



PROCEDURE FOR MANAGING SICKNESS ABSENCE: LOCAL MANAGEMENT

1. Responsibilities of Employees

- Employees must not use sick leave unless they are medically unfit to attend work or remain at work.
- Employees must follow their school's arrangements for reporting sickness. Minimum requirements are:
 - in accordance with local arrangements to contact the school as soon as possible to report sickness;
 - to provide medical and self certificates promptly;
 - to attend a medical examination with the Occupational Health Physician if required;
 - to meet with the Headteacher, teacher (or designated manager) on return from sick leave where there is concern, to discuss the reasons for absence.

2. Rights of Employees

- to have access to medical information and receive copies of medical reports when required;
- to have trade union representation at all stages of the procedure;
- to be advised as specified in the procedure of the implications of unsatisfactory attendance and to be given an opportunity to improve through the setting of clearly established timescales;
- to receive a copy of the procedure;
- to have cases treated in a confidential manner;

- to expect support in the management of ill-health as far as practicable;
- for national and local conditions of service to be applied.

3. Responsibilities of Headteacher

- to regularly review (or delegate as appropriate) the level of sickness absence of employees in the school and report to Governors as appropriate;
- to meet with staff (or delegate as appropriate) on return from sick leave where concerns exist in order to discuss the reasons for absence;
- to maintain regular contact with those on long-term sick leave, advising them when it is considered their job cannot be kept open for much longer;
- to give written notice of all review meetings and hearings and to confirm any decisions within 5 working days setting out the reasons for the decision and any targets which have been set;
- to support staff as far as is practicable in improving attendance;
- to deal fairly but firmly with an employee whose level of sickness absence is unsatisfactory.

4. Rights of Headteachers

- to determine that the level of sickness absence is unsatisfactory and needs to improve and to set targets;
- to refer an employee to the occupational health physician for a medical assessment;
- to initiate procedures for the termination of service where the level of sickness absence is no longer acceptable;
- to institute action under the disciplinary procedure where provisions in relation to sick leave are being abused.

Managing Sickness Absence: Procedure for Locally Managed Schools

1. Introduction

1.1 When an employee is absent from work for a period of time or with any frequency, a balance needs to be maintained between the need for the work to be done and the need for the employee to have time to recover. Consideration should be given to any support that can be given to enable the employee to return to his/her duties.

1.2 The purpose of the procedure is to set out a framework within which to respond to the issues arising from two different types of sickness absence:

- (a) intermittent short term absence
- (b) continuous long term absence

1.3 Intermittent Absence: This covers short-term absences due to a variety of minor, unlinked medical causes. It also covers absences due to one (or more) underlying medical cause. The approach here is that the individual circumstances of each case will be considered with regard to the setting of targets/monitoring periods. However, the Headteacher is entitled to expect reasonable attendance levels and to consider taking action in cases where the pattern of absence gives rise to concern which would normally be when it reaches 9 days sickness absence in a 12 month period.

1.4 Continuous Absence: This requires an approach based on regular reviews and updating of medical information. Absence which continues beyond three months would normally be the trigger for undertaking a health assessment of the situation including the employee's future capability to undertake their job duties.

1.5 Guidance notes are attached giving information/advice to support the decision-making process and cover:

- (a) Setting targets
- (b) Medical advice: referral to Occupational Health /Disability Discrimination Act, 1995
- (c) Termination of Service: factors to consider

2. Stage One: Intermittent Short Term Absence

2.1 An employee who has a pattern of sickness absence which gives rise to concern or who has had 9 days sickness absence in a 12 month rolling period should have their attendance record reviewed (pro-rata equivalent applies for part time employees).

2.2 If the Headteacher decides that they have sufficient information and that the absence is not a cause for concern a note will be sent to the employee confirming there is no need for any action at this time.

2.3 If the Headteacher is concerned about the level/reasons for sickness absence a meeting will be arranged with the employee as soon as possible. There is a right of trade union representation at the meeting.

