

# Walter Infant School and Nursery

## MANAGING SICKNESS ABSENCE FOR SCHOOL BASED STAFF (INCORPORATING ILL-HEALTH CAPABILITY PROCEDURES)

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School Model Policy:  
Managing Sickness Absence for School Based Staff

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1	September 2012	Review of policy, incorporation of clearer trigger points for action on sickness absence. Incorporation of Ill-Health Capability Procedures.
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# **MANAGING SICKNESS ABSENCE FOR SCHOOL BASED STAFF (INCORPORATING ILL-HEALTH CAPABILITY PROCEDURES)**

## **1. Introduction**

Community, voluntary controlled, community special and maintained nursery schools are strongly recommended to adopt this model policy. Foundation and voluntary aided schools may also wish to adopt it.

Collaborating governing bodies working together under the Collaboration Regulations 2003 may apply this policy where appropriate.

This policy has been introduced following full consultation with the Teacher Associations and trade Unions to assist with the management of sickness at Walter Infant School

## **2. Purpose, Scope and Principles**

The Governing Body and the Headteacher have a responsibility for the health, safety and welfare of employees at the school. They also have a responsibility to minimise disruption to the school caused by the ill-health absence of its employees. The purpose of this model 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;
- the Local Authority's and the Governing Body's broader responsibility to promote a healthy workforce is acknowledged;
- all members of staff understand that repeated or long term absence of staff may have a de-motivating 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.

In some cases the length or frequency of sickness absence may mean the continued employment of a member of staff is at risk. In such cases it may be appropriate to conduct proceedings under the ill health capability procedure which is also outlined in this policy. Informal management of sickness absence through return to work meetings and other informal methods should always be followed before formal Capability steps are taken.

### **3. Sending an Employee home due to Ill-Health or Suspending an Employee from duty**

If an employee has come into work and their line manager/Headteacher believes that due to their ill-health, they present a risk to themselves, the pupils and/or other staff, they should be sent home. If an individual is sent home under these circumstances the absence will be recorded. Where there is continued concern the employee will be suspended on full pay and should be referred immediately for an occupational health assessment.

Suspension should be considered as the last alternative and should only occur when a Headteacher decides that due to ill-health there is a risk to the employee, the school, pupils or colleagues.

Managers should first seek advice from their HR Consultant before suspending an employee.

- A meeting should be arranged and the employee should be informed of the reason that suspension is being considered and given the opportunity to respond before any final decision to suspend is made. This should immediately be confirmed in writing and sent to the employee by hand or recorded delivery.
- Where appropriate the manager should inform the employee's representative.
- The manager should consider whether the employee can be temporarily redeployed to another post that will not impact on the employee's health, or the wellbeing of those around them including pupils and colleagues.
- Where the decision has been taken to suspend an employee suspension will be on full pay.
- Any suspension should be brief, and must never be used as a penalty against the employee prior to a sickness absence review meeting.
- Suspension can be stressful for employees therefore, while awaiting the outcome of an Investigation or examination by Occupational Health, the manager/nominated manager must keep the employee informed of progress.
- Ensure the manager nominated to act as contact understands that they must maintain confidentiality and not discuss the case with anyone

Managers should ensure the employee's colleagues are given appropriate information bearing in mind that an employee may return to work after suspension

Should an employee return to work following a period of suspension, this must be handled sensitively. Where the employee has been suspended due to ill-health a phased return may be appropriate.

## 4. Monitoring Absence

4.1 The Headteacher or nominated person will continually monitor the absence record of individual staff, and cumulatively for all staff, and may present a confidential report on a regular basis (e.g. twice a year) to the appropriate governor committee. Account will be taken not only of the total number of days absent but also the frequency of absences.

## 4.2 Types of Absence

### 4.2.1 Persistent Short Term Sickness Absence

Where there is a recurring pattern of absence, with or without a Fit Note /medical certification, the Headteacher, line manager or nominated person will discuss that problem and any underlying reasons at an early stage with the member of staff.

The following **trigger points** may be considered:

- **Five or more** instances of absence in any **twelve-month** period; or
- When an individual accumulates **ten or more** calendar days absence within any twelve **month** period; or
- When an absence appears to have a **recurring recognisable pattern**, for example frequent absenteeism around a weekend.
- Reasons given for absence – is there a common theme or link which gives cause for concern?

