

Nottinghamshire

# **Attendance Management Procedure for School Staff**

**GUIDANCE AND TOOLKIT FOR HEADTEACHERS**

**Date: May 2015**

# CONTENTS

## Guidance

Section	Heading	Page
<b>A</b>	<b>General Advice</b>	4
	Reporting of Sickness Absence	4
	- <i>Responsibilities</i>	4
	- <i>Initial Notification of sickness</i>	4
	- <i>The fourth day of absence</i>	4
	- <i>After 7 days of absence</i>	5
	- <i>Failure to notify</i>	5
	Fit for Work Note	5
	Equality Act 2010	6
	Occupational Health	8
	Medical Reports	9
	Identification and Support Options	9
	- <i>Keep the situation under review</i>	9
	- <i>Seek Occupational Health advice</i>	9
	- <i>Provide other relevant support</i>	9
	- <i>Start Formal Procedures</i>	10
	- <i>Pursue Redeployment</i>	10
	- <i>Support an application for Ill Health Retirement</i>	10
	- <i>Phased return to work</i>	10
	Managing Special Circumstances	11
	- <i>Disability and Sickness Absence</i>	11
	- <i>Reasonable Adjustments</i>	12
	- <i>Disability Leave</i>	12
	- <i>Terminal Illness</i>	13
	- <i>Maternity</i>	13
	- <i>Substance Misuse</i>	13
	- <i>Domestic Violence</i>	13
	- <i>Stress</i>	13
	- <i>Work-related Stress</i>	14
	Carry Forward of Leave	14
<b>B</b>	<b>Supplementary Guidance to the Attendance Management Procedure</b>	16
1.0	The Procedure	16
	- <i>Monitoring Attendance</i>	16
	- <i>Welfare Support</i>	17
	- <i>Implementing Formal Procedures</i>	18
2.0	Key Indicators	18
	- <i>Short term persistent absence</i>	18
	- <i>Long term absence</i>	19
5.0	First Review Meeting	19
6.0	First Review Meeting Possible Outcomes	20
9.0	Second Review Meeting	20

10.0	Second Review Meeting Possible Outcomes	20
13.0	Third Review Meeting	21
14.0	Third Review Meeting Possible Outcomes	21
	- <i>Payment of notice pay and annual leave on termination of contract</i>	23
15.0	Third Review Meeting – Appeal Against Dismissal	23
16.0	Governors Appeal Hearing – Possible Outcomes	23
17.0	Review of Warnings	24
18.0	Waiver Form	24

## Appendices

Appendix	Title	Page
1	Roles and Responsibilities	25
2a	Return to Work Discussion	29
2b	Return to Work Discussion Pro-forma	31
3	Invite to Welfare Meeting	32
4a	Welfare Meeting Guidance	33
4b	Welfare Meeting Pro-forma	35
5	OH referral letter where no welfare meeting	38
6	Template Statement of Case	39
7	First Review Meeting Invite Letter	43
8a	Review Meeting Order of Events	45
8b	Review Meeting (where heard by Governors) / Governors Appeal Order of Events	46
9	First Review Meeting Outcome Letter	48
10	Second Review Meeting Invite Letter	50
11	Second Review Meeting Outcome Letter	52
12	Third Review Meeting Invite Letter	54
13	Guidance for Governors Hearings	56
14	Third Review Meeting Outcome Letter	58
15	Appeal Invite Letter	60
16	Appeal Outcome Letter	62
17	Ill Health Retirement Guidance – Teachers	63
18	Ill Health Retirement Guidance – Support Staff	65
19	Ill Health Retirement Letter Tier 1 / 2 / 3 (Support Staff)	66
20	Waiver Form	69
21	Outcome of Review of Warning Letter	71
22	Formal Request to LA to Terminate Employment	72
23	Calculation of Sick Pay	73
24	Guidance on the Management of Head Teacher Attendance Issues	74
25	Managing Attendance – summary flowchart	79

## **PART 2 – GUIDANCE – ATTENDANCE MANAGEMENT PROCEDURE FOR SCHOOL STAFF**

### **Managing the Attendance of School Staff**

*This guidance should be read in conjunction with the Attendance Management Procedure. The purpose of this additional guidance is to supplement the information contained within procedure and to provide templates / documents for use in managing the attendance of school staff.*

**Section A** - general advice which applies throughout the procedure.

**Section B** – Supplementary Guidance - has been set out in line with the heading and paragraph numbers used in the procedure as supplementary guidance.

#### **SECTION A – General Advice**

##### **Reporting of Sickness Absence**

###### ***Responsibilities***

It is essential that all members of staff are familiar with and fully understand the school's procedures for reporting sickness absence.

Accurate sickness absence reporting is required in order to:-

- Comply with Statutory Sick Pay regulations
- Ensure that employees who have been off work are paid correctly
- Ensure the accuracy of individual sickness records
- Allow the school to monitor absences at a strategic level Enable the provision of local authority wide data (community schools).

###### ***Initial Notification of sickness***

If the employee has given notice of being hospitalised for an operation or treatment or is in hospital following an accident please seek HR advice before considering any formal action. An employee who is unable to attend work must report sick on the first working day on which they are absent. The employee should endeavour to report their absence as soon as they know they are unable to attend work, in order that alternative cover arrangements can be made if necessary. The head teacher should always report their absence to the school (for recording purposes) and the Chair of Governors.

Unless too ill or hospitalised, the employee should personally telephone their head teacher or designated person. Unless otherwise agreed, text messages should not be accepted as an appropriate means of reporting sickness.

###### ***The fourth day of absence***

If the employee's illness extends beyond the third day (including non-working days) they **must** contact their head teacher or designated person again on the fourth day (or nearest working day). At this stage they will be asked to complete a Form SSP2 Self-Certification of Sickness Absence Form, which will either be sent to them or provided by the school on their return to work.

If the employee does not contact the school then the head teacher or designated person **must** contact the employee.

### ***After 7 days of absence***

If an employee's illness exceeds 7 consecutive days (including non-working days), they **must** obtain a fit for work note from their doctor and send to the school without delay. If the absence becomes long-term, all further medical certificates **must** be sent to the head teacher or designated person as they are issued. When a fit for work note has been issued, the employee **must not return to duty** until the conditions of the fit note have been met. If an employee is sick during annual leave or school holiday (closure) periods they should follow the normal reporting procedures and notify their manager in the usual way. Employees will only be regarded as being sick if they have followed reporting procedures and the absence is certified via a Fit Note.

### ***Failure to notify***

Failure to notify the head teacher or designated officer of an absence, and/or failure to obtain a fit for work note can result in an employee's pay being stopped. Please contact the HR Service before taking this action.

### **Fit for work notes**

GP's no longer issue "**sick notes**" and instead are required to issue a "**Fit Note**". Hospitals will continue to use their old forms. This system was introduced as part of a larger national strategy – "Working for a Healthier Tomorrow" which aims to improve the health of people of working age. On the fitness for work form, the GP will be able to say whether the employee is either:

- (a) not fit for work, or
- (b) may be fit for work (with some changes in the workplace).

The GP will be able to suggest which changes if any to working hours or duties or other practical workplace adaptations may assist a return to work. These might include:

- A phased return to work
- Amended duties
- Altered or part time hours
- Practical workplace adaptations.

The form also provides additional space for the GP to make any specific comments about the employee's health, the effects of this on their ability to do their job or the adjustment suggested. The GP does not have to see their patient; they can write this form following a telephone consultation. Employees will continue to be required to self-certificate for the first 7 days of absence. The national guidance for the introduction of the new system acknowledges that GP's are not occupational health experts and they do not have a detailed knowledge of either the work or the workplace of their patients. Suggested changes can only be put in place "*if they are available*" and with the "*employer's agreement*". The fit note, therefore, is for general guidance only. Head Teachers should continue to discuss individual cases as necessary with the HR Service, Occupational Health and/or Health & Safety to decide which changes can be accommodated. Where the adjustments cannot reasonably be made, and the employee cannot return to work, this note can be used to cover their sickness absence. Where the GP has stated they do not need to assess the employee again, this means that the employee should be able to return to work at the end of the period stated. Fit to return notes will no longer be issued by GP's.

Considerations of reasonable adjustments relating to the Equality Act 2010 will still apply. Failure to consider and / or implement reasonable adjustments as stated by the GP on the fit for work note will need to be justified at any subsequent hearings and / or Employment Tribunal's. Wherever possible, it is better to make reasonable adjustments that support an employee back to work on a phased basis as this will improve the chance of getting back to work as normal. Fit Notes should impact positively on your ability to make simple, practical adjustments to assist an early return to work for absent employees. For advice and guidance contact your HR Business Partner.

## **Fit for Work Service**

A government review of sickness absence launched in 2011 made a series of recommendations, one of which was 'Fit for Work', a new national Service providing Occupational Health advice and support for employees, employers and GP's. Primarily aimed at small and medium private businesses, it is designed to work alongside existing occupational health services and is not intended to be a replacement for them. The Service was rolled out in Sheffield and Bassetlaw during Spring 2015, and will roll out in Nottinghamshire during Autumn 2015.

An employee must consent to being referred to the Fit for Work Service and for their Return to Work Plan to be shared with their GP and employer. Referrals can only occur after 4 weeks continuous absence or where the absence is likely to extend to 4 weeks, and where the employee could return to work to work within 3 months. Employees can only be referred **once** within a 12 month period, even where there is a repeated absence linked to the original cause. The majority of assessments will be telephone based.

