

# Barncroft Primary School



## Staff Sickness Absence Policy and Procedure

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## Part I - Introduction

1. This policy and procedure is for all managers and employees working within a school/school managed provision or establishment, which for ease of reference are referred to throughout this document as 'schools'.
2. This policy and procedure has been consulted upon and agreed with the recognised trade unions and professional associations for Hampshire maintained schools. Where Hampshire maintained schools wish to localise this policy further, consultation will need to take place with staff and representatives of the recognised unions and associations. This policy and procedure is commended to academies and external customers who have freedom to develop their own policy and procedure, although such schools who wish to adopt this policy and procedure are advised to take this through their own negotiation/consultation framework.
3. This procedure does not form part of any employee's contractual terms and conditions and any links within this document to other documents are for ease of use and do not form part of this procedure.
4. It is an employer's duty to protect the health, safety and welfare of their employees and to do whatever is reasonably practicable to achieve this. This policy and procedure aims to support staff to be in good health and to attend work at all times. Schools need to be able to rely on employees being at work and being able to carry out their duties. This policy and procedure recognise that there may be occasions when employees are unwell or are unfit for work for various reasons. The primary aims of this policy and procedure are both to support employees with genuine health concerns, whilst also improving and maintaining attendance via early management action where employee attendance is causing an operational difficulty. This management action would include early discussion with the employee and referral as appropriate to Occupational Health.
5. It is important that absence levels are monitored, as a high level of absence can be indicative of a wide variety of underlying problems, for example ill-health, low morale or personal problems. Dealing with issues promptly not only provides support to the individual concerned, but also reduces the level of absenteeism and the subsequent cost to the school.
6. Members of staff who are ill will be treated sympathetically and every effort will be made to assist recovery and safeguard employment. It is recognised however that the loss of working days through repeated sickness absence can be a significant cost in terms of work not completed or the costs of arranging absence cover. Sickness absence also places additional pressure on colleagues.
7. A consistent and equitable approach will be taken to the management of sickness. This applies to all employees, irrespective of their roles and responsibilities. The causes of absence, where possible, will be dealt with effectively, efficiently, and with due consideration.

8. While there is no automatic right of accompaniment at meetings held outside of the formal Procedure for Managing Sickness Absence, employees may benefit from seeking advice from their Professional Association or Trade Union at an early stage.
9. Where an employee fails to follow the absence reporting procedure including failure to provide adequate reasons for absence (i.e. unauthorised absences) the school's disciplinary procedure may apply. Advice on the correct use of these procedures should be sought from Education Personnel Services.
10. This policy and procedure will be reviewed every three years or whenever a change in employment legislation necessitates a review, whichever is sooner.
11. Matters of ill health and absence are governed by statutory provisions, particularly the:
  - Education (Teachers Qualification and Health Standards) (England) Regulations 1999 (Statutory Instrument 2166/99)
  - Employment Rights Act 1996
  - Equality Act 2010

## **Part 2 – Sickness Absence Policy**

### **1. Employee responsibility: reporting sickness absence**

- 1.1 If illness occurs whilst at work the employee must report this to their Headteacher/Senior Manager immediately and agree a course of action.
- 1.2 Unless other local provisions apply, an employee if sick and unable to attend work, must contact their Headteacher/Senior Manager as soon as possible, but no later than one hour prior to the start of the working day, so that cover can be arranged.
- 1.3 Employees must telephone the Headteacher/Senior Manager (or designated manager where designated under local internal reporting procedures) personally to report their absence unless the severity of the illness prevents this, in which case arrangements must be made for someone to contact the workplace on the employee's behalf.
- 1.4 Mobile phone text will not normally be accepted as a correct form of absence notification.
- 1.5 Employees must explain the nature of their illness and their estimated return to work date. If the absence continues beyond 3 calendar days and/or exceeds the estimated return to work date, the employee must provide to the Headteacher/Senior Manager further notification as to the nature and probable duration of illness.
- 1.6 An employee is required to provide a Statement of Fitness for Work (medical certificate) from the 8th calendar day of sickness absence (including any periods of school closure) which must be forwarded immediately to the Headteacher/Senior Manager. Please see paragraph 4.5 on the retention of statements of fitness for work.
- 1.7 Failure to report sickness absence or provide a statement of fitness for work according to this policy may result in the withholding of Statutory Sick Pay or Occupational Sick Pay. It may also result in formal action being taken under the school's disciplinary procedure.

### **2. Headteacher/senior manager responsibility: recording sickness absence**

- 2.1 All periods of an employee's sickness absence will be recorded on SAP/the school's HR/payroll system by the locally designated person, as soon as possible after the absence is reported.
- 2.2 Where an employee leaves work early due to sickness, but has worked over half the working day, this will be recorded as a half day's sickness absence. Where the employee leaves work early due to sickness, and has worked less than half the working day, this will be recorded as a full day's sickness absence.
- 2.3 Both the above types of absence will be considered as an episode of sickness absence which may lead to a return to work interview. These absences will be considered by Headteachers/Senior Managers when reviewing an absence record.

- 2.4 Where an employee requests the reason for sickness absence is kept confidential, the Headteacher/Senior Manager should maintain confidentiality in such circumstances.

### **3. Headteacher absences**

- 3.1 In the case of Headteacher sickness absence the Chair of Governors is encouraged to access support from Education Personnel Services. The Chair of Governors must, in Hampshire maintained schools, notify the District Manager of the Headteacher's absence where the absence is likely to be greater than 2 weeks. Chairs of Governors must also liaise with the school's administrative officer to ensure that the Headteacher's sickness absence is inputted into the school's HR/payroll system/SAP.

