

# Staff Absence and Attendance Policy



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## 1. Purpose

This Sickness Absence Management Policy and Procedure has been developed to assist Unity Schools Partnership (“the Trust”) Local Governing Bodies and schools’ Leadership teams to manage sickness absence and to create a culture of attendance, underpinned by clear reporting procedures and active management and monitoring of absence throughout the school.

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

## 2. Scope, Aims and Principles

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

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

The governing body aims to:

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

The school’s principles are:

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

## 3. Roles and Responsibilities

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

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

The Trust's Board of Directors and the LGB will monitor and review this policy from time to time; delegate to the Headteacher the necessary discretion to operate absence management procedures and arrangements; and ensure that fair and consistent standards are applied to the management of absence.

The **Headteacher** (with the assistance of senior leaders) is responsible overall for the day-to-day management of sickness absence. They will also ensure that all management employees have appropriate training/coaching on this policy and its guidelines to ensure consistency of its application. The Headteacher is also responsible for ensuring that all employees have a return to work meeting on their first day back from every absence, or as soon as reasonably practicable, regardless of its duration, and that the relevant forms are completed and placed on an employee's file. The Headteacher (with the assistance of senior leaders) will ensure advice and guidance is sought from the relevant HR Business Partner in a timely manner should any advice or support be required.

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

**Employees** have a duty to attend for work unless they are unable to do so through sickness or injury, or unless their absence has been otherwise approved. They have a responsibility to report their own absence through sickness or other emergency using the school's procedures, and to produce medical evidence as required. Employees are also expected to participate fully in any occupational health or other appropriate medical review process/provision offered by the school, or other agencies, in support of their health and attendance at work. Failure to do so may limit the support or information that the school is able to consider when making decisions under this procedure. Further information about monitoring is set out in section 11.

#### **4. Disability**

The Equality Act 2010 makes it unlawful for the school to unjustifiably treat a person with a 'protected characteristic', such as a disability, less favourably than a person who does not have a disability for any reason related to the person's disability. Disability should not be equated with poor health.

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

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

#### **5. Pregnancy-Related Absence**

It is recognised that a pregnancy may result in various medical absences at different stages and the school will treat these supportively. No action under the provisions of this procedure will be taken against a female employee who is absent from work due to a pregnancy related illness.

However, absence levels will continue to be monitored and where the school has concern about the reasons or lengths of absence, it reserves the right to formally investigate the nature and cause

of the absences. Pregnancy-related absences in the four weeks leading up to the expected week of childbirth will normally automatically trigger the start of maternity leave. For further information, see separate Maternity guidance.

## **6. Gender Reassignment**

Time off for treatments associated with gender reassignment is specifically protected under the Equality Act 2010 and therefore will be treated no less favourably than time off for illness or other medical appointments.

Absence due to gender reassignment surgery and recuperation from surgery should be treated in the same way as any other surgery and will be recorded as sickness absence. Other medical appointments relating to the process will be recorded as sick leave when it has not been possible to make them outside of working hours. Where there is a need to attend a non-medical appointment, for example for electrolysis or speech therapy, these will not qualify for sick leave.

In supporting an employee who is transitioning, Headteachers should discuss with an employee how much time they will need to take off and accommodate those needs as far as they are able. When it has not been possible for appointments to take place outside of working hours, Headteachers should reasonably consider requests for unpaid leave or allow annual leave or flexi leave, where the system is in operation.

When monitoring attendance, any reasonable absence because of the effects of treatment for gender reassignment should not be taken into account for the purposes of action for unsatisfactory attendance.

## **7. Absence Due to Alcohol or Substance Misuse**

Where poor attendance is related to alcohol or drug use, the headteacher/senior leader/line manager should refer to the alcohol and substance misuse policy and seek advice from the relevant HR Business Partner.