It is not anticipated that a GP will refer an employee to the Fit for Work Service as they and employees would normally be aware that Nottinghamshire County Council has its own comprehensive provision.

**Where a school has bought back the Occupational Health Service, referrals will therefore continue to be made to our Occupational Health Unit for advice and support. The clinicians at the Occupational Health Service have the fullest understanding of the job roles within the Council and schools and as such it is essential that their advice continues to be sought in the usual manner.**

In the unlikely event that an employee's Fit for Work Plan is sent to you, please contact the HR Service [HR Contacts](#) or Occupational Health Service for advice. Please note: A Return to Work plan can be taken as evidence equivalent to a Fit Note for the purposes of Statutory Sick Pay entitlement. An employee will need to provide a Fit Note however if he or she is discharged from the Service before returning to work or if the employee does not consent to release of the Return to Work plan to the employer.

## **Equality Act 2010**

**In all cases of sickness relating to an employee covered by the Equality Act head teachers should consult the HR Service.**

Further information can be found on the Equality Act 2010 via the following link [www.hms0.gov.uk/acts.htm](http://www.hms0.gov.uk/acts.htm)

Disability Discrimination issues can be complex from both a HR and legal perspective. A person has a disability if they have a physical or mental impairment which has a long term and substantial adverse effect on their ability to carry out normal day to day activities. Physical or

mental impairment includes sensory impairments such as those effecting sight or hearing. An impairment which consists of a severe disfigurement is treated as having a substantial adverse effect on the ability of the person concerned to carry out normal day-to-day activity. Long term means that the effect of the impairment has lasted or is likely to last for at least 12 months or for the rest of the affected person's life. Substantial means more than minor or trivial.

Where a person is taking measures to treat or correct an impairment (other than by using spectacles or contact lenses) and, but for those measures, the impairment would likely have a substantial adverse effect on the ability to carry out normal day to day activities, it is still to be treated as though it does have such an effect.

This means that 'hidden' impairments (for example, mental illness or mental health conditions, diabetes and epilepsy) may count as disabilities where they meet the definition in the Act.

Cancer, HIV infection, and multiple sclerosis are deemed disabilities under the Act from the point of diagnosis. In some circumstances, people who have a visual impairment are automatically treated under the Act as being disabled. Progressive conditions and those with fluctuating or recurring effects will amount to disabilities in certain circumstances.

Normal day to day activities include (but are not limited to) everyday things like eating, washing, walking and going shopping. An employer unlawfully discriminates against a disabled person where, for reasons related to their having a disability, they receive (unjustifiably) less favourable treatment that they would otherwise receive or if they fail (unjustifiably) to consider and make reasonable adjustments in relation to a disabled person.

An impairment would be considered to affect normal day to day activities if one of the following is affected:

- Mobility
- Manual dexterity
- Physical co-ordination
- Ability to lift, carry or otherwise move everyday objects
- Speech, hearing or eyesight
- Memory or ability to concentrate, learn or understand
- Perception of the risk of physical danger

The key issue in relation to absence management is that, where the effects of a persons' disability results in a persons' inability to undertake the full range of duties and responsibilities or need to be absent from work or where a disabled person requires leave which is directly associated with their disability, the law says that reasonable adjustments will need to be accommodated. A failure on the part of the school to acknowledge these needs could amount to a failure to make a "reasonable adjustment". The Occupational Health Service will offer advice and guidance regarding reasonable adjustments, although the decision whether it is reasonable and/or practicable is a matter for the school. Advice is available through the HR Service and can also be obtained via a number of services including the Disability Advice Service and/or Workstep.

The Employment provisions of the Equality Act mean that:

- employers must not unjustifiably discriminate against current or prospective employees with disabilities, or those who have had disabilities in the past

- employers will have to make reasonable adjustments to their employment arrangements or premises if these substantially disadvantage a disabled employee compared to a non-disabled person.

If a member of staff has a disability, the head teacher should consult the person about their needs and, if the employee has a progressive condition, the head teacher should consider what affect the disability may have on future employment. The head teacher and governors will need to consider making reasonable adjustments for the disabled person.

The provision of leave is a reasonable adjustment where a disabled person may need to be absent from work for 'rehabilitation, assessment or treatment'. Examples may include:-

- rehabilitation for someone newly disabled or whose condition has changed significantly
- hospital/specialist appointments

Disability Leave should be recorded as such, should not be counted as sickness absence and should be with pay. Disability Leave should not be defined in terms of maximum entitlements but instead in terms of reasonableness (see guidance heading '**disability leave**'). On the BMS system disability leave should be recorded in the following way: Absence Type / Disability, and recorded separately to sickness.

If a governing body dismisses a disabled employee for a reason relating to their disability they may need to justify their decision if this is challenged at an Employment Tribunal. The reason for dismissal would have to be one which could not be removed by putting in place any reasonable adjustment.

When considering the needs of a disabled member of staff it is important that Head teachers seek advice from the HR Service.

## **Occupational Health**

Consideration should be given on a case by case basis, and with appropriate HR advice, as to whether it would be appropriate to refer the case to Occupational Health to obtain medical advice and opinion. Arrangements for a referral to Occupational Health can be made through the HR Service.

All employees shall, if requested by the school, agree to attend an arranged Occupational Health appointment with a medical practitioner appointed by the LA. Whilst it is acknowledged that only Teachers and Teaching Assistants have a contractual obligation to attend Occupational Health appointments, it is hoped that all staff will see the benefit of medical advice being sought.

Where an employee refuses to co-operate in providing medical advice or to attend an Occupational Health appointment, the member of staff should be reminded of the requirements under their conditions of service (Teachers and Teaching Assistants) and informed, in writing, that any decision relating to the situation will be taken on the basis of the other information available. If an employee therefore refuses to attend an Occupational Health appointment, or fails to enable the provision of medical advice from their own doctor and / or consultant within a reasonable timescale, a decision may be made without medical information and the employee should be made aware of this. Further information can be found on the [schools portal](#).

## **Medical Reports**

Following an occupational health appointment a copy of the medical report will be sent directly to the employee. The school should plan a **welfare or formal absence review meeting** to coincide with this so that the report can be discussed with the employee.

As part of the welfare discussion the following should be covered sensitively and as appropriate to the case:-

- ask the employee for their views on the report i.e. is it a fair reflection of their situation, do they disagree with any of it?;
- discuss progress and current position of their illness;
- explore the effectiveness and impact of any treatment and/or medication;
- establish any limitations to their ability to undertake the full duties and responsibilities of the post, for example - what can they do / cannot do at present, timescales;
- establish when they expect to have further treatment, medical appointments with GP, consultant etc.;
- discuss a timetable/ prognosis for recovery;
- discuss expected return to work date or date anticipated to return to full duties in the light of any adjustments which may be required either permanently or temporarily;
- discuss next steps including timescale and dates for absence review meetings / further absence review meetings.

## **Identification and support**

Where a problem in attendance is identified the matter should be addressed at the earliest possible stage; the nature of the problem, extent of absences, the seriousness and causes should be investigated, and strategies and support to improve attendance should be explored. At this stage head teachers are advised to make contact with their nominated HR Business Partner to assist the school to determine what action should be taken depending on the circumstances and whether the problem relates to a short term persistent or long term absence. The HR Service will assist the school to plan and manage each case. It is very important that all head teachers / schools maintain accurate records of the steps taken and the support provided to managing attendance cases.

The list of options identified below is not exhaustive, and neither are the options mutually exclusive, but the head teacher may wish to consider any number of the following:

***Keep the situation under review*** – based on the information and evidence available, a decision that there is no need to take any supportive action or formal action at present but to keep the situation under review for a specified period at which point it should be reviewed. This should be discussed with the employee.

***Seek Occupational Health advice*** – consider whether it would be appropriate to refer the case to Occupational Health to obtain medical advice and opinion.

### ***Provide Other Relevant Support:***

1. Continue with return to work meetings (**Appendix 2a** and **Appendix 2b**) and other informal welfare meetings (**Appendix 4a** and **Appendix 4b**) and support to the employee. This would be appropriate where the level of attendance is unsatisfactory but it is known to be a short term problem or a timeline for improvement/recovery has already been agreed, or other support mechanisms are being applied and are effective.

2. Counselling intervention can play a key part in improving levels of employee sickness absence, productivity and performance and in building a positive well-being culture. This should be a key priority for the governing body. The County Council is working in partnership with an external provider, **Care First** (a division of Partnerships in Care Ltd), to offer counselling services to employees. Please find further information and the relevant referral form on [Counselling Services](#).
3. Referral to occupational health and/or a health and safety assessment relating to the specific health issues. (TUC guidance on supporting women through the menopause is available on Wired / HR Guidance (Schools) Community / Managing Attendance folder).
4. Where the employee has a condition which may be disability related, specialist advice and involvement of such organisations as Access to Work can be arranged to supplement the occupational health advice. Access to Work is a service delivered by Job Centre Plus as a specialist in disability for advice and support to disabled employees to remain in or obtain work. Support is by way of funding for equipment, travel or other identified support. More information can be obtained via [www.gov.uk/access-to-work](http://www.gov.uk/access-to-work)
5. Free advice - Employers Forum on Disability (EFD) - any member of staff, including school staff, working for NCC can contact the EFD to discuss disability related queries in relation to employment for advice and good practice. Helpline: 0207 4033020 / Email: [disabilitydirections@sesd.org.uk](mailto:disabilitydirections@sesd.org.uk)

**Start Formal Procedures** - to manage the attendance issues through the formal attendance procedures. Please see **Part 1 – Procedure**.

