medical treatment, etc)
  - continued Directed Medical Absence for medical treatment / further reports etc
  - ill health retirement
  - invoking the Capability Procedure (as a last resort)
- undertake further reviews/risk assessments as necessary, ensuring that there is adequate consultation with the employee.

Note:

In most circumstances the employee should be signed off sick by their GP and normal sickness absence provisions apply. Directed Medical Absence should only apply in urgent circumstances, and for a short period only until the proper medical position can be ascertained. It is not intended that this procedure will provide for long term absence on full pay and entitlements to sick pay will not be exceeded by virtue of this procedure.

## 6.7 Managing Persistent Intermittent Sickness Absence

Subject to Section 5 above, where an employee has regular occasional days off due to sickness, often reported to be the result of a series of unrelated minor ailments, a series of steps set out in Appendix 1 to this procedure shall be followed.

## **6.8 Managing Long Term Sickness Absence**

Subject to Section 5 above, where an employee is absent from work for a considerable number of weeks or months, often as the result of a serious health problem, a series of steps set out in Appendix 2 to this procedure shall be followed.

## APPENDIX ONE

### MANAGING PERSISTENT INTERMITTENT SICKNESS ABSENCE

Persistent intermittent sickness absence can be defined as frequent short-term absences from work that are normally sporadic and attributable to minor ailments, in many cases unconnected. Often the members of staff will only be absent for a maximum of a week, but sometimes only for one or two days. Managerial problems are created by the frequency of the absence and the reasons behind the absence. It can only be addressed effectively through proper monitoring systems and effective management action.

Whilst each case of sickness absence should be considered individually, the following triggers may indicate that a problem exists:

- Sporadic sickness absence in excess of 8 working days (including uncertified or self-certified absence) in a rolling 12 month period, accrued over 3 periods of absence or more.
- Persistent periods of uncertified or self-certified absence exceeding 8 days in 12 months (only one bout of 8 days for both).
- Any levels of absence which show a trend or pattern e.g. Friday — Monday absences, monthly dates (e.g. last Friday every month) and any other notable dates.

#### 1. Management Action

- Ensure all employees follow the academy's sickness notification procedure.
- Establish the facts by obtaining a copy of the employee's absence record.
- Recognise that the nature of the absence and causes may differ and be for unconnected reasons.
- Carry out Return To Work Interviews

#### 2. The 'Return to Work Meeting'

NB: The discussion is informal and supportive and is designed to enable the manager to better understand the reason for the absence. It is an opportunity to explore whether there are any underlying reasons for absence and what support could be provided.

In some circumstances, the employee may prefer to speak to someone of the same sex, and the Headteacher or representative needs to facilitate this.

- Select an appropriate location, mindful of the level of privacy required.
- Know the details of the employee's sickness absence record in advance of this discussion.
- Ensure the employee completes the relevant self-certification form.
- Discuss the reason for absence as notified on the self-certification form or doctor's certificate. Is there an underlying reason for the absence, e.g. stress, work related reasons etc?
- Explain the importance of the employee's work and contribution to the academy.
- Ask if there is anything that can be done to ease a return to work. There may be reasonable adjustments that can be made.
- Record the interview details and date.

#### 3. Further Informal Action

If the Senior Manager finds that, in spite of the approach so far, the level of absence becomes unacceptable, further meetings will take place with the employee with. During the discussion the Senior Manager will:

- Explain that the employee's absence record is unacceptable.
- Discuss the reasons for the poor work attendance, ascertain the cause and determine the appropriate action.
- If a staff member's frequent absences are self-certificated (or even covered by doctor's statements) there may be a need for a referral to the Trust Occupational Health Adviser at an early stage, to ascertain if there is any underlying medical cause.