## **8. Referral to Occupational Health**

Early Occupational Health advice can be a significant part of supporting an employee to improve their attendance; recover their health; or achieve a successful and sustained return to work. It should not be viewed as a threat or punishment, but as a way of obtaining specialist advice and guidance. The school will consider accessing appropriate professional occupational health advice and support as necessary.

The relevant HR Business Partner will normally make any referral in conjunction with the Headteacher and after consultation with the individual, although this responsibility can be delegated to another senior member of staff.

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

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

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

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

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

### **8.1 Factors to be considered by Occupational Health**

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

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

Following an employee being assessed by Occupational Health, a report will be sent to the person who submitted the referral, who will liaise with the Headteacher and/or the senior leader who is involved with the case. In the case of a Headteacher, this will be sent to the Trust's Head of HR, who will liaise with the Director of Education.

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

In situations where, Occupational Health recommends a therapeutic or a phased return to work, every reasonable assistance will be provided to the employee to facilitate this. All returns to work should be agreed within a specific timescale and the employee's progress reviewed by the line manager at regular intervals throughout the period.

## 8.2 Possible Outcomes of the Occupational Health Assessment

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

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

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

**Therapeutic visits or Phased Return to Work:** there may be certain cases where following a long-term illness, Occupational Health recommends that it would be beneficial for an employee to return to work on a reduced hours basis, until his/her health has fully recovered. It is expected that a phased return to work should normally last no more than 4 to 6 weeks. The school will be required to pay the employee his or her normal full salary during the duration of the phased return. If the phased return appears to be failing, the employee may be re-referred to Occupational Health, or requested to go back to their GP for a review of their fitness to return to work.

Where a therapeutic return is recommended, it will usually consist of a series of short visits to the school without the expectation that the employee will perform their normal contractual duties and will normally precede a phased return. During such therapeutic visits, the employee is still absent due to ill health and in receipt of appropriate sick pay benefits.

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

## 9. Sickness Absence Reporting Procedure

On the **first day of absence** the employee must personally notify the school of his/her absence due to ill health as early as possible in the circumstances, following the school's published absence notification procedure. The reason for the absence and an indication of its likely duration should also be given. The employee should contact the school on each subsequent day of absence, unless or until a GP certificate has been submitted advising that the individual is unfit for work for a specified period.

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

If the employee has been unable to speak to the line manager / another member of staff, at the time of reporting the absence, they may expect further contact from the school to clarify the nature of the absence, its likely duration, any immediate work commitments that will need to be covered or re-arranged, and to discuss any support the school may offer, as necessary.

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

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

## **10. Certification**

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

The employee must keep the school informed of progress. For longer term absence, the school will seek to agree a regular pattern of contact, usually weekly, with the absent employee or their nominated representative. A record of any contact with an employee should be kept including the date, time and general notes of what was discussed. Other than in the most exceptional circumstances, it is not acceptable for there to be no contact between the school and its employee or his/her nominated contact.

## **11. Sick Pay**

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

In exceptional circumstances, the governing body may consider using its discretion to extend an employee's entitlement to occupational sick pay, in the knowledge that any costs of doing so will fall to the school's budget. In the case of employees absent due to accident, injury or assault attested by an approved medical practitioner to have arisen out of and in the course of the individual's employment, the period of full sickness pay is automatically extended up to the date of recovery, but not exceeding six calendar months.

## **12. Monitoring Absence**

The school's Leadership team will ensure that an accurate and consistent method of monitoring has taken place, to ensure that any action taken in respect of unacceptable levels and/or pattern of absence is appropriate.

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

It is the responsibility of the Headteacher to determine whether formal action is taken, considering advice given by the relevant HR Business Partner the decision will be based on the cause, amount and frequency of the absence.