**Pursue Redeployment** - It is not possible to be prescriptive about the timing of discussions with the individual about the possibility of redeployment to another post. However it is important to be considered at any formal review and where appropriate realistic redeployment support initiated. No guarantee can be given regarding redeployment of staff. The success of a redeployment case depends on many factors, including whether alternative employment is available within the school. Redeployment to another school/workplace will depend on suitable vacancies arising and would normally be subject to competitive interview. Neither the school nor the Local Authority is able to simply redeploy a person from one school and offer a job in another. Advice should be sought from the HR Service before raising this with the employee.

**Support an Application for Consideration of Ill Health Retirement** - Depending on the nature of the health issue and period of absence, the individual may consider applying for ill health retirement. If so, further advice may be sought by the individual, or on their behalf by the head teacher, from the HR Service and support may also be sought from the individual's trade union, if appropriate. Both teaching and support staff will need to be supported with their application for ill health retirement by the Occupational Health Adviser, who should have background knowledge of their case based on previous referrals. Note that a recommendation from an OH doctor may be insufficient to secure ill health retirement for teachers; and individuals are advised to seek a report / recommendation from a specialist prior to submitting an application for ill health retirement to Teachers Pensions. A potential application on the grounds of ill health retirement should not necessarily delay the timing of any review meetings. It is important for schools to manage all absence cases and an application for ill health retirement will be delayed if regular occupational health advice has not been obtained by the school. (See **Appendix 17** for Teachers and **Appendix 18** and **19** for Support Staff).

**Phased Return to Work** - In cases of serious illness or injury, where an employee is not immediately fit to return to their full duties and responsibilities medical practitioners sometimes recommend that a phased return to work would facilitate an employee's recovery.

The governing body and HR Service should support a phased return recommendation in appropriate circumstances where this is practicable and where this would assist the recovery of a member of staff. A phased return should be management led and take into account the medical advice and circumstances of the particular case. It should also be realistic and practical and be within the organisational requirements of the school.

A return to work may take a variety of forms over the agreed period, including:-

- working on certain days of the week
- working a reduced number of hours over the week
- undertaking restricted duties.

Where an employee has been absent from work due to a serious illness or injury and where advice from a medical practitioner indicates that a phased return to work is required, the following procedure should be followed:-

- The proposed phased return should be subject to consideration by the Occupational Health Physician, HR Service and the head teacher on behalf of the governing body. The proposed phased return requires careful consideration and an agreement should be reached that the proposed arrangements are operationally and educationally feasible and acceptable;
- Fit for work notes should be obtained from the GP indicating that the employee is capable of fulfilling the arrangements for the proposed phased return to work plan.
- A written plan, including a timescale of the phased return needs to be agreed between the school and the employee. In the majority of circumstances the phased return period would be for a period of 1-2 weeks, and in any event should not normally exceed 4 weeks. The phased return period is intended to allow the employee to gradually work towards their usual pattern of work and responsibilities, to the point at which they are able to carry out their full range of duties and contractual requirements.
- Payment of salary during the phased return period set out above will be at full pay for an initially agreed reasonable period of time, subject to review and taking into account advice from the Occupational Health Physician, HR Service and discussion between the head teacher, Governors and employee. However, advice should be sought from the HR Service in individual cases where this is not considered to be appropriate.
- If an individual wishes to extend the phased return period beyond that agreed they may do so using annual leave (all year round support staff only). Where an employee wishes the phased return to be extended the governing body could consider a temporary variation to the contract of employment and a consequent reduction to the pay to reflect the hours worked over a slightly longer period if this is requested. Any permanent or longer temporary arrangements will be subject to the ability of the school to cover any remaining hours/vacancy and should be confirmed in a revised contract of employment.

## **Managing Special Circumstances**

### ***Disability and Sickness Absence***

All disability related sickness absence except disability leave counts towards key absence indicators (see procedure paragraph 2.0). In conducting an absence review meeting, the head teacher should be mindful that the employee may have a disability, whether the employee

declares this or not. In all cases therefore, where the condition or impairment affects their ability to undertake specific duties or responsibilities and/or appears to be associated with a high level of absence, the head teacher is required to explore with the employee the possibility of suitable adjustments to their job.

The employee should be asked for their opinion on adjustments and adaptations, where the head teacher has some doubt regarding the reasonableness of a suggested adjustment or adaptation, they should seek advice from the appropriate HR Business Partner before discounting any such proposal as impracticable. Where feasible, agreed adjustments could be arranged on a short-term basis, pending a referral to the Occupational Health Advisor, who will attempt to establish what medically-advised adjustments or adaptations would support the employee.

It is recommended that where a long-term disability is identified, the head teacher should arrange to review adjustments/adaptations and attendance on a regular basis due to fluctuations in the effect(s) of disability. As with all employees, absence levels incurred by staff with disabilities which meet/exceed the key indicators should always be regarded as an issue for concern. Whilst a **marginal** amount of additional sickness may ultimately be agreed as an “appropriate adjustment” in an individual case, any action plan should aim to enable the employee to return to or maintain full attendance within a reasonable timescale.

**In all cases of sickness relating to an employee covered by the Equality Act head teachers should consult with the HR Service.**

### ***Reasonable Adjustments***

Where the employee is disabled the requirement to consider and implement reasonable adjustments may lead to a potentially greater obligation on the school.

Reasonable adjustments include:

- Making an adjustment to the premises
- Allocating some of the disabled person’s duties to another person
- Altering the person’s working hours/pattern
- Assigning the person to a different place of work
- Allowing the person to be absent during working hours for rehabilitation, assessment or training
- Acquiring or modifying equipment
- Providing a reader or interpreter

The basis of the requirement to make a reasonable adjustment is to prevent the disabled person from facing a substantial disadvantage compared to people who do not have their disability. The purpose is to provide the disabled person a fairer opportunity to be assessed on their true merits and not purely from the perspective of their disability.

### ***Disability Leave***

A disabled employee may be absent from work for rehabilitation, assessment or treatment. The disability related absence may include (although not exhaustive):

- Rehabilitation for an employee who is “newly disabled” or whose condition has changed significantly
- Routine assessments , e.g. of hearing aids
- Training courses for special provisions e.g. familiarisation with a guide dog

Paid time off which may be required by a disabled employee in order to attend check-ups, rehabilitation, assessment, etc. is not defined as sickness nor does it count for trigger purposes and should be recorded as Disability Leave separate to sickness.

### ***Terminal Illness***

An employee who has a terminal illness should be supported compassionately and sensitively and any action taken must be taken in conjunction with medical advice and in light of particular circumstances. The schools should arrange through their HR Business Partner for the Occupational Health Service to liaise with the employee's General Practitioner and/or Consultant to establish the medical position and prognosis so that the school can be advised on how to support and manage the individual case. Employees should always be advised to seek support and guidance from their trade union in such circumstances.

### ***Maternity***

Pregnancy in itself is not an illness. If the employee is absent with sickness related to the pregnancy, the school should still keep the matter under review, take medical advice and discuss it with the employee.

### ***Substance Misuse***

In those situations where the head teacher believes or suspects, that a member of staff has an alcohol or drug related problem, the employee may demonstrate changes in their behaviour and certain patterns may also emerge:-

- Unexplained decline in job performance
- Frequent and unexplained absences
- Changes in personality

Head teachers should not ignore these concerns and should take appropriate action. Further guidance is available within [Drugs and Alcohol Misuse guidance](#); you are also able to seek advice from the HR Service.

### ***Domestic Violence***

It is not always easy to recognise where domestic violence is taking place. Certain indicators such as a change in behaviour, inability to concentrate, regular injuries and unexplained absence from work may be indicative of a domestic violence issue. Head teachers should refer to the policy on Domestic Violence – Wired / HR Community and seek advice from the HR Service.

### ***Stress***

The Governing Body is committed to reducing the risk to the health and safety of its employees from stress at work. It is recognised that stress is not a disease; it is a natural human reaction to excessive pressure. Where stress is given as the cause of illness, it is important to listen carefully to what the employee has to say and:

- identify the source of stress (“stressors”)
- involve the employee in decisions which will help to remove the stressors,
- encourage the employee to address the immediate effects by seeking help from their GP
- advise the employee to consult their Trade Union

In situations where the stress is cited as being work-related, it is important to respond quickly and consider how the employee may be supported. Subject to the practical needs of the school,

temporary relocation of the employee or adjustments to duties or working hours may be required until a strategy can be determined in light of this information or as a result of Occupational Health advice. Where the employee meets the criteria for referral to the counselling service this should not be relied upon to counteract stress, although this may be an appropriate secondary support.

Where the employee cites harassment or bullying as the source of their ill-health the school should respond appropriately and the Head Teacher should refer to the Harassment Procedure and seek HR advice.

### Risk Assessments

In general Head Teachers should aim to ensure that the work area is risk-assessed for stress and appropriate control measures put in place. The school has a duty to ensure that long-term demands on staff are not unreasonable. However, in managing individual absence cases, an empathetic approach and a style which embraces “active listening” during the Formal Meetings can do much to alleviate stress. Further guidance on stress management is contained in the [Policy on the management of stress](#).

### Stress Training

Head Teachers are also encouraged to complete the stress e-learning package. Further details are available on [schools portal](#).

### Stress Audits

Schools should regularly undertake stress audits which are administered through the brought back Occupational Health Service. Please contact Occupational Health for further information on 01623 665960.