2.4 The purpose of the meeting will be for the Headteacher to:

- (a) review the sickness record
- (b) consider any relevant medical information which is available (and to obtain further medical information if deemed necessary).
- (c) identify the impact of the absence on the service and on work colleagues
- (d) discuss the reasons for absence and any information the employee has to offer (e.g., personal, domestic, welfare issues, that the absence was connected to an industrial injury).
- (e) consider the employee's explanation
- (f) consider any support that can be offered

2.5 If the Headteacher decides that it is not necessary at this time to set targets for improvement this will be confirmed in writing to the employee within 5 working days.

2.6 If the Headteacher decides the level of sickness absence is unsatisfactory they will write giving reasons and advise the employee of the following:

- that there is a need to improve
- that a time scale is identified during which absence levels must reduce
- the consequences of failure to reduce the level of sickness absence, i.e., that a further monitoring period will be set at Stage 2 of the procedure
- that there is a right of appeal to the Governing Body (process set out in Disciplinary Procedure)

(See Guidance Note 1).

2.7 The target for improvement will be that no more than 5 days sickness absence must occur in the 12-week monitoring period.

2.8 There is a right of appeal against the decision to set targets at this stage:

- (a) Appeals must be lodged with the Governing Body within 10 working days of receipt of the decision.
- (b) The reason for appealing must be explained in writing and must relate to one of the following grounds:

unreasonable delay in calling the meeting to review the sickness record

unreasonable decision in the light of relevant medical information

unreasonable decision in the light of personal information provided by the employee

2.9 At the end of the timescale for improvement (the 'monitoring period') the Headteacher will review the level of sickness absence. If it is satisfactory to the Headteacher, the employee will be advised in writing accordingly and reminded of the need to sustain the level of improvement. If, during the 12 months following the monitoring period the employee has a further 9 days' sickness absence, he/she will be reviewed at stage 2 of this procedure.

Where the employee is absent on a continuous basis for a period in excess of 9 days, the Headteacher will review the reasons for absence. If it appears likely that there will be a period of long-term continuous sickness, the Headteacher should review and continue to regularly review the reasons for the sickness absence. (See Continuous Long Term Absence).

3. Stage Two

3.1 This stage is reached in the following circumstances:

either:

- sickness absence has exceeded the target set during or at the end of the stage one monitoring period.

or

- the initial improvement achieved at the end of the monitoring period has not been sustained over the following 12 months.

3.2 A further meeting will be arranged by the Headteacher, giving 5 days notice, to review the sickness record. Rights in relation to trade union representation are as set out in Stage 1.

3.3 If the Headteacher considers the level of sickness absence to be unsatisfactory in the light of the information available:

- a further monitoring period will be set (normally 12 weeks)
- targets for improved attendance will be set (see Guidance Note 1).
- the employee will be warned that failure to reduce the level of sickness absence will result in moving to Stage 3 of this procedure where a decision to dismiss could be made.

3.4 There is a right of appeal against the decision to set targets at this stage. Employees must write to the Governing Body within 10 working days giving reasons for their appeal. Trade Union representation is available at the appeal hearing.

3.5 If the level of sickness absence is satisfactory at the end of the Stage 2 monitoring period the employee will be advised in writing accordingly and reminded of the need to sustain the level of improvement during the 12 months following the monitoring period. If the employee has a further 9 days sickness absence, he/she will be reviewed at Stage 3 of this procedure.

4. Stage Three

4.1 This stage is reached:

- Where the employee's sickness absence level fails to improve to meet the targets set during the monitoring period, at stage 2.

or

- during the 12 months following the monitoring period at stage 2 the employee has a further 9 days' sickness absence.

In these circumstances the employee should be referred to the occupational health physician for a report to be provided to the Headteacher (see Guidance Note 2).

4.2 In the light of the medical report, a decision will be made as to how to proceed. The options include:

- no further action at this time
- consideration of any recommendations the occupational health physician may make in relation to redeployment or ill health retirement. (See below).
- extending the timescale for monitoring an improvement in attendance
- referral to the Governing Body for consideration as to whether the employee should be dismissed

4.3 If the Headteacher decides that dismissal should be considered the case will be referred to the Governing Body (Disciplinary Committee).