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

### 13. Unauthorised Absence

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

### 14. Trigger Points

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

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

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

Due regard must be taken of the Equality Act in relation to disability and pregnancy so as to ensure employees are not placed at a disadvantage as a result of these protected characteristics. Therefore, absence relating to rehabilitation, assessment and treatment of a disability and pregnancy related absence should be excluded from the triggers (see the sections 4 and 5 above). Due support and regard should also be given to employee who may be experiencing the effects of, for example, drug or alcohol misuse or domestic abuse.

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

### 15. Short-Term and Long-Term Absence Definitions

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

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

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

- Continuous absence for a period exceeding 10 or more working days, or
- Where the actual and anticipated future health of the employee makes a return to their current role very unlikely, at least in the immediate future, or
- Recurrent long-term absence with an underlying medical cause.

The school recognises that an employee facing a substantial period of absence from work due to ill health may feel anxious and vulnerable. School's Leadership teams will be sensitive to these feelings and provide support and reassurance wherever possible.

It is important to maintain contact during the absence; the nature and frequency of which is best defined as early as possible between the manager and the employee. On occasion it may be appropriate to meet at a neutral venue, or to make a home visit (although this should only occur with the express permission of the employee). Employees should also be asked if they would like to receive news, information or briefings available to other colleagues. If an employee requests that there should be no contact at all during sickness, the reason for this should be explored with him/her (or a nominated representative) – the assistance of the relevant HR Business Partner team should be sought if necessary.

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

## **16. Informal Stages Absence: Return to work / informal meetings**

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

The school will conduct return-to-work meetings for all absences, irrespective of length. The employees line manager will normally conduct the return to work meeting. In the case of Headteachers being absent, the Director of Education would conduct the return to work meeting upon the Headteacher's return to work.

The return to work meeting should take place on the first day of the employee's return to work wherever possible. The aim of the meeting is to:

- Ensure the employee is fit to return to work;
- Ensure, as appropriate, the employee has taken / is taking all reasonable steps to manage their health and attendance, including accessing medical support as necessary;
- Help to identify the cause(s) of the absence and any underlying problems that the employee may be experiencing;
- Ensure the employee feels valued and knows that their absence was noticed and that they were missed;
- Update the employee on anything that they need to know and, as necessary, assist with re-prioritising their workload following their absence;
- Signal to the employee that attendance (and therefore absence) is a high priority for the school;
- Ensure that the absence is recorded and the relevant documentation completed;
- Make the employee aware if s/he is approaching a trigger point (see section 13), discuss what other support / action might be needed to reduce the employee's level of absence and advise the employee that unless attendance improves, the school will be left with little choice but to adopt a formal approach (see section 16).

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

The employee should be informed in writing and invited to a meeting to discuss the evidence in more detail before action is taken under the formal stages of this procedure.

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

## **17. Formal Stages: Staff Absence Review Procedure**

### **Long-term ill health absence**

When long-term ill-health, in the opinion of the Occupational Health Physician, or other medical specialist makes it impossible for the individual employee to discharge efficiently the duties of the post then consideration of early retirement on grounds of ill-health may be considered, where the employee is a member of the pension scheme. If retirement is not considered an option but there is little likelihood of the person returning to work within a reasonable period, consideration will be given to starting the procedure for terminating employment by reason of incapability due ill health (see section 17 below).

### **All other Staff Absences**

Once the level of absence has been identified as a concern, and having taken into account the points in early sections of this procedure, consideration should be given to taking action as outlined in this Staff Absence review procedure.

Advice and guidance should be sought from the relevant HR Business Partner as to who should conduct the meetings at each stage of the Staff Absence review procedure. This will be dependent upon who has been involved in managing and making decisions with regard to the employees' absence prior to this point. It may be that the Headteacher delegates the responsibility to the employee's line manager or a senior leader, leaving the Headteacher available to conduct any later meetings during the procedure if required.

If the Headteacher's level of absence is the subject of concern it is normally the Director of Education who would be responsible for such a case.

The First and Final Staff Absence Review meetings of this procedure are designed to deal with persistent short-term absence cases.