### **Work-Related Stress**

Discussions at return to work or Review Meetings may indicate that work, or more specifically the employee’s job, is being cited as the cause of the ill health.

As soon as this is evident, the head teacher should conduct the necessary enquiries, review the risk assessment and take appropriate action in order to eliminate the hazard/risk where practicable. This may include physically relocating the employee or adjusting duties temporarily, as a possible solution. Any such proposals should be discussed with the HR Service, the Health and Safety Team and Occupational Health as appropriate.

Where an employee verbally informs their head teacher that they are suffering from work related stress the condition needs to be followed up with the Occupational Health Physician to seek advice on how to manage the workplace health issues. The occupational health physician will seek medical advice as necessary from the employees GP.

### **Carry Forward of Annual Leave (support staff only)**

Employees absent through long term sickness are normally expected to take their annual leave entitlement during the year in which the entitlement falls and should request the leave concerned in advance through their line manager, no later than by February of the leave year concerned. Absence booked and taken as annual leave will be paid at full contractual pay for the days concerned, regardless of the employee’s current sick pay status. Head teachers will normally be expected to permit the annual leave requested and inform the HR-Pay Team of the leave dates concerned. Taking annual leave will not break the continuity of the sickness absence for either

absence monitoring or for sick pay calculation purposes as it will be assumed the employee remains unfit to attend work unless the school is notified otherwise.

Where an employee has not taken their basic statutory entitlement to 20 days annual leave and 8 days leave in respect of bank holidays (pro-rata for part time staff), by the end of the leave year because they have been prevented from doing so due to sickness absence, discretionary consideration will be given by head teachers, on an individual, case by case basis, to requests to carry forward this entitlement to the next leave year. In these circumstances, the total amount of annual leave already taken in the relevant leave year when added to the amount of leave being carried over, shall not exceed 28 days (pro-rata for part-time staff). The taking of annual leave should be discussed at the welfare meeting.

## **SECTION B – Supplementary Guidance to the Attendance Management Procedure**

*Guidance is set out in line with the paragraph numbers in the procedure.*

### **1.0 The Procedure**

#### ***Monitoring Attendance***

The key requirement for effective absence management is the availability and use of information gained by accurate recording and monitoring of absence levels by the school. Where schools buy into the Local Authority HR Service the information at school level will be supplemented with more generic comparative data for Nottinghamshire schools.

Monitoring provides essential information to enable the head teacher/governing body to:

- manage sickness absence effectively and increase attendance levels by supporting staff to maintain appropriate levels of attendance and monitor the effectiveness of a return to work after a period of sickness absence;
- provide a means by which attendance and health issues may be identified and managed at an early stage and as individual cases progress;
- ensure that accurate information is available to the head teacher and the governing body so that informed decisions can be taken to enable them to carry out their responsibility for minimising the risk to the health of staff and the education and welfare of pupils.

Schools require accurate and up to date information systems to enable the head teacher to confidentially and objectively assess the circumstances and facts relating to a particular case. Information about staff absences should also enable the head teacher and other managers to identify trends and any potential underlying issues which need to be addressed. Effective record keeping is, therefore, an essential management tool for monitoring employee attendance.

These procedures also provide a mechanism for schools to explore the reasons for absence and to determine strategies to prevent the absence through continuing to:-

- support staff to maintain attendance;
- provide clear guidance for head teachers and governors;
- minimise the effects of absence on the continuity of pupils' education.

All absences should be recorded, monitored and analysed to enable the head teacher to maintain the information necessary to:-

- assess levels of absence against any perceived or identified triggers;
- identify problems;
- review individual cases;
- decide on appropriate action.

Individual sickness absence records should identify the reason, frequency, pattern of absence and whether they are long or short term absences. Records should include absences for both whole and part days due to:

- Sickness absence(whether certified or self-certified);

- industrial injury, medical and other appointments and disability leave are recorded separately.

Leave of absence e.g. compassionate leave or other domestic reasons which do not form part of sickness absence records for staff, should also be recorded separately.

All schools must report sickness absence through BMS, please follow the instructions available on the [Schools Portal](#).

### ***Welfare Support***

Regular contact with the employee (and where appropriate their trade union or work colleague) is an important management responsibility throughout any period of absence. Communication should therefore be management led and be reasonable and appropriate and the extent and frequency of the contact will need to be judged case by case and agreed with the employee. This should be established early on in all cases and, if agreed, maintained throughout. Normally the responsibility for this lies with the head teacher unless the individual has indicated otherwise in which case it may be more appropriate for the named contact person to be the deputy head or other school manager. In some cases, because of the nature of the illness, it may be necessary to agree that contact with the employee will be made indirectly through a third party for example, trade union representative, partner or close relative.

However managed, the important principle is that some level of contact with the employee is agreed and maintained throughout the absence whether this is by letter, e-mail, telephone, personal visits by head teacher and/or colleagues.

The purpose of this communication is to:

- maintain contact with the absent member of staff with a view to facilitating an early return to work or to discuss strategies and support to improve short term persistent absence;
- ensure timely discussion when the absence is becoming an issue of concern;
- provide an opportunity for the member of staff to keep the head teacher up to date with progress on their health condition and a timescale for an expected return to work;
- provide an opportunity to discuss continuing cover arrangements and for any ongoing support for the employee to be organised, including further occupational health referrals or modifications for the job role or work environment;
- allow an opportunity for any school/employee concerns to be discussed and a return to work to be planned;
- give scope for other appropriate discussions including the possibility of ill health retirement or redeployment where this is practicable.

Before the formal procedure is applied there is an expectation that head teachers / line managers will be able to demonstrate evidence that the employee has been made aware of the concerns and that support has been offered and provided to the employee throughout the initial stages of the absence(s) and that regular dialogue, reasonable welfare support and return to work and welfare meetings where appropriate have been provided. These initial stages are a very important part of the process so that whenever possible, concerns are resolved without recourse to the formal procedures.

Head teachers should make provision throughout the process to:-

- maintain regular contact with the member of staff;
- seek advice and support from the HR Service;

- remind the employee that they may be accompanied at any stage of the process by a trade union representative or work colleague;
- make and keep notes of all meetings, discussions and action plans. Provide copies of the outcome of meetings to the individual who may comment on the notes and where these comments are not agreed by the school these comments will be recorded separately;
- discuss strategies to facilitate a return to work. This could include a phased return, temporary or permanent part-time working, change of responsibility (if possible), redeployment etc.;
- discuss strategies and support to improve short term persistent absence ensure the member of staff knows what is happening at each stage and is aware of the likely implementation of the formal procedures following a failure to improve attendance;
- ensure the Chair of Governors is kept up to date with the situation and supports any action taken;
- consider, at all stages, both the needs of the school and the employee;
- if something unusual happens which is beyond the control of either the school or the employee during a review period for example bereavement consideration should be given to extending the review period.

Please see **Appendix 4a** and **Appendix 4b** for further guidance / information.

### ***Implementing Formal Procedures***

Where review meetings are planned, employees should be informed and provided with the necessary letters and supporting documentation at an appropriate time to ensure the employee has the opportunity to contact their union representative or work colleague for support. Wherever possible this should be communicated towards the end of the working day and any confirmation letters should be during the working week to avoid notifications arriving on a weekend or during the school holidays wherever possible. It is therefore preferable to avoid sending letters in the last 3 days of term. Where this cannot be avoided due to procedural timescale, head teachers are advised to offer to contact the trade union representative and the HR Service to advise them of the content of the letter and to enable the trade union representative to contact the employee if necessary.

## **2.0 Key Indicators**

The key indicators need to be applied carefully as it is equally important that an individual's personal circumstances and long term attendance record should also be taken into account when considering appropriate action.

In many cases the employee can be supported by a referral to Occupational Health. However, depending on the circumstances and reasons given for the absence a referral should not automatically be made in every case even when these indicators are met unless there is a medical reason to do so.

### ***Short Term Persistent Absence***

This can be defined as a situation where an employee has regular periods of sickness absence interspersed by periods at work or where an employee has odd days off, reported as sickness but uncertified by a doctor. Usually the absences are attributable to minor ailments and in many cases are unconnected and often there will be no apparent underlying medical cause. If an employee is absent through ill-health, whether certified or not, head teachers should treat the illness as genuine. However, if head teachers suspect that an absence may not be genuine, advice should be sought from the HR Service.

Considerable operational difficulties can be created in school by frequent absences and this can only be identified and addressed effectively through monitoring systems and effective management action. Schools should already have in place systems to record absences.

### ***Long Term Absence***

Long term sickness absence is generally considered to be continuous absence of 4 weeks or more. It can usually be traced to an underlying medical condition or specific reason. Each case must be assessed on its own facts and the management of it will clearly depend on the medical prognosis and the impact of the absence on the school. For example, the situation involving an employee with a broken limb who has a clear return to work date will need to be managed differently from a case involving an employee with a long term illness with no defined return to work date. Indeed in the case of say a broken limb, there may be no need to take any action at all, except to ensure that communication is maintained and medical advice and welfare support is in place to facilitate a return to work within the usual timescale.

## **5.0 First Review Meeting**

5.1 It is important to arrange the date of the review meeting in advance, in consultation with the employee, their appropriate trade union representative or work colleague to ensure that all parties are able to attend. If the trade union representative or work colleague is unable to attend on the date of a meeting, the law requires that a further date should be agreed within 5 working days of the original date.