The above is a guideline only. Managers may need to make a judgement on what level of action is appropriate in each situation. For example if an employee with a good attendance record is absent with influenza or a fractured limb then the manager may not wish to take any action. However, he or she should ensure that any additional absence is monitored and/or take HR advice.

### 4.2.2 Long Term Sickness Absence

Long Term sickness absence occurs when an employee is absent from work for a continuous period of 3 weeks or more. 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 Occupational Health.

The manager should maintain regular contact with the absent employee either by telephone or a home visit if appropriate. A home visit should only take place by prior arrangement with the employee. A file record must be kept of all contact. The employee's expectation and the feasibility of returning to work should be regularly assessed. There may be occasions when long term absences are expected and can be planned for, such as an operation that will require a recuperation period.

It is not necessary to wait until sick pay has expired before investigating matters relating to sickness absence.

### **4.3 Unauthorised Absence**

It is the employee's responsibility to adhere to the absence reporting procedures as covered in section 5. However, if an employee fails to report to work, without informing their line manager, it is important that the situation is investigated and the employee given an opportunity to explain. If, after all reasonable efforts have been made to contact the employee, they still remain absent without authorisation it may warrant an investigation under the School's Disciplinary procedures

## **5 Absence Management Procedure**

### **5.1 Reporting Absence**

- 5.1.1 It is the responsibility of every employee to notify their manager/supervisor as soon as possible if they are unable to attend for work when expected. In some exceptional cases employees may have genuine difficulties in making contact, e.g. because they live alone or have been taken to hospital. If contact has not been made by the employee managers/supervisors should take all reasonable steps to try to contact them. All employees must follow the sickness absence reporting procedure. Any failure to follow this procedure may result in disciplinary action and / or non-payment of sick pay.

**A flow chart and process for managing absence is at Appendix 1.**

- 5.1.2 When an employee becomes aware that they are unable to attend work they must notify Judy Wheeler, Headteacher by 7.30am on the day of absence or as soon as possible. If possible, the employee should outline the reason for the absence, and give an estimate of the duration of their illness.
- 5.1.3 As part of a new employee's induction, he or she should be given the contact arrangements for reporting absence and details about where to find self-certification of sickness absence forms.

Managers may need to make alternative arrangements for staff with disabilities if this contact framework is difficult as a result of their disability.

### **5.2 Self-certification/Statement of Fitness to Work (Fit Note)**

- 5.2.1 In order to qualify for sick pay employees must provide evidence of sickness or injury and the cause throughout the period of absence. Proof of sickness should be a self-certificate for 1 to 7 calendar days of absence. After 7 calendar days absence employees must submit a Fit Note completed by their doctor. If the Fit Note does not refer back to the first day of absence, the whole period not included must be covered by a self-certificate. Where sickness absence continues, further Fit Notes must be submitted for the continuing absence and forwarded to the manager.
- 5.2.2 The Statement of Fitness for Work, or 'fit note', is a Medical Statement that GPs issue. It will focus on what the employee may be able to do at work rather than what they cannot do. Doctors will be able to advise one of two options:

- Not fit for work – this means that your employee has a health condition that prevents them from working for the stated period of time.
- May be fit for work taking account of the following advice – this means that your employee’s condition does not necessarily stop them from returning to work. A GP will be able to suggest ways of helping an employee get back to work provided they get suitable help from their employer. This might mean discussing:
  - a phased return to work
  - flexible working
  - amended duties
  - workplace adaptations.

The form can still be used as evidence for why an employee cannot work due to an illness or injury;

- the information on the form is advice to the employee. It is not binding on the employer;
- employers’ obligations under the Equality Act have not changed.

5.2.3 A certificate issued by a dentist may be accepted for a maximum of 4 consecutive days for pain following dental treatment.

5.2.4 A self-certificate will not be required for appointments such as hospital, dental, doctor, etc. Wherever possible employees should schedule such appointments at a time where least disruption to colleagues and pupils will be caused.

5.2.5 All injuries, accidents, illnesses or diseases arising from work activity must be reported to the employee’s manager as soon as possible after the incident regardless of their severity. The employee or manager should ensure that the details of the incident including the remedial actions taken are completed on a WBC Incident Report Form (which can be found on the Schools Hub) and that a copy is sent to Corporate Health and Safety.