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

### **17.1 First Absence Review Meeting**

If an employee's absence levels have not improved despite being addressed in their Return to Work Meetings, and the employee has reached any of the trigger points (see section 13), the employee should be invited to a First Staff Absence Review Meeting.

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

The chair of the first review meeting will prepare by ensuring that they have clearly identified the employee's absence levels and the support that has been provided.

At the First Staff Absence Review Meeting the chair will:

- Explain the concern about the absence level and reasons for that concern, such as operational difficulties caused;
- Listen to reasons and respond appropriately;
- Consider whether to refer the employee to Occupational Health, if appropriate and not already done;

- State that sustained improvement in attendance is expected and set an appropriate monitoring period and targets for improvement, and the next meeting date;
- Identify any support required;
- If appropriate, give the employee a first written warning and explain that continued failure to improve attendance to the specified level may lead to further action under the Staff Absence and Attendance policy, which could lead to his/her employment being put at risk.

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

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

## **17.2 Final Staff Absence Review Meeting**

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

At the Final Staff Absence Review Meeting the chair will advise the employee of one of the following outcomes:

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

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

### **2) The required standard of attendance has not been met or significant progress has not been made towards meeting the required attendance level, in which case the chair of the meeting will:**

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

Following the meeting, the chair will write to the employee within five working days confirming all the details of this meeting, including a response to any specific points raised by the employee / the representative, any conclusions reached / targets set for the final monitoring period / points of disagreement and the date of review.

## **17.3 Staff Absence Review Hearing**

Where there has been no, or insufficient, improvement in attendance, or where any improvement has not been sustained, the case will be presented for full review. This may be to the Headteacher, if they has not been the decision-maker at earlier stages of the procedure and has the delegated authority to consider dismissal, or to a panel of governors on the school's Hearings' Committee.

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

The employee will be advised in writing that the Staff Absence Review hearing is to be held and that a possible outcome of the meeting could be that the Headteacher / panel of governors determines that they should be dismissed.

If the employee does not wish to attend, they may nominate either their TU representative or a staff colleague to attend on their behalf. In the event that the employee chooses not to attend or to nominate a representative, the Staff Absence Review hearing will go ahead in his/her absence.

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

At the hearing, the manager presenting the case will detail the level of absence, and its impact, that has given cause for concern and refer to any documentation that has been circulated prior to the meeting, including any medical reports.

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

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

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

### **Possible Outcomes of the Staff Absence Review Hearing**

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

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

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

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

The employee will be dismissed with appropriate notice. If the decision is dismissal, wherever practicable, the employee will be informed immediately and advised of the right of appeal. The

decision of the Headteacher/ panel of governors, the reasons for it and the appeal arrangements will be confirmed in writing to the employee within five working day of the hearing.

## **18. Long-Term Ill Health Absence**

### **Exploring the Options**

The school will work with the employee to explore all reasonable options for a return to work, taking advice from Occupational Health and/or other medical specialists/advisors as appropriate. These options may include:

- Temporary adjustments to the tasks / responsibilities attached to the post;
- Aids to working e.g. specialist equipment;
- Temporary or permanent variations to the contract e.g. reduced hours;
- Deployment to a different post;
- Suitable alternative posts at another Trust school
- Working from home for a temporary period

Where the above options have been exhausted and if there is no prospect of a return to work within a reasonable time frame, consideration will be given to commencing the procedure to terminate employment by reason of ill health, as detailed below:

### **18.1 Long-term Ill Health Capability Hearing**

The case will be presented for full review. The employees line manager or delegated senior leader may present the case to the Headteacher, if they have not been involved in the decision-making at earlier stages of the procedure and has the delegated authority to consider termination of employment. If the Headteacher has been involved in the decision making at earlier stages, then the case will be presented to a panel of governors on the school's Hearings' Committee.