5.3 Every effort should be made to enable the employee to attend review meetings. If, however, the employee is unable or declines to attend, it may be appropriate for the meeting to proceed in their absence. It may be agreed that the employee could be represented by their recognised Trade Union or work colleague in their absence. In such circumstances, an explanation of the decision should be provided to the employee in the letter to the employee confirming the decision taken.

5.3 It may be necessary to re-arrange the meeting for a period of no longer than 5 working days if the employee's trade union representative is unexpectedly and unavoidably unable to attend on the planned date and it is not possible for a substitute representative to attend at short notice. In such cases the trade union is required to make every reasonable effort to provide the employee with a substitute representative so that the meeting can go ahead on the planned date. The paperwork / documents circulated 10 days in advance of the meeting may not always include the medical advice as it may depend on the availability of Occupational Health appointments and / or Consultant's advice which is outside of the control of the school. It is recognised that some relevant information may therefore be presented at a later date or at the meeting itself. The school and the employee have a shared responsibility to ensure that information is made available as quickly as possible.

5.5 The notes of this meeting are not intended to be a verbatim account but should be an accurate summary of the key issues discussed, provide a record of the documents considered and provide details of the outcome and in particular any agreed actions and decisions. Usually notes will be taken by a member of the support staff, but in exceptional cases it may be appropriate for the note taker to be external to the school.

The notes taken at the meeting will be provided to the employee and, if applicable their trade union representative or work colleague. The employee will be given the opportunity to comment

on the accuracy of the notes. The employee should be asked to return a signed copy to signify they represent a fair summary of the meeting.

## **6.0 First Review Meeting – Possible Outcomes**

6.5 At the end of the meeting, whilst all parties are present, it is important to set a date to review progress at the end of the review period, to avoid unnecessary slippage. Where the trade union is unable to attend on the proposed review date and it is not possible to agree a date within 5 days of the original date, the representative will be responsible for arranging a replacement representative to be identified to the school and available to attend the next review meeting so that the employee is supported and the review can progress as planned. The name of the representative will be notified to the head teacher and the employee within 7 days of this meeting.

## **9.0 Second Review Meeting**

9.1 Every effort should be made to enable the employee to attend review meetings. If, however, the employee is unable or declines to attend, it may be appropriate for the meeting to proceed in their absence. It may be agreed that the employee could be represented by their recognised Trade Union in their absence. In such circumstances, an explanation of the decision should be provided to the employee in the letter to the employee confirming the decision taken.

9.1 It is important to arrange the date of the review meeting in advance, in consultation with the employee and the appropriate trade union representative or colleague to ensure that they are able to attend. If the trade union representative or colleague is unable to attend on the date of a meeting, the law requires that a further date should be agreed within 5 working days of the original date.

9.1 It may be necessary to re-arrange the meeting for a period of no longer than 5 working days if the employee's trade union representative is unexpectedly and unavoidably unable to attend on the planned date and it is not possible for a substitute representative to attend at short notice. In such cases the trade union is required to make every reasonable effort to provide the employee with a substitute representative so that the meeting can go ahead on the planned date.

9.3 The notes of this meeting are not intended to be a verbatim account but should be an accurate summary of the key issues discussed; provide a record of the documents considered; provide details of the outcome and in particular any agreed actions and decisions. Usually notes will be taken by a member of the support staff, but in exceptional cases it may be appropriate for the note taker to be external to the school.

The notes taken at the meeting will be provided to the employee and, if applicable their trade union representative or colleague. The employee will be given the opportunity to comment on the accuracy of the notes. The employee should be asked to return a signed copy to signify they represent a fair summary of the meeting.

## **10.0 Second Review Meeting – Possible Outcomes**

10.7 It is important to set a date to review progress at the end of the review period, whilst all parties are present, to avoid unnecessary slippage. Where the trade union is unable to attend on the proposed review date and it is not possible to agree a date within 5 days of the original date, the representative will be responsible for arranging a replacement representative to be identified to the school and available to attend the next review meeting so that employee is supported and

the review can progress as planned. The name of the representative will be notified to the head teacher and the employee within 7 days of this meeting.

### **13.0 Third Review Meeting**

13.1 Every effort should be made to enable the employee to attend review meetings. If, however, the employee is unable or declines to attend, it may be appropriate for the meeting to proceed in their absence. It may be agreed that the employee could be represented by their recognised Trade Union in their absence. In such circumstances, an explanation of the decision should be provided to the employee in the letter to the employee confirming the decision taken.

13.1 It is important to arrange the date of the review meeting in advance, in consultation with the employee and the appropriate trade union representative or colleague to ensure that they are able to attend. If the trade union representative or colleague is unable to attend on the date of a meeting, the law requires that a further date should be agreed within 5 working days of the original date.

13.1 It may be necessary to re-arrange the meeting for a period of no longer than 5 working days if the employee's trade union representative is unexpectedly and unavoidably unable to attend on the planned date and it is not possible for a substitute representative to attend at short notice. In such cases the trade union is required to make every reasonable effort to provide the employee with a substitute representative so that the meeting can go ahead on the planned date.

13.3 The notes of this meeting are not intended to be a verbatim account but should be an accurate summary of the key issues discussed; provide a record of the documents considered; provide details of the outcome and in particular any agreed actions and decisions. Usually notes will be taken by a member of the support staff, but in exceptional cases it may be appropriate for the note taker to be external to the school.

The notes taken at the meeting will be provided to the employee and, if applicable their trade union representative or colleague. The employee will be given the opportunity to comment on the accuracy of the notes. The employee should be asked to return a signed copy to signify they represent a fair summary of the meeting.

13.4 Where an employee is invited to a meeting where dismissal is a potential outcome, the letter must be very carefully worded and should provide the required documentary evidence to the employee, their representative and the governors' panel.

### **14.0 Third Review Meeting – Possible Outcomes**

*(14.1 – 14.6)*

The local authority advice is that the decision to dismiss should not be made by a single person but should be delegated to a panel of three governors. The panel may comprise the members of any previous governors' appeal panel, providing there is no conflict of interest. Staff governors should therefore be excluded wherever possible and if there is any uncertainty about the composition of the panel, advice should be sought from the school's HR adviser. Where the head teacher has conducted the review meeting(s), s/he should present the case for dismissal to the governing body panel/appeal panel. Where the head teacher has not presented the case at any previous review meeting(s), s/he may be a member of the governors' panel convened to consider dismissal.

Careful planning is required by the school to ensure that governors hearings and appeals are properly constituted and arranged so that the process is fair to the employee and that there is no

conflict of interest on the part of the members of the panel. In 2012, changes to the law allow governing bodies to have a minimum of 7 governors. In some circumstances, particularly where panels are required, this may present difficulties in ensuring that the governing body has the required number of impartial governors for both the hearing and appeal. It is strongly recommended that staff members, wherever possible, are excluded from such panels/appeals. The overriding aim must be to avoid any conflict of interest in the constitution of the panel and to establish a panel which has balanced representation, normally consisting of three governors at both the Third Review Meeting and at any appeal stages. Where the head teacher anticipates that there may be difficulties in establishing an appropriate panel the HR Business Partner should be contacted for advice who may contact governor services for specific advice where an appropriately constituted governor panel cannot be compiled from within the governing body.

The options available to governing bodies within the School Staffing Regulations to consider dismissal are as set out below:

For all Community, Voluntary Controlled, Community Special, and Maintained Nursery schools - the Corporate Director for Children, Family and Corporate Services and/or their appointed representative has the right to attend any meeting convened to consider dismissal or an appeal against dismissal, for the purpose of providing advice to the panel. Such advice will be given to the panel only and must be considered by the panel before making a decision. The school should, therefore, always consult the HR Service before the arrangements for a dismissal hearing are confirmed.

The arrangements for the meeting should be convened according to one of the following:

- Either: The power to decide that members of staff should no longer work at this school rests with the Governing Body or,
- The power to decide that members of staff should no longer work at this school has been delegated to the head teacher/to one or more governors/to one or more governors acting with the head teacher. The arrangements will be determined by the articles of government determined by the Governing Body.

For all Academy Schools, Trusts, Foundation Schools, Voluntary Aided Schools and Foundation Special Schools - it will be necessary for the school to determine which of the following applies according to the articles of government agreed by the governing body.

- Either: The power to dismiss staff in this school rests with the Governing Body / Trust or
- The power to dismiss staff in this school has been delegated to the Principal / head teacher/to one or more governors/to one or more governors acting with the head teacher.

Every effort should be made to enable the employee to attend review meetings. If, however, the employee is unable or declines to attend, it may be appropriate for the meeting to proceed in their absence. It may be agreed that the employee could be represented by their recognised Trade Union in their absence. In such circumstances, an explanation of the decision should be provided to the employee in the letter to the employee confirming the decision taken. The corporate director for Children, Families and Cultural Services or their representative should always be invited to attend a dismissal hearing in accordance with advisory rights conveyed upon the County Council.

It may be necessary to re-arrange the meeting for a period of no longer than 5 working days if the employee's trade union representative is unexpectedly and unavoidably unable to attend on the planned date.

To enable the appeal to be heard as soon as possible, the appeal date will be agreed at this meeting with the employee and their representative or colleague present, the HR adviser and any witnesses providing at least 10 days' notice, unless an earlier date is mutually agreed.