5.2.6 All self-certificates, medical certificates and medical reports are confidential and the information contained in them must not be disclosed to any person whose official work does not require them to know the content. All records will be covered by the Data Protection Act and will be held confidentially.

5.2.7 Deliberately misleading or false statements may be dealt with under the school’s disciplinary procedure.

5.2.8 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.

5.2.9 Employees are expected to return to work as soon as they are fit to do so.



### 5.3 Return to work interview

5.3.1 An informal meeting should be held between the line manager and the employee on the first day of return. It is important to ensure an employee's health is satisfactory when she or he returns to work and to establish whether or not any work factors are affecting the employee's health. It also demonstrates the school's commitment to monitoring the health and well being of its employees. A meeting will also give the opportunity for the manager to authorise the self-certification form.

5.3.2. The meeting should be in private, informal and helpful to the employee. It is useful for a written record to be kept of the main points raised at the meeting. Typical format for the interview is as follows:

- Welcome the employee back
- to review the absence period

and if appropriate:

- check the employee's current health and that she or he is ready to work normally again. Lighter duties or a change of routine may be necessary for rehabilitation in the short term. The Occupational Health Service may provide advice.
- the Manager should make the employee aware of any changes that have occurred during his or her absence.
- find out if the illness is likely to recur and if further time-off e.g. treatment is necessary.
- brief the employee on how their work was covered during their absence, and to help them pick up their work again;
- remind the employee of their previous absence record, referring to the trigger points (para 4.2.1). In cases where absence is potentially a cause for concern, demonstrating that their absence is being monitored can improve attendance.
- to discuss the reasons for the absence and the level of absence, and whether there are any underlying work-related or domestic welfare problems or other difficulties
- to discuss the improvement that is expected; the course of action to take; the period of time to improve; the possible consequence if no improvement is made.
- employees should be made aware when they are near to reaching the trigger points and that reaching these could result in a Sickness Absence Review Meeting. Employees should be offered support to prevent this.
- if an employee has reached the trigger points in a Return to Work Meeting, the employee should be made aware that a Sickness Absence Review Meeting will be scheduled and a first written warning could be given at this meeting.

## **6. Referral to Occupational Health**

6.1 Where the employee's recovery period is uncertain, the absence is likely to go on for a significant period or where the manager has concerns about the health of an individual, a referral to Occupational Health can be made.

- The manager must talk to the individual and explain that he/she will be, making the referral.
- If the employee chooses not to give consent he/she needs to be aware that the school may have to make a decision about his/her future employment without the help of a medical opinion, which may be to his/her disadvantage.

Occupational health will:

- Confirm the nature of the illness
- Confirm whether or not the individual is likely to attend work regularly and resume the full duties of the post in the foreseeable future; or whether a phased return is appropriate;
- Confirm whether there is a disability, how it affects him/her and whether any adjustments are required;
- Identify ways in which duties or circumstances could be rearranged, subject to the reasonableness of such adjustments, taking into account the fitness and ability of the employee;
- If not, whether there are other kinds of work which would suit his or her abilities or which, with further training, could be considered;
- Confirm whether ill-health retirement is an option;

## **6.2 Possible Outcomes of Occupational Health Assessment**

### **6.2.1 Fit for work with no adjustments**

The employee is fit to return to work with no adjustments to his/her working pattern. It is advisable that the Headteacher or manager arranges a Return to Work Meeting to discuss the employee's return to work.

### **6.2.2 Continue to Monitor**

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

### **6.2.3 Reasonable Adjustments**

The Occupational Health Physician may suggest adjustments to the employee's working environment in order to facilitate his/her return to work. It is for the School to decide what adjustments are reasonable based on the suggestions made in the report and with due regard to the Equality Act 2010.

### **6.2.4 Phased Return to Work**

There may be certain cases where following a long term illness the Occupational Health Physician recommends that it would be beneficial for an employee to return to work on a part-time basis, until his/her health has fully recovered. It is expected that a phased return to work should last no more than 6 weeks. The school will be required to pay the employee his or

her normal full salary during the duration of the phased return but for no longer than 6 weeks.