The meeting will be set at the earliest possible date, but normally by no later than fifteen working days following the decision to move to an ill health capability review hearing. It is anticipated that the school will have maintained appropriate, regular contact with the employee and/or their TU or other agreed representative.

The employee will be advised in writing that the Ill-Health Capability Review hearing is to be held and that a possible outcome of the meeting could be that the Headteacher / panel of governors determines that their contract of employment should be terminated by reason of incapability due to ill health.

If the employee is not well enough, or does not wish to attend, they may nominate either their TU or representative or a staff colleague/other agreed representative to attend on their behalf. In the event that the employee chooses not to attend or to nominate a representative, the Ill Health Capability hearing will go ahead in his/her absence.

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

The hearing will be handled with sensitivity and every effort will be made to ensure that the employee is fully supported. It should be emphasised that this is not a conduct issue, or a capability issue due in any way to a failure on the part of the employee.

At the hearing, the individual presenting the case will detail the level of absence, and its impact, that has given cause for concern and refer to any documentation that has been circulated prior to the meeting, including any medical reports.

The employee (or representative) will have the opportunity to respond to the evidence given by the individual presenting the case.

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

- Advice and/or guidance provided by the Occupational Health Service or other reports;
- The likelihood of a sustained return to work within a reasonable timeframe;
- Any other options explored to enable the employee to return to work;
- The problems caused by the employee's absence;
- The needs of the school and the best interests of the employee concerned.

**Possible outcomes of the Ill-Health Capability Review meeting:**

- Termination of employment by reason of incapability due to ill health (with paid notice);
- Extension of sickness absence for a further period (normally no longer than six months);

If possible, the decision will be communicated orally to the employ at the end of the review meeting. The decision will be confirmed in writing to the parties involved within five working days after the hearing, together with information about the right of appeal (where applicable).

## **19. Appeals**

All employees have the right to appeal against any formal actions, i.e. warnings or dismissal, imposed under the school's Sickness Absence Management Policy.

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

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

At any appeal any sanction or penalty imposed will be reviewed, but cannot be increased. The employee has the right to be accompanied by a Trade Union /professional association representative or work colleague. The Headteacher is likely to present the school's case at the appeal hearing. If the Headteacher is the subject of formal action, the Chair of Governors will assume this role.

Where appropriate the Trust will be represented at appeal hearings by a designated representative member of the Trust's HR Team.

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

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

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

## **20. Medical Redeployment or Retirement**

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

In managing medical redeployment, retirement or dismissal by reason of incapability due to ill health, all staff will be treated equally and consistently. Medical redeployment, retirement or dismissal by reason of incapability due to ill health will not be applied as a punitive or disciplinary measure.

The school will always endeavour to:

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

## **21. Rehabilitation and Wellbeing**

The School wishes to maximise the attendance of all employees and as such will focus on the rehabilitation of employees on long-term sickness absence, or those with long-term conditions but still at work, to ensure that all employees can return and remain in work. We want to ensure their health, safety and wellbeing is effectively cared for and to prevent, where possible, conditions worsening. Rehabilitation will hopefully aid recovery and improve the prospects of a speedy and lasting recovery and return to work.

All reasonable adjustments, whether temporary or permanent, will be considered, medical advice sought where appropriate, and advice taken from the relevant HR Business Partner in all such instances.

All employees will be treated fairly and consistently with dignity and respect. Consideration will be given to the Equality Act 2010 and any other statutory obligations, in all instances.

Whilst the school's trigger levels will be considered, the school will adopt a case management approach to individual cases. All rehabilitation measures will be done in full consultation with the employee and their representatives. Occupational Health will often be part of the rehabilitation process, as will monitoring, and regular reviews.

Employees are also obliged to look after their own health, safety and wellbeing. The school can provide stress toolkits if an employee is feeling particularly stressed, as well as useful guidance from the Trust's HR Team and the HSE.

In all sickness absence cases the school will act with guidance from the Trust's HR team.

This policy does not form part of the contract of employment.