### **4. Statement of fitness for work**

- 4.1 An employee will be required to provide a statement of fitness for work (medical certificate) from the 8<sup>th</sup> calendar day of absence.
- 4.2 Employees are responsible for submitting their statement of fitness for work to their Headteacher/Senior Manager as soon as possible following issue by their GP. Failure to provide a statement of fitness for work in a timely manner may lead to loss of sick pay and may be regarded as a disciplinary issue.
- 4.3 When a Headteacher/Senior Manager receives a statement of fitness for work indicating that the employee 'may be fit for work' the following actions may be applied:
- discuss the advice on the statement with the employee;
  - consider the advice and how it affects the job and the workplace;
  - consider the functional comments, any of the return to work box ticks and any other action(s) that could help the employee return to work;
  - discuss the possible options with the employee;
  - if a return to work is possible – agree date, workplace adaptations and review date;
  - risk assess, monitor and review as agreed;
  - seek further advice from Occupational Health if required.

For further advice and guidance please contact Education Personnel Services or Occupational Health.

- 4.4 The statement of fitness to work is not binding on employers and therefore, if the school is not able to accommodate any recommendations made by the doctor, the employee will be treated as though they are unfit for work. The employee will not need to return to their doctor for a new statement.

#### 4.5 Retention of statement of fitness for work

- 4.5.1 Statements of fitness for work will be copied by the Headteacher/Senior Manager and the copy retained on the employee's local personnel file. **The original statement will be returned to the employee for their own records as these will be needed if they need to claim Incapacity Benefit in the future.**

### 5. **Keeping in touch during sickness absence**

- 5.1 Employees are expected to maintain regular contact with their Headteacher/Senior Manager during periods of sickness absence. The frequency and manner of this will be agreed with the Headteacher/Senior Manager and be subject to review, depending on the length of the absence (e.g. who will be the contact point, the timing of contact and how contact will be made). Line managers may also contact an employee who is absent, for example, if no contact has been received from the employee, to check how they are, or to update them regarding changes at work.
- 5.2 Home visits or meetings at a neutral venue may be appropriate where the employee is unable to attend the workplace and has been absent for a longer period of time, or where the employee would prefer to meet away from the workplace.

### 6. **Planning for an employee's return to work**

- 6.1 Prior to their return, employees who have been absent from work for a longer period of time may be in receipt of a statement of fitness for work confirming that they are well enough to return to work, perhaps with recommendations in relation to that return. This will be discussed at the earliest opportunity with the Headteacher/Senior Manager to enable relevant arrangements to be made for the employee to return to work.
- 6.2 Employees must give as much notice as possible of their return to work following prolonged absence.
- 6.3 Where the employee has been reviewed by Occupational Health any recommendation made by Occupational Health will be carefully considered, particularly in relation to phased returns/adjustments to duties where this is appropriate.
- 6.4 Return to work interviews
- 6.4.1 On the first day that the employee returns to work following sickness absence, or as soon as possible thereafter, the Headteacher/Senior Manager and employee must meet or make another form of contact to conduct a return to work discussion/interview. The purpose of this meeting is to:
- welcome the employee back to work;
  - ensure that the employee is fully recovered and decide whether any further support is required;
  - review their sickness absence record for the past twelve months and agree either:

- to set a time for an interview under Stage 1 of the Managing Sickness Absence procedure or;
  - that no further action is needed.
  - update the employee on key issues/matters that have arisen during their absence
  - complete a return to work form at the interview.
- 6.4.2 The employee does not have the right to be accompanied at the return to work meeting.
- 6.4.3 The Headteacher/Senior Manager may complete a [return to work form](#) to record the return to work discussion. The completed form may be signed by both parties and a copy placed on the employee's personal file.

## **7. Reviewing sickness absence levels**

- 7.1 The Headteacher/Senior Manager will regularly review the absence levels of all their staff. In doing so, managers may consider whether any action is required under the formal procedure (Part 3), in circumstances where the employee's absence has reached an unacceptable level and is causing operational difficulties.
- 7.2 What causes operational difficulties will differ between schools and job roles and therefore the levels of unacceptable absence associated with them will also differ. The threshold for 'operational difficulty' may be lower or higher than the suggested trigger points detailed in this policy.
- 7.3 Trigger points may be used where Headteachers/Senior Managers need further guidance in relation to reviewing absence levels. A trigger point is a level of absence at which a review may be required. Unless the school has established and communicated trigger points, the following trigger points may be used:
- 6 days/shifts in the previous 12 month period (pro rata\* for employees with less than 12 months service).
  - 4 occurrences of sickness absence totalling 6 days/shifts in the previous 12 months (pro rata\* as above)
  - 9 days/shifts in the previous 12 months (pro rata\* as above).
- 7.4 The previous 12 month period is calculated from the first day of the current absence.
- 7.5 Headteachers/Senior Managers will report to the Governing Body on a regular basis on sickness absence trend data.

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

- 8.1 The School reserves the right to request that employees attend an Occupational Health referral/appointment at any time to gain professional medical advice where it is appropriate to support the employee. There is an expectation that employees will attend such appointments. If employees have any queries about the Occupational Health referral, they can seek clarification from Occupational Health and seek advice from their professional association or trade union representative.