Employees will receive their full pay entitlement during this period of up to 6 weeks. This arrangement should be reviewed regularly during the agreed period. Where the employee cannot return to their contractual duties/hours within the 6 weeks this should be reviewed with a view to extending the phased return for a short period where it is considered they will be able to meet their contractual obligations at the end of the extension. During this extended period they will only be paid for the hours worked and for any remaining contractual hours the Occupational Sick Pay Scheme will apply. Consideration can also be given to temporarily or permanently reducing the employee's hours and pay with their agreement. Where, due to operational demands, a phased return or light duties cannot be implemented the employee will be unable to return until fit for normal duties.

#### **6.2.5 Change of Role**

The Occupational Health Physician may suggest that the employee would benefit from a change in role or change of duties sufficient for it to be considered a new role wherever this is practical. The School's HR Consultant will be able to advise the Headteacher further on this.

### **7. Return to work after long term sick absence**

7.1 Once the Occupational Health report has been obtained the Manager in consultation with the HR provider will consider whether the employee is likely to return to work.

7.2 At an appropriate time, the manager will arrange a meeting with the employee to discuss the options available, having taken advice from the HR provider and Occupational Health. The employee may choose to have a representative or a colleague present. The options that could be discussed to support the return to work plan include:

- checking the date the employee will be fit to work
- rehabilitation arrangements - offering assistance for short term working arrangements.
- reduced hours of work.

### **8 Retirement on ill-health Grounds**

Ill-health retirement should be a last resort option once all other reasonable adjustments have been considered. The Local Government Pension Scheme requires employers to obtain a certificate from an Independent Occupational Health Physician before making decisions on pension benefits. The Teachers Pensions Agency requires employees to apply for retirement benefits through the Occupational Health Physician once he/she has completed the relevant forms available from [www.teacherspensions.co.uk](http://www.teacherspensions.co.uk). All support staff must be referred by the school to the Occupational Health Physician who will assess them and give the authorisation to retire on ill-health grounds.

## **8.1 Procedure for ill-health retirement**

- 8.1.1 An informal meeting should be arranged with the manager, employee, and an HR representative. The employee should be informed that she or he may be accompanied by a Trade Union representative or a work colleague.
- 8.1.2 There is no minimum age for ill-health retirement. If termination of employment is due to ill-health grounds, the employee (unless employed under Teachers Pay and conditions) on termination of employment will also be entitled to paid statutory or contractual notice whichever is the greater. As a teacher themselves makes the application for ill-health there is no notice payable in these circumstances.
- 8.1.3 The employee must be informed in writing of the decision that they are to retire on the grounds that he or she is permanently incapable of discharging his or her current job or any other comparable employment and of their right to appeal.
- 8.1.4 Employees should be given the right to appeal against the decision that they are to be retired on the grounds of ill-health. In most cases it is unlikely that the employee will wish to take up this right as they will have been fully involved in discussions leading up to the retirement, and in the case of a teacher, they will have made an application to the pension fund. It must be recognised, however that an employee in the Local Government scheme may not agree and the decision to dismiss on ill-health grounds is therefore a dismissal.

## **9. Terminal illness**

- 9.1 In these circumstances there will always be a need to consider the individual employee's circumstances in a sensitive way. Advice should be sought from the HR provider, as it is important to provide the employee with all the information they may require on the options available to them.
- 9.2 The manager will contact the employee or nominated member of their family and ask whether they wish to be made aware of their entitlements e.g. benefits and options under the pension scheme.

## **10. Dismissal on the grounds of ill-health**

- 10.1 If dismissal on the grounds of ill-health is being considered the Headteacher should contact the HR Consultant first for advice.

Employees may be dismissed on grounds of ill-health, but in doing so the Governing Body must be able to demonstrate that a full and proper medical investigation has been carried out and that alternative solutions or arrangements, such as redeployment or reasonable adjustments to working methods, have been properly considered. This will need to have been documented throughout the process.

- 10.2 Dismissal on the grounds of ill-health may fall into two categories:

1. persistent short term ill-health which is not of a permanent nature and occurs over an intermittent period of time thus rendering the individual

unable to perform satisfactorily the duties of his/her post because he/she is not at work often enough.