Action following a decision to dismiss:

Community, Voluntary Controlled, Community Special, and Maintained Nursery schools - If the Governing Body (or person or people to whom the power has been delegated) has decided that the employee should no longer work at the school, it will confirm the decision made and indicate that an immediate recommendation will be made to the employer, Nottinghamshire County Council, that the employee should be dismissed from their post, stating the reasons, the date on which the employment contract will end, the required contractual notice period and confirmation of the right of appeal timescales and process. (see **Appendix 22**)

Academy Schools, Trusts, Foundation Schools, Voluntary Aided Schools and Foundation Special Schools - If the decision to dismiss is taken, the Governing Body (or person or people to whom the power to dismiss has been delegated) will dismiss the employee with notice, (Voluntary Aided, Foundation and Foundation Special schools only), stating the reason(s) for dismissal, the date on which the employment will end, the appropriate notice period, confirmation of the appeal timescales and process and a provisional date for the appeal hearing. Any appeal against dismissal will be heard as soon as possible during the employee's notice period.

### ***Payment of notice pay and annual leave on termination of contract***

On the termination of an employee's contract on the grounds of ill health they will be entitled to paid notice. In addition, support staff will be entitled to the payment of annual leave where this has not already been taken.

## **15.0 Third Review Period – Appeal against Dismissal**

15.3 On receipt of the appeal notification setting out the grounds of appeal, the head teacher or chair of governors acting as Presenting Officer will arrange for the appeal to be heard by a further panel of the governing body whose members were not party to the original decision to dismiss. The number of governors on an appeal panel should equal the size of the original governors' dismissal panel, normally a panel of three.

15.3 The arrangements for the appeal hearing are very important as this meeting represents the final opportunity for the case to be considered within the remit of the school's internal procedures. The appeal is a re-hearing of the case for dismissal and paperwork should be distributed to all parties again. The employee should be provided with an opportunity to submit additional papers / evidence for consideration by the panel and provided with a date and time by which this should be received by the school. The appeal should be heard as soon as possible and will be heard during the employee's notice period. The school should always consult the HR service before the arrangements for the dismissal appeal hearing are confirmed. This will ensure that an HR Business Partner is available to attend the appeal to provide advice and procedural support to the governors' dismissal panel.

## **16.0 Governors Appeal Hearing – Possible Outcomes**

16.1 The governors appeal panel should carefully consider the grounds of appeal and the evidence presented by the school and the employee.

16.1 If the decision is to uphold the decision to dismiss there will be no further rights of appeal against the Appeal Panel's decision other than to an Employment Tribunal if the employee has the required qualifying rights. Where the decision to dismiss the employee is not upheld, the

decision and next steps and / or any arrangements for the return to work should be confirmed in writing to the employee within 3 working days.

## **17.0 Review of Warnings**

17.1 – 17.2 The purpose of reviewing warnings is to consider the continued validity of the warning rather than its physical removal from the personal file. Such information should never be removed as it may be required as evidence later, if attendance problems re-occur which result in an Employment Tribunal. If the warning has been reviewed and confirmed as “spent” (this should be clearly recorded along with the original warning), it will not be taken into account if further sanctions, under the Attendance Management Procedures, are being considered. However, it is acceptable evidence at an Employment Tribunal to look at the history of employment in deciding whether an employer has acted reasonably in all the circumstances, hence the need to retain documentary evidence of a spent warning.

The key questions that a review should address are:-

- Has the attendance of the individual improved?
- Is there likely to be re-occurrence of the absence?

To answer these questions, it would seem appropriate that the head teacher and/or the appropriate panel of the governors should review the warning with the employee and their representative or work colleague.

It is important that an employee is notified when the warning has been removed.

17.3 Whilst there is no right of appeal against the decision to extend a warning, the employee could raise a grievance on any matter including the outcome of the review. Further guidance can be obtained from the HR Service.

## **18.0 Waiver Form**

18.1 – 18.2 In cases where both the employee and the school mutually agree to terminate employment on grounds of ill health the employee may, with advice from their trade union, work colleague or other source, complete the waiver form. The waiver form negates the requirement to go through a formal dismissal hearing process and appeal process and provides for payment in lieu of notice.

- The employee is then informed, in writing, of the governors’ decision to terminate their employment;
- Following this process the Local Authority will write to the employee giving the appropriate paid notice period;
- The minimum period of notice to which an employee is entitled is set down in the Employment Rights Act 1996. Please also see Burgundy Book for Teachers.

## **Appendix 1: Roles and Responsibilities**

It is important for the head teacher, employees and governors to establish roles and responsibilities within the school's attendance management procedure.

### **Head Teacher**

The role of the head teacher is to manage the attendance of all staff within the school. The head teacher should ensure that:

1. all staff have been given a copy or have access to Managing Attendance Employee's Guide – copy available on Wired / HR Guidance /Document Library / Attendance Management folder. This document must be available to all staff on the staff website, handbook and / or induction manual
2. staff receive appropriate support to enable them to carry out their duties effectively
3. staff are fully aware of and understand the sickness notification procedures
4. the procedures are applied fairly and consistently
5. accurate sickness records are maintained and that absence returns are quickly and accurately completed, both for monitoring and sick pay purposes
6. individual employees' sickness records are reviewed in accordance with the Attendance Management Procedure
7. school absence records and statistics are reported to the governing body on a regular basis and used to develop and implement policies to reduce health risks to employees
8. regular reinforcement of the schools expectations in relation to attendance is made
9. concern about absence levels are discussed with employees and how these can be reduced
10. each case is effectively managed where it is decided that action is required
11. welfare visits are arranged and regular contact established
12. where appropriate, a risk assessment is carried out and return to work plan/discussions undertaken
13. advice is sought, as appropriate, from the HR Service and the Occupational Health Service
14. Employees are encouraged to approach their Trade Union for appropriate advice and support
15. that staff with line management responsibility are aware of their responsibilities within the Attendance Management Procedure
16. No formal action should be taken against a trade union representative until the circumstances of the case have been notified to the local secretary of the trade union concerned

Head teachers need to treat each case sympathetically and compassionately. To help with this they should have a full understanding of the procedures in place and their role within it. They should access the advice and training available so they have the necessary skills to address concerns and to fully and sensitively discuss the absence with members of staff when the need arises.

## **School Leaders / Managers**

Whilst it is the role of the head teacher to manage the attendance of all staff within the school, it may be more practical on a day to day basis for this role to be carried out by an individual's line manager.

## **Employees**

It is expected that each employee will:

1. familiarise themselves with this procedure and guidance document and the Employee Guide to Managing Attendance
2. report sickness absence in accordance with the schools notification procedures
3. comply with the school's managing attendance procedures
4. take reasonable steps to safeguard their health, safety and wellbeing at work
5. not attend school when unfit to do so
6. attend school when fit to do so
7. seek medical advice and treatment if appropriate as soon as possible
8. keep the head teacher informed of any significant developments through regular contact, attend return to work, welfare and review meetings on the dates and times agreed
9. following discussion with the head teacher or line manager, attend appointments, arranged by the school, with the Occupational Health Physician. Whilst there is no contractual obligation for staff except teachers and TA's to attend such meetings it is expected that all staff will see the benefits of seeking medical advice. Where Occupational Health appointments have been arranged and paid for by the school, there is an expectation that all staff will attend.
10. ensure that medical advice is not unreasonably withheld or delayed and made available to the school so that welfare and formal review meetings take place on time with relevant information made available.
11. work proactively with the head teacher to improve their attendance level and make every reasonable effort to organise trade union or work colleague support to ensure that they attend review meetings on the agreed date and time, or notify the school immediately where unforeseen circumstances require a review date to be re-scheduled.
12. Contact and brief their trade union representative (or work colleague) at the appropriate points in the procedures to ensure that professional support and representation is organised to attend review meetings at the agreed dates within the process.

## **Governing Body**

The role of the governing body is to ensure that:

1. it takes responsibility for the management of attendance concerns about the head teacher's attendance and seeks appropriate and timely support from the HR Service (see HT Absence Protocol Appendix 23)
2. the school has a clear managing attendance policy
3. there is a clear procedure for reporting absence to the school and from the school to the local authority

4. the head teacher fulfils his/her responsibilities within the procedures and advice sought from the HR Service on an ongoing basis to the point at which an absence case is resolved
5. it receives regular reports from the head teacher so that it can monitor the attendance of all staff including the head teacher discreetly and applies the appropriate procedures through a committee or named governor
6. the school has a mechanism in place to obtain appropriate medical advice
7. it fulfils its requirements within the attendance management procedure to review the absence of staff as appropriate and give staged warnings where necessary. Where schools buy into the HR Staff Absence Protection Scheme, or where the school is in receipt of additional support from the LA (financial or otherwise) the governing body understand there is an implied responsibility on behalf of the school and governing body to effectively minimise absences through application of these procedures in accordance with HR advice. Where governing bodies fail to take effective action to manage absences including in the case of the head teacher, the above scheme and additional support to the school may be withheld.
8. provides information for the local authority, Department for Education and Ofsted as required
9. This policy is adopted without amendment and communicated to staff and governors. Where the governing body amend the policy and/or guidance, they are responsible for consulting and negotiating any changes with staff and the secretaries of the recognised trade unions.
10. Panel hearings and appeals are properly constituted, that governors prepare for meetings and that confidentiality relating to the procedures is observed at all times.
11. Appropriate advice is sought from the local authority HR service and carefully considered and taken into account in making decisions at each stage of the process including review meetings, hearings and appeals
12. In church schools, the Diocesan Director is informed in advance of any proposed action against the head teacher.