- 8.2 In the case of teachers, this expectation is contained within Section 4 of the “Conditions of Service for School Teachers in England and Wales” (the “Burgundy Book”). In the case of support staff, this expectation is contained within “The National Joint Council for Local Government Services, National Agreement on Pay and Conditions of Service” Part 3, section 4.2. Further details can be obtained from Education Personnel Services.
- 8.3 The Headteacher/Senior Manager will normally meet with the employee to discuss the referral. The employee must be aware of the reason for the referral. Employees may request that their professional association/trade union representative is present at the meeting to discuss referral.
- 8.4 If an employee fails to attend a planned appointment with Occupational Health without notification to the Occupational Health department and their Headteacher/Senior Manager they may be subject to disciplinary action. Employees must provide prior notice to both their Headteacher/Senior Manager and the Occupational Health department if they are unable to attend.
- 8.5 As part of the referral process, an employee is likely to be asked to provide Occupational Health with the opportunity to access a medical report from their doctor. Under the Access to Medical Reports Act 1988, the medical report is confidential between the employee, their doctor and the Occupational Health provider and will not be shared with the school. Occupational Health may then need to provide medical information from the report to the Headteacher/Senior Manager in a limited way. Whilst it is the employee’s decision as to whether they will allow the Occupational Health provider to approach their doctor for a report, employees are encouraged to allow for this, so that Occupational Health can provide the school with accurate advice based on the best information available. Employees do have rights to see, amend and withhold the medical report, and are encouraged to seek advice from their trade union/professional association representative as required.

## **9. Department for Work and Pensions (DWP) Fit for Work Service**

- 9.1 In 2015, the Government launched its Fit for Work Service. Fit for Work offers free occupational health assessments for employees who reach, or are expected to reach, four weeks of sickness absence to help them return to work sooner. Managers and employees can also access work-related health advice through a telephone advice service and website.
- 9.2 The employee must give verbal consent to be referred and again to have their Return to Work Plan shared with their employer and/or GP.
- 9.3 The assessment will seek to identify all potential obstacles preventing the employee from returning to work (including health, work and personal factors) and involve agreeing a Plan designed to address each obstacle to enable a safe and sustained return to work.
- 9.4 Fit for Work is intended to complement and not replace any existing occupational health services provided by employers. If deemed appropriate by the Fit for Work case manager, the employer will be contacted by Fit for Work in order to incorporate

any existing occupational health services into the formation of the Return to Work Plan and as a potential facilitator of recommendations within the Plan.

- 9.5 The decision on whether to implement these recommendations is to be made by the Headteacher/Senior Manager and, where appropriate, should be discussed with the school's OH provider.
- 9.6 It is not mandatory for employers to refer employees to Fit for Work, nor to implement the recommendations in the Return to Work Plan. A referral to Fit for Work should not normally be made by a Headteacher/Senior Manager where an internal referral to Occupational Health has already been made.
- 9.7 Managers and employees can seek advice either on the Fit for Work website [www.fitforwork.org](http://www.fitforwork.org) or by telephoning 0800 032 6235.

## **10. Phased return to work**

- 10.1 In certain circumstances, Occupational Health may advise that a phased return to work is necessary. In those circumstances, the employee may return to work on reduced hours or duties for a period of up to 4-6 weeks, gradually increasing their working hours/duties until they have reverted back to their full contractual hours or duties. The employee, however, needs to return to their full role at the end of the phased return period unless otherwise agreed.
- 10.2 If the advice is to restrict shifts/working hours or make another adjustment on an indefinite basis, consideration will be given as to whether this adjustment is reasonable, especially where the employee has a condition which may qualify as a disability under the Equality Act 2010. A discussion may then need to take place with the employee regarding a variation to the terms of their contract. Where it is not reasonable to accept the adjustment on an indefinite basis, medical redeployment or ill health retirement may need to be considered. In such cases, the Headteacher/Senior Manager should seek further advice from Education Personnel Services and the employee should contact their professional association or trade union representative.

## **11. Absence due to an accident/injury at work**

- 11.1 Where an employee is injured as part of their duties they must report this to their Headteacher/Senior Manager immediately and fill out the relevant paperwork (e.g. accident reporting book).
- 11.2 Certain absences resulting from an accident or incident at work must be reported under the 'Reporting of Injuries, Diseases and Dangerous Occurrences Regulations' 1995 (RIDDOR). Maintained schools must ensure that the Children's Services Health & Safety Team is notified and the relevant procedures are followed. Academies and other external customers are advised to seek advice from their own health and safety advice service. Further guidance can be found on the Children's Services Health and Safety website <http://intranet.hants.gov.uk/childrens-services/cs-healthandsafety.htm>

- 11.3 Maintained Schools must not class an accident or injury at work as an “Industrial Injury” until confirmed by the Head of Children’s Services Health and Safety Team or nominated Senior Risk Adviser. Academy Schools and external customers are again advised to seek advice from their own health and safety advice service.
- 11.4 Where an accident is classed as an accident or injury at work in accordance with paragraph 11.3, a report should be made to the relevant Health and Safety representatives within the school.

## **12. Sickness during a period of planned annual leave**

- 12.1 In the case of school non-teaching employees who are entitled to annual leave, when an employee is sick during a period of annual leave their leave will be reinstated. The employee will need to obtain a statement of fitness for work from their GP and give this to their manager. The reinstated leave must normally be used before the end of the leave year. However, if there are insufficient days remaining in the leave year, the employee may carry forward annual leave into the next leave year. This will only apply if the employee has not been able to use their statutory annual leave entitlement of 28 days in the current leave year. In calculating this, any leave taken and any bank holidays that fell on the employee’s normal working days and that were outside of their period of sickness absence, will be deducted from the 28 days.
- 12.2 Failure to report a planned operation or an emergency operation on the first day of absence or as close as possible whilst on annual leave will usually result in this not being converted to sick leave.