## Arrangements for Absences Other than Sickness

### 22. Compassionate Leave (emergency)

In cases of emergencies that prevent attendance at work, employees should contact the school using the local absence reporting arrangements.

The Headteacher is authorised to grant up to a maximum period of ten working days off with pay for bereavement, serious accident/illness of close family members e.g. husband, wife, partner, son or daughter; father, mother, brother or sister. Requests beyond this will be referred to the Governing Body. In relation to other relatives or friends leave will be granted for one day and will normally be unpaid.

### 23. Parental Bereavement Leave

The Parental Bereavement Leave Pay and Regulations, also known as 'Jack's Law' implements a statutory right to a minimum of two weeks' leave for all employed parents or those with parental responsibility\* if they lose a child who is under the age of 18 or if a baby is stillborn from 24 weeks of pregnancy.

The law covers any working parent/those with parental responsibility, no matter how long they have worked for the Trust.

Parental Bereavement Leave at the Trust will be paid leave. The leave can either be taken in a single two-week block or as separate one-week blocks. The leave must be taken within 56 weeks of the child's death. If an employee loses more than one child, they will be entitled to take a separate period of leave for each child.

Employees will be asked to provide notice of their intention to take Parental Bereavement Leave as is reasonably practicable. As part of this notice, employees will be asked to specify.

- The date of their child's death
- the date on which they wish the Parental Bereavement Leave to Begin
- Whether they wish to take one- or two-weeks Parental Bereavement Leave

Employees will notify their Headteacher, senior leader or line manager, who will in due course notify the Trust's HR and Payroll teams of the employees' intention in the normal way.

*\* Please note – the leave will apply to birth parents as well as those adults with parental responsibility, for example: adoptive parents, individuals who are fostering to adopt, legal guardians; and many foster parents, although emergency foster care may not be covered.*

### 24. Private/Personal Leave

In other circumstances where an employee requests leave during term time for urgent personal reasons, which does not come under the scope of compassionate leave or to fulfil an important and significant personal commitment which cannot be undertaken at any other time nor easily postponed examples are outlined below although not an exhaustive list:

- moving house
- attending graduation
- presentation and award ceremonies
- attendance at weddings
- urgent domestic repairs
- professional examinations

- training
- attending interviews
- private study

The Headteacher is authorised to grant time off up to a maximum of 1 day on a single occasion. Leave under this heading is normally paid for one day. Additional days may be granted but in exceptional circumstances at the discretion of the Headteacher, but these would normally be unpaid. Private/Personal leave will not normally be granted immediately before or after school holiday periods.

All requests for Private/Personal leave must be approved, in advance, by the Headteacher.

## 25. Extended Leave

If employees require further additional longer term leave to undertake extended study, career break, voluntary or work activities such requests must be made in writing to the Personnel Committee of the Governing Body (with a copy to the Headteacher for consideration at their meeting the term before the leave is required).

## 26. Emergency Time Off for Dependants

All employees have the right to a reasonable time off during working hours for dependants, this time off is intended to deal with **unforeseen matters** and **emergencies**. There is no legal right to be paid; however, the governors have agreed that up to three separate **occasions/days** (the days can be consecutive) during one school year will be paid and any further days will be unpaid.

A dependant could be a spouse, partner, child, parent, or someone who depends on an employee for care, for example an elderly neighbour.

The leave can be taken for example to:

- Deal with a breakdown in childcare
- To put longer term care in place for children or elderly relatives
- If a dependant falls ill or is taken into hospital
- To arrange or attend a funeral.

Employees must follow the reporting absence procedure. We reserve the right to review this situation under the disciplinary and/or capability procedures if absence for this reason is more than the school can reasonably cope with.

Time off with pay is not normally granted for reasons arising from ongoing care commitments or responsibilities of others

Where this absence relates to a child, (i.e. time off for a child's operation), the employee should make a request at the earliest opportunity, normally in writing, to the Headteacher, having first discussed with his/her immediate manager/supervisor the implications for cover, etc.