5. Continuous Long Term Absence

5.1 The potential for long-term sickness absence may well be highlighted at Stage 1 when the case is reviewed due to 9 days' continuous sickness absence having occurred.

5.2 The case of an employee on continuous long-term sickness absence should be regularly reviewed. It is the intention that long-term sickness should be approached in a sensitive yet practical way. At an appropriate stage, but certainly after three months, a Headteacher shall, in normal circumstances, make an assessment of the position based on the following:

- the nature of the illness and any medical information available.
- the likely length of the continuing absence.
- whether the school can continue to cope with the employee's absence and, if so, for how much longer

- any other relevant circumstances

5.3 In order to come to a reasonable decision on the merits of the case a Headteacher require information about the medical prognosis. This will necessitate the employee's case being referred for an assessment by the occupational health physician and may include the employee being seen by the occupational health physician.

5.4 On receipt of the medical assessment, the case will be reviewed in the light of the medical information, the ongoing impact on service delivery and other factors as set out above. The employee (and trade union representative) will be invited to meet with the Headteacher to discuss the situation and any options that may be available e.g.:

- (a) a recommendation from the Occupational Health Physician in relation to redeployment
- (b) any adjustments that can be made to job duties/hours/etc., or other support on return to work

It is important at this stage that the employee understands the serious concern which exists about the length of sickness absence and is given reasonable opportunity to tell their Headteacher of any factors or personal circumstances which they would like taken into account in the overall assessment. (Alternatively, the employee can provide written information if they prefer). Any representations submitted from the trade union representative should also be considered.

5.5 If the Headteacher decides, in the light of all the information that it is not possible to wait any longer for the employee to return, a letter will be sent advising the employee that termination of service is being considered. The employee will be advised that further representations by them can be made in person or in writing to a meeting of the Governing Body (disciplinary committee) which will convene to decide if the employee should be dismissed. The procedure for setting up a disciplinary committee hearing will be the same as that described in the model disciplinary code.

6. Ill-Health Retirement

6.1 In cases of chronic ill health/permanent incapability to undertake the duties of the post, a recommendation will be made by the occupational health physician in accordance with the terms of the Local Government superannuation scheme that the employee be retired on medical grounds. For teachers a further stage is necessary involving the Teachers' Pension Association.

6.2 Where the employee is opposed to the recommendation to retire on ill health grounds, they must be given the opportunity to make representations to the Governing Body (disciplinary committee).

6.3 Where there is a clear conflict of medical opinion between that of the occupational health physician and the employee's own physician, an independent medical opinion will be sought.

7. Ill-Health Redeployment

7.1 If the Occupational Health Physician recommends redeployment, the Headteacher should liaise with the LEA to undertake an assessment of redeployment opportunities.

8. Termination of Service

8.1 If the occupational health physician does not recommend retirement on ill health grounds this does not preclude dismissal as the decision to dismiss is a managerial one. If there is a decision to dismiss immediate pension benefits will not be triggered.

8.2 Where there is a clear conflict of medical opinion between that of the Occupational Health Physician and the employee's own physician, an independent medical opinion will be sought

9. Right of Appeal

9.1 This is to the Governing Body and is as set out in the disciplinary procedure.

Guidance Notes (1, 2 and 3) on Managing Sickness Absence

GUIDANCE NOTE 1

Setting targets for the reduction of sickness absence

1. To take formal action about sickness absence below 9 days there needs to be clear reasons for the concern to avoid complaints of discrimination. The most likely reason is the pattern of absence, e.g., every Monday or Friday.
2. Headteachers must review the position when there has been 9 days 'sickness absence in a 12 months' period and, where there is cause for concern, meet with the employee as soon as possible. Intermittent sickness absence may be due to a variety of minor, unlinked illnesses, or it may be due to one (or more) underlying medical cause.