## **13. Health appointments during work time**

- 13.1 Employees must, where possible, make appointments outside of working time or at the beginning or end of the working day to minimise operational disruption. There is no right to paid time off to attend planned doctor, dentist or hospital appointments.
- 13.2 Appointments with Occupational Health will be accommodated during work time, wherever possible.
- 13.3 Disabled employees may have a right to paid time off for health/ medical appointments if this is agreed as a ‘reasonable adjustment’. In these circumstances, schools should seek further advice from Education Personnel Services.
- 13.4 Pregnant women do have the right to paid time off to attend ante natal appointments. Please refer to the [maternity guidance](#) in the Manual of Personnel Practice for further information.

## **14. Pregnancy-related absence**

- 14.1 For pregnant employees, non pregnancy-related sickness absence will be recorded in the normal way.
- 14.2 Sickness absence that is pregnancy-related will not be included when reviewing the employee’s attendance record, although it will require a Statement of Fitness to work

where the absence has reached 7 calendar days or more and will be paid as sickness absence in accordance with the employee's sickness entitlement under their terms and conditions of employment.

- 14.3 Upon a return to work, a return to work discussion/interview may take place in the same way as any other absence in order to provide support or to consider any workplace adjustments that may be necessary and to review any risk assessments for the period that the employee remains at work prior to maternity leave.
- 14.4 If the employee is absent from work with a pregnancy-related illness during the last four weeks before the expected week of childbirth, maternity leave will automatically be triggered. Please refer to the [maternity guidance](#) in the Manual of Personnel Practice for further information.

## **15. Disability-related absence**

- 15.1 Where it is identified that an employee has a disability which is recognised under the Equality Act 2010, Headteachers/Senior Managers are responsible for assessing whether adjustments recommended by Occupational Health, the employee's own doctor (e.g. via the Statement of Fitness to Work) or the employee themselves, are reasonable. Where they are reasonable, Headteachers and Senior Managers will implement and monitor such adjustments.

## **16. Stress-related absence**

- 16.1 If an employee is absent due to a stress-related illness, anxiety or depression, as determined by the GP, the Headteacher/Senior Manager may make an early referral to Occupational Health. The employee should seek support from their professional association or trade union representative.

## **17. Long-term ill health and terminal illness**

- 17.1 Where the employee, Occupational Health or the employee's GP/Consultant advises that the employee has a long-term ill health condition or a terminal illness, managers are encouraged to seek advice from Education Personnel Services in relation to what support to offer the employee and other appropriate action to take. Part 3, section 5 of this document details the formal process that Headteachers/Senior Managers may follow in cases of long-term ill health.

## **18. Hospital admissions**

- 18.1 Where an employee has been admitted to hospital, Headteachers/Senior Managers will seek, where possible, to maintain contact with relatives, friends, or the employee's trade union representative.

## **19. Planned operations and procedures**

- 19.1 Employees are responsible for sharing as much information as possible with their Headteacher/Senior Manager where a period of absence is scheduled for a planned operation. Information must be shared prior to the absence including the reason for

the absence, the anticipated duration, the predicted recovery period and any possible changes in capability to undertake their role upon their return to work.

- 19.2 Where plastic/cosmetic surgery is certified by a Medical Adviser indicating that surgery is essential to the employee's health or wellbeing then this would be a valid reason for an employee to receive occupational and statutory sick pay. If surgery is to be carried out without this certification and absence from work is required then arrangements for annual leave or unpaid leave (where approved) must be made in advance.
- 19.3 Where an employee is undergoing fertility treatment the employee may be entitled to sick leave and pay depending on the stage of their treatment. In such circumstances, managers should contact Education Personnel Services for further guidance.

## **20. Instruction to leave work on health grounds**

- 20.1 A Headteacher may instruct an employee to leave work on health grounds in the following circumstances:
- an employee attends for work (or returns to work after sickness absence) and the Headteacher has serious doubts about their ability to perform the full range of their duties in a safe way;
  - an employee is unwell or has a condition which causes the Headteacher serious concern and may present a risk to the employee, pupils, colleagues or others.
- 20.2 In these circumstances, the Headteacher should contact Occupational Health for further advice.

## **21. Sick pay**

- 21.1 Details of sick pay entitlements are contained within the employee's terms and conditions of employment. For Hampshire Maintained Schools, the details for Teachers are contained in the Conditions of Service for School Teachers in England and Wales and for support staff, details are contained in EHCC 2007. Academies and External Customers must refer to their own pay policy arrangements.

## **22. False claims of sickness or working whilst off sick**

- 22.1 Unless agreed with the Headteacher/Senior Manager (or the employee has only been signed off as unfit for one of their employments) employees are not normally permitted to work whilst off sick or when in receipt of statutory sick pay, whether in a paid, unpaid or voluntary capacity, even if permission has been given on previous occasions.
- 22.2 Where there is evidence that an employee has been inappropriately working in another role or elsewhere whilst off sick or has been falsely claiming to be sick they will be managed in accordance with the school's disciplinary procedure and where founded, will be expected to repay any falsely claimed monies (sickness pay).