2. long term ill-health whereby the medical condition from which the employee suffers is of a permanent or long term nature, thus rendering him/her incapable of discharging the duties and responsibilities of the post;

- 10.3 In employee relations terms, ill-health is a fair reason for dismissal. It is however, of great importance that the employer should be able to demonstrate that they acted reasonably and in accordance with the School's procedure both in the interests of the person concerned and, if the case was brought to an Employment Tribunal, to prove that their decision to dismiss was justified and supported by good evidence and a correct procedure. Dismissal on grounds of ill-health can only be determined at an Ill-Health Capability Hearing as part of the Ill-Health Capability Review Procedure. (See section 11 below).
- 10.4 The expiry of sick leave is not in itself a fair reason for dismissal. If a dismissal is determined, after a full and proper process of investigation and consultation, the employee will be entitled to the full notice of termination (as provided by the relevant contract of employment or statutory requirements) on full pay, even if the employee has exhausted his/her full and half sick pay entitlement.

## **11. Ill-Health Capability Review Procedure**

Once the level of absence has been identified as a problem and having taken into consideration the points in section 4, the Headteacher should consider taking action as outlined in this capability review procedure.

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

If the employee is unable to attend a Review Meeting or Hearing due to illness or fails to take part in the Procedure, the procedure may continue in the employee's absence as follows:

- The employee must submit a fit note for the period of absence.
- Any written submission or representations made by the employee, or on their behalf, will be considered.
- At least two attempts will be made to arrange a hearing that the employee can attend.
- If the employee is still unable to attend, the hearing can proceed with a Union representative or work colleague of their choice.
- If the employee does not wish any other person to attend as their representative they must inform their manager in writing and may make a written submission. But where the employee does not inform their manager in writing and/or submits their own written submission for consideration within the specified timeframe the hearing can then proceed without the presence of the employee or representative

## **11.1 III-Health Capability Review Procedure – Persistent Short Term Absence**

### **11.1.1 First Sickness Absence Review Meeting**

If an employee's sickness absence levels have not improved despite being addressed in their Return to Work Meetings, and the employee has reached the trigger points as listed in section 4, the Headteacher/ Manager will invite the employee to a First Sickness Absence Review Meeting.

The Headteacher/Manager will agree a date with the employee and then should confirm the invitation to the First Sickness Absence Review Meeting in writing giving the employee at least 5 working days' notice. The employee may be accompanied by a trade union/professional association representative or work colleague.

The Headteacher/Manager 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.

In the First Sickness Absence Review Meeting the Headteacher/Manager will:-

- Explain the concern about the absence level and reasons for that concern, such as operational difficulties caused.
- Listen to reasons and respond appropriately.
- Consider whether to refer the case to the Occupational Health Unit, if not already done.
- State that sustained improvement in attendance is expected and set an appropriate monitoring period and targets for improvement.
- Identify any support required.
- Give the employee a first written warning, if appropriate, and explain that continued failure to improve attendance to the specified level may lead to a Final Sickness Absence Review Meeting which could lead to his/her employment being put at risk.
- Fully record the details of the meeting.
- Send a letter to the employee confirming all the details of this meeting.

The employee will have the right of appeal as outlined in section 13 against any warning given.

### **11.1.2 Final Sickness Absence Review Meeting**

If the employee has made insufficient or no improvement by the end of the Monitoring Period set at the First Sickness Absence Review Meeting or they have breached any targets before the end of the Monitoring period the Headteacher/Manager will ask the employee to attend a Final Sickness Absence Review Meeting, at which the employee will have the right to be accompanied by a trade union/professional association representative or work colleague.

The Headteacher/ Manager will agree a date with the employee and then should confirm the invitation to the Final Sickness Absence Review Meeting in writing giving the employee at least 5 working days' notice.

In the Final Sickness Absence Review Meeting the Headteacher/Manager will-

- Explain the concern about the continued absence level and reasons for that concern, such as operational difficulties caused.
- Listen to reasons and respond appropriately.
- State that sustained improvement in attendance is expected and set an appropriate monitoring period and targets for improvement.
- Identify any support required.
- Give the employee a final written warning, if appropriate, and explain that continued failure to improve attendance to the specified level will lead to an Ill-Health Capability Hearing which could result in dismissal.
- Fully record the details of the meeting.
- Send a letter to the employee confirming all the details of this meeting.

The employee will have the right of appeal as outlined in section 13 against any warning given.