## **The HR Service**

The role of the HR Service is to ensure, from the provision of HR services through Services for Schools, that:

1. advice and support is available to head teachers and governing bodies at each stage of the attendance management procedure
2. HR support is available at review meetings, governors' hearings and appeal hearings
3. the procedure, guidance and advisory support is accurate, timely and meets the legislative requirements of education and employment law

## **Trade Union**

The recognised trade unions will ensure that:

1. Employees who are members of their trade union receive appropriate and timely support throughout the process in line with the timescales set out in this procedure

2. Every reasonable effort is made to attend meetings/reviews/hearings on the dates and times agreed. Where exceptionally meetings need to be re-arranged through urgent personal reasons, the trade unions will ensure that immediate contact is made with the school to explain the reason and a new date set within 5 working days of the original date.
3. Employees understand the timescales and importance of preparing and attending Occupational Health appointments and review meetings at the agreed date and time
4. Employees understand the importance of making medical advice available to the school and the consequences of not doing so

## Appendix 2a: Return to Work Discussion

The head teacher / line manager should arrange a return to work discussion with the employee after each and every episode of sickness (irrespective of length). This discussion is an important part of managing attendance issues and should take place ideally as early as possible on the day of return. The head teacher / line manager should be sensitive to the timing of the discussion which is aimed primarily to provide an early warning of the potential development of health problems, potential difficulties, for example with balancing domestic and work responsibilities, or to help identify other issues which impact on an employee's attendance level. Getting the culture right in schools is extremely important and a failure to carry out such discussions routinely may indicate to the employee that their absence and contribution to the school is of no consequence. It will demonstrate that the requirements of the School's Attendance Management policy are not applied in practice, thereby contributing to a culture of absence and general employee dissatisfaction. Where short term persistent absences are occurring, the return to work discussion also provides the opportunity for taking action and repeated discussions to take place in the context of increasing concern.

The basic purpose of the discussion is to recognise that, after an employee has been absent from work, support and encouragement may be needed on their return following:

- a short absence where the discussion may be as simple as an enquiry into their health to ensure that there are no potential on-going health or work related issues.
- a longer absence where a more detailed discussion may be needed to ensure that the return to work plan is effective and successful.

In preparation for a return to work discussion, particularly following a long term absence or where there are frequent short term absences causing concern, the head teacher or manager will need to:

- collate information on the last period of absence and any recent previous absences, identifying any possible patterns of absence or recurring reasons provided for absence
- ascertain if any occupational health advice has been sought previously and / or whether the employee has declared or been considered as having a condition covered by the Equality Act 2010.
- consider the working environment and have a copy of the job description prior to the meeting.
- arrange a time and confidential location for the meeting to be held.
- advise the employee of the time and reason for the meeting.

During the meeting the head teacher / line manager will need to:

- explain the purpose of the meeting to the employee in terms of the genuine concern about their health and wellbeing
- confirm the details of the last absence and establish whether there are any underlying reason(s) causing the absence, including non-medical reasons. The employee has a right not to disclose the nature of any medical condition at this stage but you may suggest they seek support from their GP.
- enquire as to their wellbeing and ascertain whether they have made a full recovery and whether they are fit and able to undertake the duties within their role.
- explore and offer appropriate support in relation to an occupational health referral, the counselling service and / or physiotherapy.

- whether there are any adjustments either short or long term that are required to enable the employee to carry out the duties of their post, with a potential action then to seek occupational health advice regarding adjustments recommended. See further advice regarding reasonable adjustments where the employees' health condition is covered by the Equality Act 2010.
- ensure you have provided an opportunity for the employee to give their views.
- ensure that the meeting represents an opportunity to determine a way forward including any agreement regarding additional support.
- where appropriate, explore with the individual the effect their absence levels have had / are having on the school and colleagues.
- where the level of absence is of concern, the nature of the schools concern should be discussed, including the expected future improvement in attendance. The employee should be in no doubt as to the concern regarding their levels of absence and the next steps.

The discussion must be conducted confidentially. It should not be intrusive and the head teacher / line manager needs to be sensitive to any resistance by the employee to engage in discussion. In this event the employee should be given the opportunity to discuss their absence with another manager (male/female) or some other appropriate person such as an Occupational Health Advisor.

It is important for these meetings to be recorded on a Return to Work Discussion Pro-forma (attached as appendix 2b) which may be completed or alternatively notes of the meeting taken. A copy should be given to the employee and a copy kept by the head teacher / line manager. The form should be used to record any special requirements, supports or measures put in place.

It is important to ensure that consideration is given to health and safety during the discussion and in particular whether a risk assessment is applicable to the employees' role. These should be reviewed to ensure that any new risks resulting from an individual's illness/condition are removed, reduced or controlled to reduce them to an acceptable level. For example, the manual handling risk assessment should be reviewed for a teaching assistant or care assistant returning from absence relating to a musculoskeletal disorder.

**RETURN TO WORK DISCUSSION PRO-FORMA**

<b>Name:</b>	<b>Post:</b>
<b>Date absence commenced:</b>	<b>Date returned to work:</b>
<b>Reason for absence: (If disclosed by the employee).</b>	
<b>Cumulative absence previous 12 months/number of episodes incurred in previous 6 months:</b>	
<b>Comments/action to be taken:</b>	
<b>Signed:</b> <b>Head Teacher / Line Manager</b> .....	
<b>Employee</b> .....	
<b>Date</b> .....	
<b>Review Date (if applicable).....</b>	

### Appendix 3: Invite to welfare meeting letter:

#### Private & Confidential

\*Name\*

\*Address\*

\*Address\*

\*Address\*

\*Address\*

#### Date

Dear \*

**(Name of School)**

**Re: Attendance Management Procedure**

Further to our recent discussion regarding your absence / your [continuing] problems with your health.

You will be aware that this is of concern to me and I would therefore like to meet with you at school on [**date**] at [**time**] to offer you support, to **discuss the report we have received from the Occupational Health Physician\*** (delete if not applicable) and to give you the opportunity to raise any queries or concerns you may have. If you would prefer me to visit you at home or arrange an alternative venue, or date please let me know.

Please feel free to have a support person (for example, trade union representative or work colleague) present at the meeting if you wish.

I look forward to meeting with you and would appreciate you confirming that the date and time are convenient. In the meantime, please do not hesitate to get in touch if I can be of any help.

Yours sincerely

Head Teacher

CC HR Team

TU Representative

## Appendix 4a: Welfare Meetings

The purpose of a welfare meeting is to enable the head teacher to maintain contact with the employee and enquire about the employee's progress and general welfare during their sickness absence. For short term persistent absence concerns it provides an opportunity to discuss support for the employee and the improvement expected. In exceptional cases if the employee feels unable to meet directly with the head teacher or other senior member of staff, the individual should specify who the school should maintain direct contact with; this could be their trade union representative, with a close relative, spouse or partner.

### General Points - agenda

The meeting is an important part of managing absence cases well and it is important to make notes so that agreed action points, support and next steps are understood. A copy should be sent to the employee. The meeting should cover the following areas as appropriate to the circumstances of the case:-

- update on the progression of the employees condition
- impact of any treatment and effects of medication on employees ability to undertake their duties
- latest medical advice/ information from their own GP/ specialist regarding their ability to undertake their duties
- update on any other support being received from their GP, family, TU, etc.
- whether there are any direct or indirect employment-related causes indicated for the absence (in this event, cause(s) need to be acted upon, immediately, and advice should be sought from the H&S and / or HR Business Partners if appropriate)
- offer any further relevant contacts for support (see below)
- whether a referral to Occupational Health and / or the Counselling Service is required and if so explain the process and timescale
- discuss other support suggested by the employee which the school could give / school to offer own options
- confirm the importance of maintaining contact and check who this will be and the level and type of contact with the school is appropriate
- identify any further means of contact, support or involvement of the school
- the position regarding sick pay
- update on school developments, news etc.
- encourage employee to make contact with their trade union who can also offer support
- explore reasonable adjustments and possible redeployment (if appropriate)
- consideration of ill health or AAB retirement
- discuss the taking of annual leave during their absence (all year round support staff only)
- next steps including action within the procedures
- discuss receipt of medical report (see section above on medical reports)

**Redeployment** – It is not possible to be prescriptive about the timing of discussions with the individual about the possibility of redeployment to another post. However it is important to be considered as part of normal welfare discussions and at any formal review, and where appropriate, realistic redeployment support initiated. No guarantee can be given regarding redeployment of staff. The success of a redeployment case depends on many factors, including

whether alternative employment is available within the school. Redeployment to another school/workplace will depend on suitable vacancies arising and would normally be subject to competitive interview. Neither the school nor the Local Authority is able to simply redeploy a person from one school and offer a job in another. Advice should be sought from the HR Service before raising this with the employee.

### **Return to work**

As appropriate, seek the employees' views about a return to work, likely timescale and any temporary or permanent adjustments, equipment or modifications that will assist them. (See section below).

### **Implications of their absence**

Where appropriate, explain that a review meeting will be arranged in line with the Formal Procedures for Managing Attendance and give details of the purpose of the meeting. Explain that they will be invited to attend, send or be accompanied by a trade union representative or work colleague and are encouraged to submit a written statement. The details of the meeting will be confirmed in writing. Reassure them that their views will be considered before any action is taken.

### **Contacts for Support**

- Teachers Support Network (Teacherline) ( 08000 562 561)
- Trade Union (local or regional contacts)
- Access to Work
- Employers Forum on Disability (EFD)

You may find the following document 'Welfare Meeting Proforma' (Appendix 4b) useful as a template agenda for this discussion.