## 23. Support

- 23.1 Employee Support is a confidential counselling and support service provided by trained, experienced counsellors, providing telephone and face-to-face counselling for employees in Hampshire maintained schools. More information can be found at <http://www3.hants.gov.uk/occupational-health/employee-support.htm>, or by contacting the helpline on 0800 030 5182. Staff in external schools and academies should refer to the provider of their counselling services where provided.
- 23.2 Employees can also seek advice and support from their professional association or trade union. A list of teacher professional association contact details are available at <http://www3.hants.gov.uk/education/teachers-info/tp.htm> Teachers can also seek support from the Teacher Support Line <http://teachersupport.info/>

## 24. Managerial support prior to action under the formal procedure

- 24.1 Prior to applying the formal procedure, Headteachers/Senior Managers will normally seek to resolve the absence issues informally with the employee.
- 24.2 A one-to-one managerial meeting may take place at the point the Headteacher/manager identifies that an employee's absence is creating operational difficulties; this may not necessarily be in accordance with the triggers detailed in the policy. Please see Part 2 Paragraph 5 of this document for further guidance on keeping in touch during sickness absence.
- 24.3 If the trigger points are reached the Headteacher/Senior Manager may give the employee 5 working days' notice of the managerial meeting to be held to explore the reasons for the level of absence. A copy of the Sickness Absence Policy and Procedure will be given to the employee. The employee has no statutory right to be accompanied at the meeting. If an employee requests to be accompanied, the Headteacher/Senior Manager should consider the request taking into account the individual circumstances of the case.
- 24.4 Purpose of the managerial support meeting
- 24.4.1 The purpose of the meeting is to share with the employee their absence record and to set out clearly the nature of the attendance concerns. Employees should explain their reasons for absence(s) from work and whether they believe there is an underlying reason.
- 24.4.2 The Headteacher/Senior Manager will establish what the employee has done to address the issue, whether they are receiving any medical treatment and whether there is any support, training or reasonable adjustments that might help them. Consideration will be given as to whether an Occupational Health referral is appropriate.
- 24.4.3 The manager will inform the employee of the attendance standards expected, set appropriate timescales for improvement and must indicate to the employee that insufficient improvement within the agreed timescale may result in formal action being taken under the formal procedure detailed in Part 3.

## 24.5 Possible Outcomes

24.5.1 Possible outcomes from this meeting may include:

- the employee is provided with a clear explanation of why their current absence level is a cause for concern;
- the employee is provided with clear guidance about how their attendance needs to improve;
- where applicable, a timescale is given for any required improvement to take place;
- an action plan is written that reflects the key outcomes from the meeting;
- an outline is given of any support or training that will be provided;
- a clear statement is made that a failure to improve may lead to formal action in line with the formal procedure detailed in Part 3.

24.5.2 A referral may be made to Occupational Health to explore any underlying medical problems.

24.5.3 A record of this discussion including the possibility of moving to the stages of the formal procedure detailed in Part 3 may be made by the Headteacher/Senior Manager, and where made will include the agreed actions. A copy of this record should be given to the employee and a copy kept by the Headteacher/Senior Manager.

24.5.4 If the employee's attendance does not meet the standard required following an informal meeting, or if an achieved improvement is not sustained for a 12 month period, the employee will normally be invited to a meeting under the formal procedure detailed in Part 3.

24.5.5 Where a manager considers that the employee's lack of attendance is sufficiently serious, the employee may be invited to a meeting under the formal procedure detailed in Part 3 without a managerial meeting having taken place.

## Part 3 - Formal Procedure for Managing Sickness Absence

### I. Principles applied in the formal procedure

- 1.1 Action under the formal procedure will be triggered where unacceptable levels of sickness absence have continued following a managerial support meeting under Part 2, section 24 of this policy; where the Headteacher/Senior Manager considers the absence sufficiently serious to move into the formal procedure or in cases of long term sickness where the employee has not been able to return to work over an extended period.
- 1.2 If not already secured at stages 1 or 2, Headteachers/Senior Managers must ensure that up to date advice is obtained from Occupational Health prior to a stage 3 meeting taking place as dismissal may be a potential outcome.
- 1.3 Employees are encouraged to be accompanied by a professional association or trade union representative or by a work colleague under any of the formal stages of the procedure and to seek advice at the earliest opportunity where they are subject to formal action. The companion is allowed to make representations on behalf of the employee, submit papers, ask questions and address a meeting on behalf of the employee but is not allowed to answer questions on behalf of the employee. It is the employee's responsibility to arrange their own companion and advise management of this.
- 1.4 Where the formal procedure is being used, the employee must be provided with a copy of the Sickness Absence Policy and Procedure.
- 1.5 The employee will not normally be permitted to raise a grievance related to any action taken, or contemplated, under this procedure. Such grievances will normally be managed within the hearing and appeal process detailed below. Headteachers/Senior Managers are strongly encouraged to seek advice from Education Personnel Services if the situation arises.
- 1.6 If the employee has less than two years' continuous service with the employer (depending on the employee's start date), the procedure at Appendix 1 must be used.
- 1.7 The employee will have the right of appeal against any formal action taken against them in accordance with section 7 of this procedure.
- 1.8 In the interests of fairness, both parties are expected to provide details of any significant issues and relevant papers in advance of meetings arranged under the formal procedure. Management documents will normally be supplied with the letter inviting the employee to the formal meeting. The employee, or their representative/colleague, must submit their information to arrive at least **3 working days** before the meeting.
- 1.9 Where this procedure is used in relation to Headteacher absence, the Chair of Governors or other nominated Governor will undertake the role of Headteacher/Senior Manager.