There is no statutory right to payment for this and payment will be at the discretion of the Headteacher. The purpose of this time off is to care for the employee's child. This means looking after their welfare and could include making arrangements for the good of the child. Caring for a child does not necessarily mean being with the child 24 hours a day.

## **27. Parental Leave (Other than Shared Parental Leave)**

Shared Parental leave is covered under different arrangements.

Employees with more than one year's continuous service are entitled to 18 week's unpaid Parental Leave for each child and adopted child, up to their 18th birthday.

Employees need to request leave giving at least 21 days' notice before the intended start date. Parental leave should be taken in blocks of a week or multiples of a week, and should not be taken as "odd" days off, unless the School agrees otherwise or the child is disabled. Employees cannot take off more than four weeks during a year. A week is based on an employee's working pattern.

Parental leave might be taken simply to enable the employee to spend more time with their young child. Examples of the way parental leave might be used include:

- straight after maternity, paternity or adoption leave
- spending more time with the child in their early years
- time with the child during a stay in hospital
- looking at new schools
- settling the child into new childcare arrangements
- allowing the family to spend more time together, for example, taking the child to stay with grandparents
- Employees can take parental leave immediately after their maternity, paternity or adoption leave providing they give the correct notice.

**N.B This entitlement is in addition to any rights to maternity/adoption and/or paternity leave or shared parental leave, which is covered in a separate policy.**

Further information should be sought from the Headteacher.

In any other circumstances when employees who are entitled to time off work, which is governed by statutory and/or contractual entitlement, whether paid or unpaid, the Governing Body will meet the relevant requirements and follow guidance from the Trust's HR team:

## **28. Doctors/Dentist/Medical Appointments**

Employees are normally expected to ensure that appointments for personal visits to the doctor, dentist, hospital etc. are outside of their working hours. However, in the event that this is not reasonably practicable, time off from work will be permitted to attend such appointments, ensuring time off causes as little disruption as possible, i.e. at the beginning or the end of the day. The school requests the right to see evidence of appointments, such as a letter or appointment card. Where the appointment is not urgent, and where the time would negatively impact the work plans for your department/class, this should be re-arranged to a more suitable time and date wherever possible.

The normal trigger points specified in section 13 above will apply. In addition, where the school considers an employee has taken an unreasonable amount of time off for this purpose, it reserves the right to withdraw payment for this at their discretion and following consultation with the employee. Consideration will of course be given to the Equality Act (2010) and statutory right to time off, in all instances.

## **29. Annual Leave/Holidays During Sickness Absence (Where this Applies)**

If an employee's sickness absence occurs at the same time or before any pre-booked holidays, which they are then unable to go on, the Headteacher, or Governing Body will approve the

reinstatement of the annual leave. If the sickness absence occurs at the same time or before normal annual leave, but no pre-booked holiday, re-instatement of that leave is at the discretion of the Head Teacher or Governing Body. The school may reserve the right to request evidence in making such decisions in consultation with the employee.

### **30. Religious Observances**

There may be times when an employee requests time off to attend or observe a religious holiday, festival or event. Time off for such matters will be considered in accordance with the Equality Act 2010 and considering the needs of pupils, cover and cost implication.

### **31. Severe Weather**

If the School is closed due to adverse weather conditions, all contracted staff will have authorised leave on full pay. It is expected that all teachers, will work at home if practicable, on their PPA. If the School is open for pupils, it is expected that all staff will attempt to get to work if at all possible, even if they will arrive late. If it is not safe for a member of staff to travel to work, they must follow the notification of absence procedure. Discretionary leave on full pay will be considered up to three days in any School year. Requests for other discretionary leave will be considered.