- Explore ways in which improvements can be made. The Occupational Health Adviser may be able to provide advice and guidance.
- Determine review periods. Timescales of review periods should be clearly explained so that opportunity for improvement is given.
- Discuss the serious implications of continued poor attendance, including the possible need to take more formal action. Advise the employee that whilst they should not attend work if unfit to do so, the continuing high level of absence from work cannot continue indefinitely.
- Ensure the employee understands what is expected in the future.
- Record the interview details and date.
- Where the effects of a person's disability results in the need to be absent from work due to illness, or where a disabled person requires leave which is directly associated with their disability, this should be taken into account within the terms of the Equalities Act 2010; advice should be sought from the Trust HR Provider.

#### 4. Taking Formal Action

If, despite the above, an employee's attendance at work still does not improve, the Headteacher should consider formal action following the steps outlined in the Disciplinary/Capability Procedure. Any action will be based on the employee's poor attendance record and not on the sickness itself.

Persistent intermittent absence should only be dealt with under the Disciplinary Procedure if it is evident that the facts concern a conduct issue such as abuse of procedures or submission of a fraudulent Fit Note. In other circumstances, the Capability Procedure should be followed.

Before taking formal action Headteachers should consider:

- The length and frequency of absence.
- The cause of the absence.
- The need to distinguish between general sickness and disability-related sickness absence.
- The effect of the absence on the academy.
- The employee's work performance when at work.
- Equality Act implications
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Persistent intermittent sickness absence should be dealt with promptly, firmly and consistently, in order to show that absence is regarded as a serious matter and may result in dismissal.

The possibility of taking more formal action and the serious implications of continued poor attendance should be discussed. A continued pattern of frequent intermittent absence may place the employee's employment in jeopardy. It is important for the employee to understand the possible consequences.

## APPENDIX TWO

### MANAGING LONG-TERM SICKNESS ABSENCE

Long-term absence is where an employee is absent from work for a considerable number of weeks or months as the result of a serious health problem. It can normally be distinguished from frequent intermittent absence in that it tends to be continuous and usually can be traced to an underlying medical condition. The length of absence could range from one to three months within one spell, or in a longer fixed period for further guidance seek advice from the Trust HR Provider.

It may not always be clear at the outset if the initial absence will be prolonged and it is important that regular communication is established between the employee and academy.

#### 1. Management Action

- Seek to maintain sensitive and regular contact with the employee to prevent isolation, assist and support. Consultation should continue throughout the period of absence. Employees may wish to be accompanied by a work colleague or trade union representative during home visits depending on circumstance, academy should be notified in advance of anyone accompanying the employee. Home visits should take place where it is not possible for the meeting to take place at the academy e.g. for medical reasons etc.
- Seek to obtain a clear understanding of the employee's present health and future employment prospects, at all stages of the absence.
- Discuss the employee's state of health, both confidentially and in a sensitive manner.
- Try to ascertain when the employee may be expected to return to work.
- Review the situation at regular intervals.

#### 2. Facilitating an Early Return to Work

- If an early return to work, say within 4 weeks, is indicated, the situation should be reviewed at weekly intervals.
- Various options, such as returning mid-week or a phased return normally on full salary, should be discussed with the employee. Any extension of restricted hours beyond 2 weeks should be subject to guidance from the Trust's Occupational Health Adviser.
- Facilitation of a return to work following a work related sickness absence should not take place until a full risk assessment has been completed and reasonable appropriate action taken within resources available.

#### 3. Seeking Medical Advice

If, after a period of absence of say 4 weeks it is uncertain when the employee is likely to return to work, the Headteacher should seek guidance from the Trust's Occupational Health Adviser to ascertain the current medical position and decide on any appropriate course of action following discussions with the Trust's HR Provider. A referral may be made earlier should the reason for the absence indicate this would be appropriate.

In seeking Medical Advice, Headteachers' should:

- Inform the employee of the need for a referral to the Trust's Occupational Health Adviser.
- Ask the Occupational Health Adviser for an indication of when the employee is likely to return to work, of any possible persistent problems and if the Equality Act applies and, where appropriate, what, if any reasonable adjustments should be made.
- Provide the Occupational Health Adviser with as much factual information as possible; including the job description, nature of illness, absence records etc.