- 1.10 The audio or video recording of any meetings or hearings held under this procedure is not permitted. Where an employee is unable to take his or her own notes of a meeting due to a physical, sensory or mental impairment, it is expected that the employee's representative will take notes on their behalf and/or alternative options will be considered to remove any potential disadvantage that an employee may have. Only in exceptional cases may an employee request an audio or video recording of the meeting as an alternative, In such cases, consideration will be given as to whether or not recording the meeting is appropriate in all the circumstances, including an assessment of whether other options have been considered as above.

## **2. Stage I - Formal Meeting Stage**

- 2.1 The Headteacher/Senior Manager will give the employee 7 working days written notice of the formal meeting to be held. The employee has the right to be accompanied in line with paragraph 1.3 of this procedure.
- 2.2 If the employee or their representative is unable, for good reason, to attend a formal meeting under this procedure, an alternative date will be re-arranged, once only, normally within five working days.
- 2.3 Invitation to Stage 1 Formal Meeting
- 2.3.1 The Headteacher/Senior Manager must set out in a letter to the employee the detail of the employee's attendance and why this is a cause for concern. Any relevant documentation must also be included with the letter. The letter must provide the employee with at least 7 working days' notice of the meeting.
- 2.4 Conduct of a Stage 1 Formal Meeting
- 2.4.1 At the meeting, the Headteacher/Senior Manager will:
- clearly set out the nature of the attendance concerns, discuss the measures put in place during any previous period of managerial support and explain why progression to the next stage of the procedure may be required;
  - refer to any documents or evidence (for example, evidence of support given, reasonable adjustments, etc) and clarify the attendance standards required;
  - ask the employee to account for their continued unacceptable attendance including any mitigation the employee feels is relevant;
  - consider all the facts and, if necessary, adjourn the meeting to consider this further before making a decision on how to proceed.
- 2.5 Stage 1 Formal Meeting Outcome
- 2.5.1 Possible outcomes from this meeting may include:
- a Stage 1 Formal Warning is issued;
  - referral to Occupational Health;
  - no formal action required (but required improvement and/or alternative action is stated).

- 2.5.2 If a Stage 1 warning is issued the employee will be informed that this will be in place for 12 months. The employee will also be warned that failure to improve within the set period may result in Stage 2 of the procedure being invoked.
- 2.5.3 The employee will receive a letter confirming the formal warning and the agreed actions decided by the Headteacher/Senior Manager. The outcome should normally be confirmed to the employee in writing within 5 working days. If it is necessary to vary this timescale the employee should be notified at the conclusion of the meeting. A duplicate copy of this letter will be provided to the employee to share with their representative.
- 2.5.4 If the employee's attendance does not meet the standard required following a Stage 1 meeting, or if an achieved improvement is not sustained for a 12 month period, the employee will normally be invited to a formal meeting under Stage 2 of this procedure.

### **3. Stage 2 – Final Stage**

- 3.1 Stage 2 of the procedure will apply if:
- the employee's attendance does not improve within the timescales specified, or
  - an initial improvement in the employee's attendance declines whilst the formal warning issued under Stage 1 remains active, or
  - the employee has not been successfully redeployed, and/or
  - a reasonable offer of alternative work has been refused.
- 3.2 The Headteacher/Senior Manager will give the employee 7 working days' notice of the formal review meeting to be held. The employee has the right to be accompanied in line with Part 3, paragraph 1.3. A member of Education Personnel Services may also be present to support the Headteacher/Senior Manager.
- 3.3 If the employee or their companion is unable, for good reason, to attend a formal meeting under this procedure, an alternative date will be re-arranged, once only, normally within five working days.
- 3.4 Invitation to Stage 2 Final Stage Meeting
- 3.4.1 The Headteacher/Senior Manager must set out in a letter to the employee the detail of the employee's attendance and why this is a cause for concern and include any relevant documents that may be referred to at the meeting. The letter must provide the employee with at least 7 working days' notice of the meeting.
- 3.5 Conduct of a Stage 2 Final Stage Meeting
- 3.5.1 At the meeting the Headteacher/Senior Manager will:
- clearly set out the nature of the attendance concerns, discuss the measures put in place during any previous stage of the procedure and explain why progression to the next stage of the procedure may be required;

- refer to any documents or evidence (for example, evidence of support given, reasonable adjustments, etc) and clarify the attendance standards required;
- ask the employee to account for their continued unacceptable attendance including any mitigation the employee feels is relevant;
- consider options for redeployment if recommended by Occupational Health;
- consider all the facts and, if necessary, adjourn the meeting to consider this further before making a decision about whether the next formal stage will be invoked or the current stage extended.

### 3.6 Stage 2 Final Stage Meeting Outcome

3.6.1 Possible outcomes from this meeting may include:

- the Stage 1 formal warning remains in force for a further specified period
- a further review period with a final warning being issued that without a significant improvement, a further meeting under Stage 2 will take place;
- a referral to a Headteacher/Governors' Committee for a decision on the continued employment of the employee under Stage 3 of this procedure.

3.6.2 The employee will also be warned that if referred to a Headteacher/Governors' Committee, the Committee could determine to dismiss the employee.

3.6.3 A final written warning would normally remain live for 12 to 24 months. The Headteacher/Senior manager will determine the period which is appropriate for the improvement required.

3.6.4 The employee will receive a letter confirming the decision made under Stage 2. The outcome should normally be confirmed to the employee in writing within 5 working days. If it is necessary to vary this timescale the employee should be notified at the conclusion of the meeting. A duplicated copy of this letter will be provided to the employee to share with their representative.