### **32. Time Off for Trade Union Duties**

Time off will encompass reasonable time for a representative to attend meetings and/or training that fall within the definition of trade union duty, and a reasonable amount of preparation time and post-meeting time to deal with matters arising from the meeting in relation to the representative's members. Reasonable travelling time to and from meetings needs to be included.

### **33. Maternity, Paternity, Adoption and Shared Parental Leave**

The Trust has separate policies for Maternity, Adoption, Paternity and Shared Parental Leave entitlements. Please ask for a copy from the school office or the Trust's HR team.

### **34. Military Service**

The School recognises that part-time military service contributes to the defence of this country, therefore where annual training is required discretionary leave of absence may be granted. A request for leave should be made in the usual way, initially with the employee's Line Manager / Head of Department.

### **35. Public Duties**

If called for Jury Service the employee's Line Manager / Head of Department should be informed immediately. The employee should present the letter / claim form to the Business Manager to ensure that the relevant cover and any salary changes can be agreed. Whilst absent the employee should ensure the school is kept informed of the likely date of the employee's return to work.

### **36. Duties as a School Governor**

Reasonable time off, with pay, will be granted so that an employee may fulfil his/her responsibilities as a School Governor. Any such leave must be authorised, in advance, by the Headteacher.

This policy and procedure is non-contractual and may be updated from time to time following consultation through the Trust's JCNC arrangements.

### **37. Further Advice**

If any staff, contractor or visitor requires any further information regarding this policy or support they should either ask their Headteacher or contact the HR Helpdesk at [hrhelpdesk@unitysp.co.uk](mailto:hrhelpdesk@unitysp.co.uk) or telephone 01440 333401.

## **Appendix 1 – Procedure for a Staff Absence review Hearing**

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

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

### **1. Introduction**

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

### **2. Presentation of the School's case**

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

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

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

### **3. The Employee's response**

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

The employee may call any further witnesses and invite them to give their evidence. The person presenting the case against the employee may ask questions of each witness after they have given evidence. The person or committee hearing the case may then ask questions. The employee or their representative may re-examine the witness.

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

### **4. Re-examination**

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

### **5. Final Statements**

The person presenting the case against the employee may make a final statement as may the employee or their representative should they wish.

## **6. Adjournment**

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

## **7. Consideration of the case**

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

If it is necessary to recall either party or any witnesses, to resolve a point of uncertainty, both parties will be invited to be present, whether or not the point of doubt concerns one party or both.

## **8. Decision**

If possible, the decision will be communicated orally to the employee after the hearing. The decision will be confirmed in writing to the parties involved within five working days of the hearing.

## **Appendix 2 – Procedure for an Ill-Health Capability Hearing**

Hearings will be held in as informal and sensitive a manner as possible and the employee will be afforded every reasonable assistance to put his/her case.

The conduct of the hearing is at the discretion of the Chair of the committee hearing the case, but they will allow the parties every reasonable opportunity to present their case, either in person or through their representative, or by written submission.

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

### **1. Introduction**

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

### **2. Presentation of the School's case**

The person presenting the case for the proposal to terminate employment by reason of incapability due to ill health may make an opening statement outlining the case. The person or committee hearing the case and the employee responding to it may ask questions.

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

### **3. Presentation of the Employee's response**

The employee or their representative may make an opening statement. The person or committee hearing the case and the person presenting the proposal on behalf of the school may ask questions.

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

### **4. Re-examination**

All parties will be asked if they wish to ask any further questions.

### **5. Final Statements**

The person presenting the proposal on behalf of the school may make a final statement. The employee or his/her representative may then also make a final statement.

### **6. Adjournment**

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

## **7. Consideration of the Case**

All parties will withdraw so that the Committee may deliberate. The HR representative may be present at these deliberations to advise on procedural matters.

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

## **8. Decision**

If possible, the decision will be communicated orally to the employ at the end of the meeting. The decision will be confirmed in writing to the parties involved within five working days after the hearing, together with information about the right of appeal (where applicable).