If the employee has made insufficient or no improvement by the end of the Monitoring Period set at the Final Sickness Absence Review Meeting or they have breached any targets before the end of the Monitoring period the Headteacher/ Manager may arrange an Ill-Health Capability Hearing which may lead to dismissal. In the event of an Ill-Health Capability Hearing final advice from Occupational Health should be sought if appropriate and the Schools HR Consultant should be informed.

If at any stage an employee has reached an acceptable level of improvement, monitoring should revert back to informal arrangements.

## **11.2 Ill-Health Capability Review Procedure – Long Term Absence**

Once the level of absence has been identified as a problem and having taken into consideration the points in section 4, the Headteacher should consider taking action as outlined in this capability review procedure.

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

In the case of longer term ill health, the Headteacher / Manager should keep in regular contact with the employee to discuss progress. It is recommended that a First Sickness Absence Review meeting is held with the employee at approximately two to three months usually following a referral to Occupational Health. When long-term ill-health, in the opinion of the Occupational Health Physician, makes it impossible for the individual employee to discharge efficiently the duties of the post then consideration of early retirement on grounds of ill-health may be considered. If retirement is not considered an option but there is little likelihood of the person returning to work in a reasonable timeframe, it is possible to move directly from a First Sickness Absence Review to the Ill-Health Capability Hearing stage.

### **11.2.1 First Sickness Absence Review Meeting**

If an employee's absence has continued for two to three months the Headteacher/ Manager will invite the employee to a First Sickness Absence Review Meeting.

The Headteacher/Manager will agree a date with the employee and then should confirm the invitation to the First Sickness Absence Review Meeting in writing giving the employee at least 5 working days' notice. The employee may be accompanied by a trade union/professional association representative or work colleague.

The Headteacher/Manager 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.

In the First Sickness Absence Review Meeting the Headteacher/Manager will:-

- Explain the concern about the absence level and reasons for that concern, such as operational difficulties caused.
- Listen to reasons and respond appropriately.
- Consider whether to refer the case to the Occupational Health Unit, if not already done.
- Set an appropriate monitoring period and confirm that a further review will take place following this period. The length of the monitoring period will depend on individual circumstances, the nature of the illness and the advice given by the Occupational Health Advisor.
- Identify any support required.
- The meeting should consider any advice from an Occupational Health Advisor, the likely return to work date of the employee, options for phased returns or other possible support or adjustments for the employee which may facilitate a return to work.
- Fully record the details of the meeting.
- Send a letter to the employee confirming all the details of this meeting and advise the employee when their absence will be reviewed again and that their continued absence may ultimately lead to their dismissal on the grounds of capability.

### **11.2.2 Final Sickness Absence Review Meeting**

If the employee continues to be absent by the end of the set Monitoring Period the Headteacher/Manager will ask the employee to attend either a Final Sickness Absence Review Meeting or an Ill-Health Capability Hearing depending on advice from Occupational Health regarding the prospect of a return to work in a reasonable period of time. The employee will have the right to be accompanied by a trade union/professional association representative or work colleague.

Where it is decided to hold a Final Sickness Absence Review meeting the Headteacher/ Manager will agree a date with the employee and then should



confirm the invitation to the Final Sickness Absence Review Meeting in writing giving the employee at least 5 working days' notice.

In the Final Sickness Absence Review Meeting the Headteacher/Manager will-

- Explain the concern about the continued absence level and reasons for that concern, such as operational difficulties caused.
- Listen to reasons and respond appropriately.
- Set an appropriate monitoring period. The length of the monitoring period will depend on individual circumstances, the nature of the illness and the advice given by the Occupational Health Advisor.
- The meeting should consider any further advice from an Occupational Health Advisor, the likely return to work date of the employee, options for phased returns or other possible support or adjustments for the employee which may facilitate a return to work.
- Identify any support required.
- Fully record the details of the meeting.
- Send a letter to the employee confirming all the details of this meeting and advise the employee when their absence will be reviewed again and that their continued absence is likely to lead to their dismissal on the grounds of capability.

If the employee continues to be absent by the end of the set Monitoring Period the Headteacher/ Manager may arrange an Ill-Health Capability Hearing which may lead to dismissal. In the event of an Ill-Health Capability Hearing final advice from Occupational Health should be sought if appropriate and the Schools HR Consultant should be informed.

If at any stage an employee has reached an acceptable level of improvement, monitoring should revert back to informal arrangements.