It is important that an employee's personal circumstances and record are taken into account when considering appropriate action. The issues which should be considered include

- has the employee a good work/sickness record?
- have there been problems of sickness in the workplace generally?
- have work problems caused or exacerbated sickness?
- is the employee suffering from domestic problems?
- is the employee suffering from an industrial injury?
- how long has the employee worked for you?
- the employee's age and length of service, the demands of the post and the importance of the position to the organisation.
- any medical information available e.g., medical certificate(s).
- is the employee disabled? (as defined by the Disability Discrimination Act 1995 - see Guidance Note 2).

Assessment of this information will enable a Headteacher to decide whether or not to set a target for reduction in the sickness level, and what the target should be.

3. The existence of an underlying medical condition, while accepted as the reason for absence, will not mean that it is "set aside". All absences will be counted and the total picture of an employee's level of sickness absence considered, together with the factors set out above
- 4.. The target for reduction in the level of sickness absence will normally be that no more than 5 days' sickness absence should occur during the monitoring period of 12 weeks.
5. Decisions should be confirmed in writing within five working days.

Long-term/Continuous absence

Where an employee is likely to be continuously absent for a prolonged period the Headteacher should monitor the position by regularly reviewing and (if necessary) updating the medical information. Absence at 3 months is the trigger for a review of the employee's employment position. A balance needs to be struck between "keeping in touch" with the absent employee in a supportive manner and putting pressure on them by excessive or inappropriate communications.

GUIDANCE NOTE 2

Medical Advice: Referral to occupational health physician

It is advisable to obtain up to date medical advice prior to considering dismissal. Depending on the circumstances it may be helpful to obtain an opinion from the Council's doctor at an earlier stage.

1. Intermittent absence

Information should be sought from the occupational health physician about whether there is an underlying medical cause and what the future prognosis is in relation to the employee's ability to do his/her job.

2. Long term absence (Continuous)

Medical referral is of major importance and needed in most cases of long term absence. This should occur at the earliest practical opportunity in order to gain a speedy and useful response. The following questions can be asked in a medical referral:

- what is the expected date of return?
- will the employee have a residual disability?
- if so, will this be permanent or temporary. If temporary, for how long?
- will the employee be able to give regular and efficient service?
- what duties will the employee be able to undertake?

3. Access to Medical Reports Act 1988

The Act ensures that patients are treated confidentially in dealings regarding their medical records. If the occupational health physician needs to obtain medical information from the employee's GP, their permission will be sought. If the employee refuses to co-operate in allowing information to be obtained from their GP, he/she should be advised that there is a need to obtain information regarding their health and that without this their future employment will be assessed on the information available.

4. Disability Discrimination Act 1995 (implementation 2nd December 1996)

The act defines an employee's medical condition as a disability when it is a physical or mental impairment which has a substantial and long term (it has lasted at least 12 months, or is likely to do so) adverse effect on his/her ability to carry out normal day-to-day activities.

The protection also applies if the medical condition is a progressive or terminal illness, i.e., with the result that the employee is unlikely to survive 12 months. It also applies where the employee has a history of disability.

The act makes it illegal to dismiss such a disabled employee unless such action can be justified. To establish justification it must be demonstrated that the illness, absence or functional effects of the disability:

1. is material to the job, work and the particular situation - this means the situation must be fully examined. It would be unacceptable to base the assessment on general impressions.
2. has a substantial effect - it must make a sufficient impact on the job and the work environment, because minor difficulties could not be justified.

Medical advice: will be necessary on what the employee's health problems are and the likely extent and timing of any recovery. The medical adviser should be asked to consider the extent to which the employee has difficulty operating equipment or carrying out any duties affected by their illness.

Requirement to make reasonable adjustments: under the DDA employers must make reasonable adjustments to remove physical barriers and change working conditions for disabled employees if necessary. In relation to employment, managers should consult with the employee and should consider the following:

- (a) what can be done to alleviate the difficulties being experienced by the disabled employee.
- (b) can their duties or working arrangements or hours of work be adjusted.
- (c) would additional or modified equipment help overcome the problem.
- (d) how much would the adjustments to be made disrupt existing working arrangements.
- (e) would time off for rehabilitation, employment assessment or treatment arise.