Under the Access to Medical Reports Act 1988 the individual has a right to see their Occupational Health records.



Once the information from the Occupational Health Adviser has been received, the Headteacher should take into consideration all the available facts and then arrange to meet the employee to discuss the outcome.

If the employee refuses to give their permission for the Occupational Health report to be forwarded to the Headteacher, the Headteacher should still arrange to discuss the various options with the employee, but should explain to the employee that the discussion and any action resulting there from will be based only on the information currently available.

#### 4. Possible Outcomes

- If it is anticipated that the employee will return to work within the period covered by their entitlement to occupational sick pay, they should be reassured about their financial and future employment positions.
- If return to work will be after occupational sick pay has expired, the employee should be advised to contact the Department of Social Security to establish their benefit entitlement.
- Occupational sick pay can be extended, in certain circumstances, at the discretion of the Trust Board.
- A phased return to work on reduced hours may, in some circumstances be considered on medical advice.
- The Occupational Health Adviser may recommend a return to work with suggestions for reasonable adjustments. The Headteacher in consultation with the Trust's HR Provider should carefully consider any such recommendations. Financial assistance may be available from external agencies to assist with adjustments to the workplace if this may enable a return to work.
- If it is anticipated that recovery is long-term and that a return to the existing job may be inappropriate, alternative employment may be considered. The Trust Board should make genuine efforts to find alternative employment, initially within the academy and then within the Trust.
- If full recovery is not expected and no return to existing or alternative employment is foreseen, ill-health retirement may be recommended by the Occupational Health Adviser. Application for ill-health retirement is the responsibility of the employee.
- In circumstances where ill-health retirement is not granted, or it is not otherwise appropriate or acceptable to the employee, and it is considered that the employee's job can no longer be kept open, the final stages of the relevant Capability Procedure should be invoked. The employee should be informed that their employment is in jeopardy and the matter is to be referred to the Executive Headteacher for determination.

#### 5. Dismissal on Ill-Health Grounds

Before taking action to refer the matter to the Executive Headteacher, the Headteacher should consider the following:

- The available medical prognosis.
- The requirements of the Equality Act.
- Is complete recovery likely and, if so, when?
- How long has the employee worked for the Trust
- Is the job a key job? If so, how long can the academy effectively function without that contribution?
- What additional demands has the absence generated for other employees and the academy?
- Whether alternative employment or a transfer available, suitable and acceptable
- In cases of chronic ill health consider the possibility of ill health retirement after all other options have been explored.

The answers to these questions will help the Headteacher decide what action to take.

If an employee declines to accept redeployment or ill-health retirement, the Executive Headteacher may have to consider terminating employment with notice, on the grounds that the employee is no longer fit to perform the duties of the post due to ill-health. The Executive Headteacher should follow the steps set out in the final stages of the Capability Procedure.

If having exhausted all other options termination of employment is the only possible avenue, this should be done as soon as the medical situation is clear, rather than waiting until entitlement to paid sick leave has ended.

#### 6. Action Checklist for Managing Long-Term Sickness Absence

- Maintain contact with employees whilst they are absent.
- Discuss their progress and the length of time they might be absent from work.
- If an early return to work is likely, consider measures to help. A risk assessment may be necessary if the absence is work related.
- If return to work seems unlikely, or sickness absence is prolonged, i.e. after say, 4 weeks, seek the employee's agreement to a referral to the Trust's Occupational Health Adviser.
- In the case of disabled employees, consider in consultation with the Trust's HR Provider or other external agencies, as appropriate, making reasonable adjustments to working arrangements and / or premises to facilitate a return to work
- Consider alternative work if the employee will be able to return to work but not to their present job, having explored options for alternative employment
- In cases of chronic ill-health consider the possibility of ill-health retirement after all other options have been explored.
- If early retirement on health grounds is not appropriate or acceptable, and the person's employment is at risk, let them know.
- If all the options have been considered but found unsuitable, and employment cannot be kept open, follow the academy's Capability Procedure and refer the matter to the Executive Headteacher for determination.