## **12 Ill-Health Capability Hearing**

### **12.1 Arranging an Ill-Health Capability Hearing**

The Headteacher/ Manager will arrange a suitable date for the hearing to take place, allowing flexibility in order to ensure the employee can be accompanied if required by a trade union or professional association representative. The employee must receive at least ten working days' advance notice in writing of:

- the purpose of the hearing;
- the level of sickness absence that has led to the hearing being held;
- the stage reached in the procedure;
- when and where the hearing will be conducted;
- who will be attending;
- the right to be accompanied by a work colleague or trade union representative;
- the requirement for confidentiality;
- the requirement for the employee to provide, in at least 3 working days before the hearing, all documents that he/she intends to present at the hearing.

The persons hearing (Headteacher or a panel of governors) the case have to be impartial. They should not have been involved in any of the preparatory work, should have no detailed knowledge of the case prior to receiving any papers for the hearing.

## **12.2 Conducting an Ill-health Capability Hearing**

The Headteacher will normally conduct the Ill-Health Capability Hearing. Alternatively a panel of 3 Governors will conduct the hearing if the Headteacher is the subject of concern or the Headteacher has been involved in the previous sickness absence review meetings.

## **12.3 Procedure for the Ill-health Capability Hearing**

- a) The Headteacher or chair of the governors' panel introduces those present and describes their status, reminds those present of the purpose of the hearing; that adjournment is possible; that a written record of the meeting will be made; and that the proceedings of the hearing are confidential
- b) The case for the employer is presented by the appropriate manager. The employee or representative may ask questions of the employer at the end of the presentation. The Headteacher or panel members may also question the presenting officer at the end of the presentation
- c) The response for the employee is presented. The employer, and then the Headteacher or the panel, may question the employee at the end of the presentation
- d) When all the evidence has been heard, the Presenting Officer sums up, gathering together the points of the case, not introducing new evidence.
- e) The employee or representative sums up
- f) The Headteacher or panel will need to reach a conclusion on:
  - whether there is sufficient evidence to agree to dismissal
  - whether there is more information or further reviews to be done before dismissal is agreed.
- g) The Headteacher's or panel's decision is conveyed, wherever possible, orally by the Headteacher or Chair of the Panel in the presence of both parties and will be confirmed in writing to the employee within 5 working days of the conclusion of the hearing.

## **12.4 The Ill-Health Capability Hearing Decision**

The options available to the panel when deciding what action is to be taken include:

- a) To take no further action.
- b) To continue to review the employee's attendance for a stated period, at the end of which they will conduct a further hearing at the same stage with the employee to determine if the service should be terminated or continue; or

c) To dismiss the employee.

If the decision is dismissal, then the employee will be informed immediately and advised of the right of appeal. The decision of the Headteacher (or Governing Body Panel), the reasons for it and the appeal arrangements will be confirmed in writing to the employee within 5 working days of the conclusion of the hearing.

For a community or voluntary controlled school (whose staff are employed by the Council), a copy of the letter will be sent to the LA HR department who will then formally confirm dismissal by letter to the employee within 5 working days of the notification letter being received from the school.

For a voluntary aided or foundation school (whose staff are employed by the Governing Body), a copy of the letter will be sent to the Chair of Governors. The Chair of Governors will then formally confirm dismissal by letter to the employee within 5 working days of the notification letter being received from the Chair of the Panel.

### **13. Appeals**

All employees have the right to appeal against any formal action (i.e. warnings or dismissal) taken against them under the School's Sickness Absence Management Policy.

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

The Clerk to the Governing Body, or a suitably impartial person, will arrange all appeal hearings and inform all the parties concerned.

Whilst the appeal is not a re-hearing of the original case, new evidence is permissible. If either party wishes to introduce new evidence, they should give notice to the other party at least three working days before the appeal hearing. If either side produces new evidence at the appeal hearing, it is open to either side to request an adjournment for further investigation.

The employee will be informed immediately at the conclusion of the hearing wherever possible and the chair of the Appeal panel will confirm the decision of the Appeal Panel/Governing Body in writing to the employee within three working days, giving the reasons for the decision.

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

#### **13.1 Warnings**

Any appeal arising as result of a warning, must be made in writing within five working 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 governors not previously involved.