### 3.7 Stage 2 Final Review Meeting

3.7.1 At the end of the review period in Stage 2, the employee will be invited to a Final Review Meeting. The invitation letter will be in accordance with paragraph 3.4.1. The conduct of the meeting will be in accordance with paragraph 3.5.

3.7.2 Possible outcomes include:

- a referral to a Headteacher/Governors' Committee for a decision on the continued employment of the employee under Stage 3 of this procedure;
- the Final Warning remains in place for a further specified time;
- no further action, in which case the Formal Procedure for Managing Sickness Absence will cease in line with Section 4 below. If achieved improvement is not sustained for at least 12-24 months, the Headteacher will have the option to re-enter the procedure at the appropriate point.

#### **4. Improvement in absence levels achieved**

- 4.1 If the employee's attendance improves as required, the Headteacher/Senior Manager will meet the employee to tell them this. This will be confirmed in writing to the employee and the letter will be placed on the employee's file. The Formal Procedure for Managing Sickness Absence will cease at this point. If the employee was at Stage 1 of the procedure, their attendance levels will need to be sustained for at least 12 months, at Stage 2 the improvement would need to be sustained for at least 12 - 24 months. If the employee's attendance declines during this period of time, the Headteacher/Senior Manager will have the option to re-enter the procedure at the appropriate point.

#### **5. Employees on Long-Term Sickness Absence**

- 5.1 In cases of long-term sickness absence, where an individual is not able to return to work over an extended period, there is no formal procedure of warnings and appeals that can be applied. In managing such cases, the Headteacher/Senior Manager will ensure Occupational Health advice is sought before proceeding further.
- 5.2 If an employee does not accept the Occupational Health recommendation, the employee must notify the Headteacher/Senior Manager within 7 working days from receipt of the recommendation. The employee will have a further 21 days to obtain further medical information and submit to Occupational Health. Any costs incurred will be borne by the employee.
- 5.3 Headteachers/Senior Managers will review the Occupational Health advice and make a decision as to whether the employee's absence can be sustained operationally before making a decision to proceed to Stage 3, where a dismissal is to be considered. The Headteacher/Senior Manager should meet with the employee to discuss the Occupational Health advice and the possible options, including the need to proceed to Stage 3, where appropriate.
- 5.4 In such cases, employment may be resolved through one of two routes:
- medical advice that supports a decision to grant ill health retirement. In such circumstances, the Headteacher/Senior Manager must agree an immediate date for retirement to take effect;
  - medical advice does not support ill health retirement and/or operational requirements lead to the matter being referred to a Stage 3 Headteacher/Governors' Committee in order for a decision to be made about the employee's continued employment.
- 5.5 Where ill health retirement has not been granted, an employee can appeal this decision in accordance with the detail provided in Part 3, paragraph 7.5.
- 5.6 Where a Stage 3 Headteacher/Governors Committee is being contemplated, the Headteacher/Senior Manager may meet with the employee to determine whether it may be possible to resolve the employment situation through mutual agreement.

- 5.7 A school may proceed to Stage 3, Headteacher/Governors Committee hearing or a mutual agreement prior to the entitlement to Occupational Sick Pay being exhausted, where there is no reasonable prospect of the employee returning to work in the foreseeable future or within a reasonable timescale.

## **6. Stage 3 – Headteacher/Governors’ Committee hearing**

- 6.1 If the employee’s case is to be referred to a Headteacher/Governors’ Committee the employee will receive a letter confirming the requirement to attend a Governors’ Committee Hearing from the Headteacher/Senior Manager. The employee will receive 7 working days’ notice of the hearing to be held. The [Procedure for a Headteacher or Governors’ Committee Hearing](#) will be followed in the case of all Hampshire Maintained Schools, and is commended for use to academies and other external schools.
- 6.2 In addition to the Headteacher/Senior Manager and the Committee, a member of Education Personnel Services may also be present to provide advice to the Headteacher/Senior Manager presenting the case to the Committee, and a further member of Education Personnel Services may be present to provide independent advice to the Committee. Academies and external customers should check any requirements of their liability insurance to confirm whether Education Personnel Services may perform this role for the school, or whether the school is required to use their legal advisers to support the Committee contemplating dismissal through the hearing process.
- 6.3 The Headteacher/Governors’ Committee may make a decision to terminate the employee’s employment with notice, or they may decide to refer the employee back to Stage 2 of this procedure with a Final Warning and a further review period.
- 6.4 The outcome should normally be confirmed to the employee in writing within 5 working days. If it is necessary to vary this timescale the employee should be notified at the conclusion of the meeting. If the Headteacher/Governors’ Committee decide to dismiss the employee the employee will be informed of their right to appeal against this decision. An appeal must be addressed to the Clerk to Governors and must be received no later than 10 working days from receipt of the letter informing them of the dismissal.

## **7. Right of Appeal**

- 7.1 For appeals against warnings under this procedure, the employee must submit an appeal in writing to the Headteacher/Senior Manager who signed the letter confirming the action to be taken under the procedure. Appeals against dismissal under Stage 3 of this procedure must be addressed to the Clerk to Governors. In both instances, the appeal must be received within 10 working days of receipt of the letter confirming the warning/dismissal and the employee must state in full the reasons for their appeal.
- 7.2 The purpose of an appeal is to enable an impartial review to be carried out as to the ‘reasonableness’ of the previous decision. The appeal should not become a re-

hearing but should focus on reviewing the process followed, and the reasonableness of the decision that was taken.