The overall question, in the light of these considerations, is whether it is reasonable to introduce adjustments to make it possible for a disabled employee to continue to work.

GUIDANCE NOTE: 3

1. Termination of Service: Factors to consider:

The Employment Appeal Tribunal set out the following factors which should be considered before a decision to dismiss is taken:

- (1) the nature of the illness
- (2) the likelihood of recurrence, or some other illness arising
- (3) the length of the various absences and the intervals of good health between them
- (4) the need of the employer for the work to be done by the employee
- (5) the impact of the absences on other employees
- (6) implementation of the correct procedure
- (7) the importance of a personal assessment in the ultimate decision
- (8) the extent to which the employee has been made fully aware of the school's situation and when the point of "no return" would be reached.

In relation to disabled employees: see details on Disability Discrimination Act in guidance note 2.

2. Medical Advice in relation to dismissal

The decision to dismiss is not a medical one but a managerial one based, among other things, on medical opinion(s).

BUT:

- While the absence of a medical diagnosis or prognosis does not preclude a manager taking action, to dismiss an employee without a medical referral could be viewed as unfair by an employment tribunal.
- Managers should not make medical judgements.
- Managers should not ignore medical opinion or draw conclusions that are at odds with the medical advice.
- In the case of conflicting medical opinions between the occupational health physician and the employee's own doctor, a further medical opinion should be sought from a specialist.

3. Continuous Absence

An employer can fairly dismiss an employee due to long term absence, based on incapacity to perform the job. It is necessary to look at the whole history and whole picture: every case must depend on its own facts. Factors to consider are set out in 5.2 of the procedure.

4. Intermittent Absence

Where one (or more) underlying medical cause(s) is identified, management is entitled to look at the level of sickness absence as a whole and decide that it is unsustainable in relation to its impact on service provision and the workload of colleagues. Factors 1 to 8 (above) offer guidance.

5. Alternative options to dismissal

These may include:

- establishing a further timescale for improvement
- consideration of alternative employment (if available) within the school
- referral to occupational health physician for consideration of ill health retirement or redeployment if this has not been considered previously.

Headteachers – Management of Sickness Absence

1. Introduction

1.2 The general principles set out in the sickness absence monitoring procedure apply equally to Headteachers.

1.3 Action in relation to concern about sickness absence will be handled by the Chair of Governors. The Director of Children's Services will offer support if requested to do so.

2. Process

2.1 Where the sickness absence of a Headteacher triggers consideration under the procedure, the Director of Children's Services will inform the Chair of Governors

2.2 The Chair of Governors will review the absence record, including any information as to the reasons for absence. If the absence record is viewed as a matter of concern, contact may be made with the Director of Children's Services to discuss the appropriate course of action. This could include the Chair investigating or deciding no action is necessary at this time.

2.3 If the Chair of Governors wishes formal action to take place within the parameters of the procedure the Director will, at the request of the Chair, undertake the functions of the line manager in relation to setting targets, monitoring attendance etc., and working through the stages of the procedure.

Rights of appeal to Governing Body in relation to target setting are as set out in paragraphs 2.6 and 3.4.

3. Unsatisfactory sickness record

3.1 Where there has been a failure to meet targets set for attendance, or a lengthy period of continuous absence has occurred, the Director of Children's Services will discuss the matter with the Chair of Governors.

3.2 If the Chair of Governors considers that action is necessary, the Director will advise on possible options and whether further medical information should be sought

3.3 The Headteacher will be advised in writing that serious concern exists in relation to their attendance and they will be invited to discuss the situation with the Director or Chair of Governors (as set out in paragraph 5.4).

4. Termination of service

4.1 A medical recommendation in relation to ill-health retirement will be followed as appropriate.

4.2 In the absence of a medical recommendation to retire, any decision in relation to dismissal must be taken by the Governing Body (Disciplinary Committee). The responsibility for presenting the case would be with the Director of Children's Services.