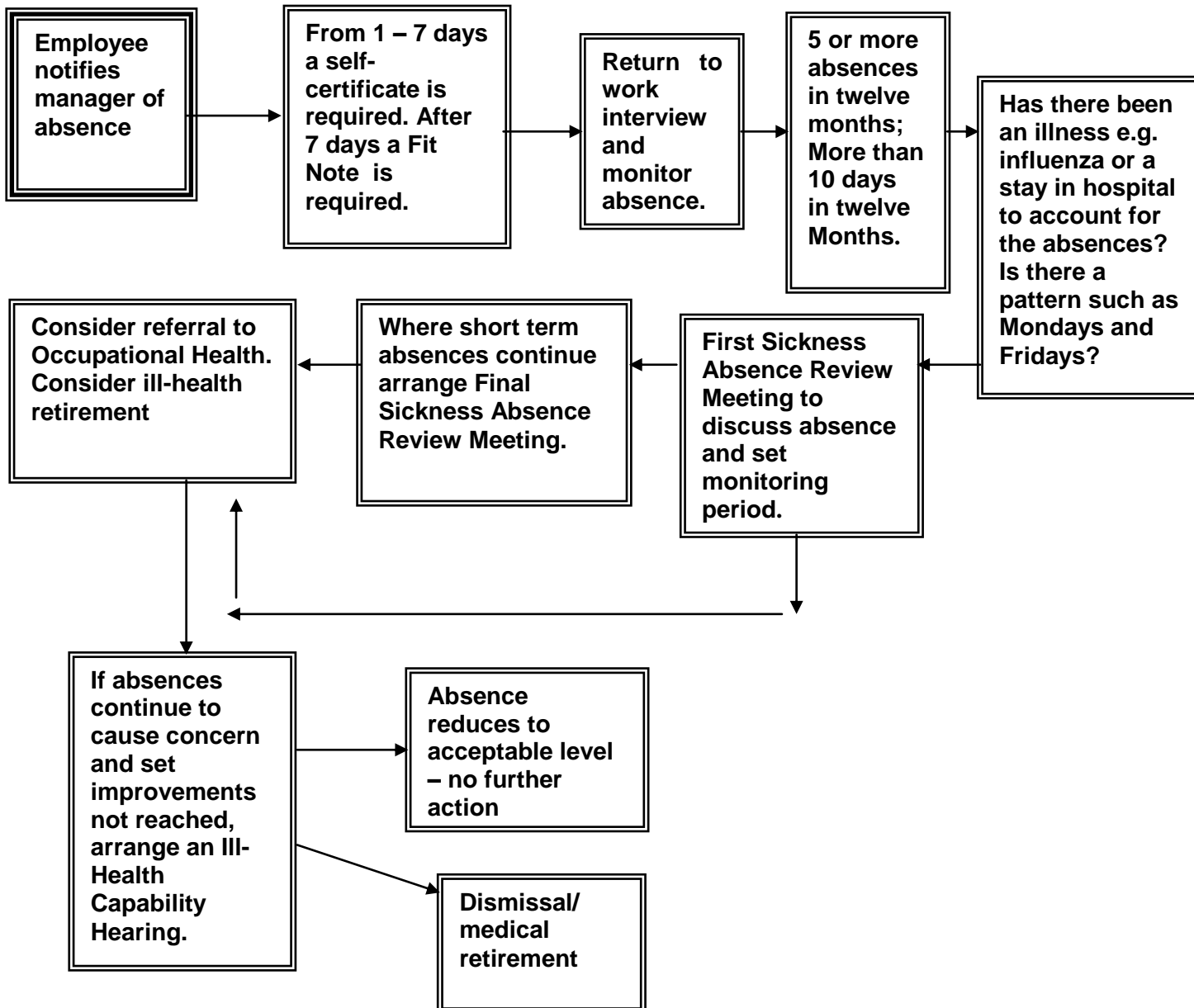
### **13.2 Dismissal**

Any appeal arising as a result of a dismissal, must be made in writing within five working days of the receipt of a decision. The appeal will be to the Governing Body (with the exception of any Governors previously involved). The appeal panel must consist of at least three Governors.

If the recommendation for dismissal is not upheld, the Governors may decide to issue a request for further investigations or review of the case.

# Appendix 1

## PERIODS OF SHORT TERM ABSENCE



# Appendix 2

## LONG TERM ABSENCE