- 7.3 If the employee is challenging Occupational Health advice, Education Personnel Services or the Headteacher will arrange for details of the employee's appeal to be passed to the Occupational Health Provider. Occupational Health will review the case and engage a second Occupational Health opinion if that is necessary to deal fully with the nature of the appeal. This evidence will then be submitted as documentation for the appeal meeting. If the employee wants to rely on other specialist medical advice it will be the employee's responsibility to obtain the advice and include it as part of the documentation submitted to support their appeal. Any costs incurred in seeking further medical advice from Occupational Health or the employee's doctor will be borne by the employee.
- 7.4 Invitation to Appeal Meeting
- 7.4.1 If the employee lodges an appeal in line with the procedure, they will be invited by letter to an appeal meeting and given at least 7 working days' notice of the meeting date. Any relevant documentation must also be included within the letter.
- 7.4.2 The letter inviting the employee to the appeal meeting must include their right to be accompanied at that meeting.
- 7.4.3 The date of the appeal meeting against a formal warning will normally be within 2 weeks of the date of the appeal letter being received.
- 7.4.4 The date of the appeal meeting against dismissal will normally be within 4 weeks of the date of the appeal letter being received.
- 7.4.5 If further Occupational Health advice is required then the above timescales may need to be extended.
- 7.4.6 If the warnings have been issued by a Senior Manager during the formal stages the appeal may be heard by the Headteacher. Where the Headteacher has heard appeals under Stage 1 and/or Stage 2, this will preclude the Headteacher from forming the committee under Stage 3 of this procedure.
- 7.4.7 Any appeal against dismissal will be heard by a governors' committee. The Headteacher or Clerk to Committee (dependent upon who is hearing the appeal), will issue documentation with the letter of invitation to the appeal meeting. This will consist of the documentation used at the original hearing, supplemented with the employee's letter of appeal. Where either party wishes to provide additional information, this must arrive at least 3 working days in advance of the meeting to allow time for the information to be considered.
- 7.5 Conduct of Appeal Meeting
- 7.5.1 The conduct of the meeting will be in accordance with the [Procedure for a Governors' Appeal Committee Hearing](#) in the case of all Hampshire Maintained

schools. This procedure is commended for use to academies and other external schools.

- 7.5.2 The outcome should normally be confirmed to the employee in writing within 5 working days. If it is necessary to vary this timescale the employee should be notified at the conclusion of the meeting.

7.6 Appeal against the medical decision in relation to ill health retirement

- 7.6.1 It will be the employee's responsibility or their representative to appeal against any decision by Occupational Health (in the case of LGPS members) or for teaching staff, Teachers Pensions not to grant ill health retirement, or where the level of award relating to ill health retirement is challenged. As decisions in relation to these processes are outside of the school's control, the school may continue with the Stages of the formal procedure whilst such an appeal is ongoing.

## **8. Support**

- 8.1 Employee Support is a confidential counselling and support service provided by trained, experienced counsellors, providing telephone and face-to-face counselling. This service is available to all staff in Hampshire maintained schools and more information can be found at <http://www3.hants.gov.uk/employee-support.htm>, or by contacting the helpline on 0800 030 5182. Staff in Academies and other external schools should contact their school's counselling service where provided.
- 8.2 Employees can also seek advice from their professional association. Please see Part 2 Para 23 of this document for further details.
- 8.3 Employees and managers may also seek advice on the DWP's [Fit for Work website](#) or by telephoning 0800 032 6235.

## **Appendix I - Employees with less than two years of continuous service**

This procedure applies to employees with less than two years of continuous service working within a school/school managed provision or establishment, which for ease of reference are referred to throughout this document as 'schools'.

This procedure may be used for handling absence issues concerning staff employed in schools where attendance is considered unsatisfactory in line with Part 2, section 7 of the Sickness Absence Policy and Procedure. In the case of long-term ill-health absence, where an individual is not able to return to work over an extended period, there is no formal procedure of warnings and appeals that can be applied. The principles as set out in Part 3 Section 1 of the formal procedure may be used, however, a shorter period of absence may trigger dismissal for an employee in their first or second year of employment. It is expected that all new employees, during and after their induction, will have informal discussions with their line manager and any concerns over the employee's attendance will be raised as early as possible.

### **Formal Meeting**

The manager will adopt the same approach set out in Stage 2 (see Part 3, section 3) of the formal procedure, where improvement has not been achieved. There is only one formal meeting for employees under this procedure. Outcomes from this can include:

- A formal warning is issued giving the opportunity for improvement and clearly setting out the requirements of the employee in writing;
- where an employee has been issued with a formal warning and demonstrates consistent improvement, but the required attendance has not yet been achieved, the formal warning could be extended following a review meeting;
- the matter is referred to a Headteacher/Governors' Committee Hearing in order to consider whether the employee should be dismissed.

The time period for the review period for employees in their second year of service will be shorter and will not result in the employment being extended beyond two years prior to a final decision being taken.

If improvement is not achieved or sustained following the formal warning being issued, the matter will need to be referred to a Headteacher or Governors' Committee hearing (see Stage 3 of the formal procedure) to consider dismissal.

If the decision is to refer the matter to a Headteacher/Governors' Committee Hearing, the letter will confirm the arrangements for this in accordance with the Procedure for Headteacher and Governors' Committee Hearings. The letter will confirm that a possible outcome of this hearing is that the employee could be dismissed on the grounds of capability due to ill health.

### **Right of Appeal against Dismissal**

Under this procedure, an employee only has the right to appeal against a dismissal decision; there is no right of appeal against a warning. The employee must lodge an appeal as set out



in Part 3 Section 6 of the formal procedure. All appeals and appeal meetings will be in accordance with Part 3, section 7.