## Appendix 4b: Welfare Meeting Pro-forma

<b>Name of Employee</b>	
<b>Job Title</b>	
<b>HT / Line Manager</b>	
<b>Date of Visit/Meeting</b>	
<b>Other Attendees</b>	

*Please tick*

<input type="checkbox"/>	Introductions	
<input type="checkbox"/>	Outline Purpose of Visit / Meeting	
<input type="checkbox"/>	T.U./Representation / Work Colleague	
<input type="checkbox"/>	Confirm Basic Employment Details:	Start date:
		Absent since:
		In Pension Scheme?

### Comments on employee's current health condition:

How are you? Medication (if appropriate). Impact on day to day activities. Recent medical advice from own GP/Consultant/Practitioner. Are you getting support from trade union?  
Feelings about returning to work? Any issues home/work affecting attendance?

### Comments on NCC OHU Advice:

Employee in agreement? Any further appointments? Any further advice needed?

### Areas to be discussed (as appropriate to case)

*Please tick*

**Attendance Management Procedure**  
Key indicators: 3 period of absence in a term / equivalent period, unacceptable patterns and / or up to 4 periods which in total exceed a month per year.  
Applies to all employees to encourage/support/facilitate a RTW.  
TU Agreed Procedure.

**Phased Return/Adjustments**

---

Phased return usually 1 – 2, exceptionally up to 4 weeks with OHU advice.  
Gradual increase in hours/duties supported by full pay during this period.



### **Physiotherapy Service**

Service available on advice from OHU and not in receipt of NHS physiotherapy (where the OH package purchased)



### **Counselling Service**

Confidential service to employees to support employees with work related issues. Employee must meet criteria. (where the OH package purchased)



### **Redeployment**

Has the employee considered possibilities if unlikely to return to substantive post (must be considered before dismissal)



### **Certificate of Permanent Incapacity – Support Staff (Pension members only)**

Upon OHU advice

**1<sup>st</sup> Tier:** 2 yrs minimum service. Permanently incapable of discharging current/other post until age 65. Service enhanced to 65.

**2<sup>nd</sup> Tier:** 2 yrs minimum service. Permanently incapable of discharging current post, no gainful employment within reasonable period. Service 25% enhanced to 65.

**3<sup>rd</sup> Tier:** 2 yrs minimum service: Permanently incapable of discharging current post, but judged capable of obtaining gainful employment within 3 yrs. No enhancement. Reviewed after 18 months via OHU appointment, pension may cease if better and gainfully employed.

### **Ill Health Retirement – Teachers**

- There are two tiers of ill-health retirement benefits – Total Incapacity Benefit (TIB) and Partial Incapacity Benefit (PIB)



### **Review Process**

No RTW date, prolonged absence, or unacceptable patterns of absence, CPI/IHR explored and not granted etc. First review meeting with head teacher depending on specifics of case to consider case in line with Managing Attendance Procedure, may issue Written Warning with review period. Followed by 2<sup>nd</sup> review meeting. Could result in dismissal at third review stage.



### **Waiver Form**

Employee (teaching and support staff) and School mutually agree to terminate employment on grounds of ill health. No requirement to go through formal review process. Payment in lieu of notice. Can be used by support staff in the case of ill health retirement.

Agreed Action Points

Next review date: (if appropriate) \_\_\_\_ / \_\_\_\_ / \_\_\_\_

Additional Questions/Comments/Notes

## Appendix 5: OHU referral where welfare meeting not taken place letter

### Private & Confidential

\*Name\*

\*Address\*

\*Address\*

\*Address\*

\*Address\*

### Date

Dear [name]

### Re: Managing Attendance Procedure

I am sorry to hear that you are unwell and that you are not able to meet with me. I feel that it would be beneficial if you were referred to the Occupational Health Physician. The purpose of this referral is to obtain advice from the Occupational Health Physician regarding your ongoing absence. This referral will also give you the opportunity to discuss in complete confidence any concerns you may have about your health either in relation to your work or generally. I have therefore contacted the Occupational Health Unit to arrange an appointment for you. The Occupational Health Unit will contact you directly to confirm the date of your appointment. I enclose a copy Occupational Health Referral for staff guidelines for your information.

The Occupational Health Physician may need to ask for further medical information or a report from your General Practitioner or other Health Physician who may have been involved in your clinical care and if this is the case they will ask you to complete and sign a medical consent form giving details of your General Practitioner.

The medical appointment is chargeable to the school budget and I am sure you will appreciate it is extremely important that you make every effort to attend for your medical appointment on the date and time provided. If for any reason the date and / or time is not convenient then please contact the Occupational Health Service immediately and let me know.

[**Optional:** Up to 6 sessions of confidential, independent, counselling intervention can be provided for staff. If you would like to discuss a referral to this service please contact me on the above number.]

If you have any queries or concerns regarding the process, or if I can help in any way, then please do not hesitate to telephone me on the above number.

Yours sincerely,

Head Teacher

Cc HR Business Partner  
TU representative

## Appendix 6 – Template Statement of Case

### GUIDELINES FOR DRAWING UP A STATEMENT OF CASE FOR MANAGING ATTENDANCE:-

- The statement attached is provided as a template for schools to use in preparation for and consideration at absence review meetings. This document should be used as a basis but needs careful thought and customised to the particular circumstances of the absence and the issues within the school.
- It is important that the statement is presented in a structured way giving accurate and precise background information that has led to the need for the meeting to take place.
- Appropriate appendices should be numbered and included e.g. OHU reports, copies of *relevant* correspondence between the employer and employee etc. and pages should be numbered.
- **Before sending out any statement or confirming a date for the hearing you are advised to contact the relevant HR Business Partner who will be able to advise you on the content of the statement and to mutually agree a date when an officer can be present at the review meeting / appeal to advise head teacher or governors (at any review / appeals).**
- In planning review meetings and in making recommendations the school should carefully plan the possible progress of the case through the current and future stages. This is significant because it may be important for the school to manage a particular case within a set timescale, for example, by the end of a particular term or by the end of the academic year. The school will also need to remember that where dismissal is a possibility there are strict timescales which need to be adhered to for teachers as prescribed in the School Teachers Pay and Conditions Document (STPCD).

## (TEMPLATE) STATEMENT OF CASE

(NAME OF) SCHOOL

FIRST / SECOND / THIRD REVIEW MEETING / APPEAL (*delete as appropriate*)

**Name of Employee:**

**Post:**

Meeting to be held on (**date**) at (**time**) am/pm at (**name**) School in (**venue**) room to discuss the continued long term / short term persistent absence of (**name of employee**) due to ill health.

### **Background**

(**Name**) has been employed as a (**post title**) at (**name**) School with effect from (**date**) (if employee is the only member of staff in specific area or has sole responsibility for subject area or specific duties this should be detailed here).

Detail the pattern and length of absence (where short term persistent absences give details of the key indicators met) or the reasons which led to consideration being given to the employee being referred to Occupational Health and what advice the school sought from the Consultant Occupational Health Physician.

How is the post being covered and the implications for the school / students / Learning

### **Details of Absence**

Appendix 1 shows the dates and number of days absence over the past 2 years (amend as appropriate)

**Case history, support provided and formal procedures (this can be set out in date order and added to at each stage)**

- Return To Work (RTW) and welfare meetings – give dates, details of the discussion and agreed actions/outcomes, include notes
- Visits (why/when/whom) and details of any telephone or written contact
- Referrals to Occupational Health
- Contact with the employee (give details of how communication has been agreed e.g. how often, method and with who; individual or representative)
- Detail what support has been put in place
- Redeployment has been considered/discussed
- Part time working
- Phased return
- Periods of sickness
- Half pay/No pay position
- Ill Health Retirement
- Discussion on formal procedures
- Equality Act – reasonable adjustments

Include information regarding the contact the school has made with the employee during the period of absence, giving dates etc. Where short term persistent absences, give details of the RTW and welfare meetings Including, as numbered appendices, any relevant correspondence sent or received give details of any support from outside agencies, access to work, trade union etc. including issues discussed/agreed.

Set out the support provided to the employee - was the member of staff offered a reduction in hours; a change of duties; a phased return; redeployment; if so this should be recorded as part of the statement. What was their response. Has the employee accessed the support made available.

Review meeting(s) – give dates details enclosing notes and agreed actions / outcomes as appendices

### **Medical Advice**

Provide a record of the medical advice received in chronological order.

What does medical advice say (First meeting only. For second and subsequent meetings include in previous section and put most recent advice here)

Recommendation from the Consultant Occupational Health Physician should be included as numbered appendices. What has the individual been told/what is their response/dates of reports etc.

### **Impact on the School / Organisation of school / other staff**

Give details – impacting on:

- organisational arrangements
- teaching and learning
- covering the post / continuing issues

### **Conclusion**

What does the individual want (if known)

- to return
- redeployment
- ill health retirement

The effects of this long / short term absence should be explained in the statement. In particular the effects regarding the provision of the curriculum and the disruption to the education of the children e.g. irregular supply cover if appropriate etc.

### **Recommendations/Options**

In view of the advice from the Consultant Occupational Health Physician and the above account, the Head is asked to consider the current situation regarding the employment of (**employee**) as a (**Post**) at (**Name**) School, and a recommendation is made to: (delete as appropriate).

- 1 In view of the medical advice and consideration of absence issue to consider issuing **(employee)** with a written / final written warning (delete as appropriate) about his/her on-going long term absence / short term persistent absences. Further, to confirm that the Head wishes to see a resolution to the situation by a stated date when a further meeting would be held to review the situation. (The outcome of any further review meeting could be: notice to terminate **(employee's)** employment if he/she is unable to carry out the duties of his/her post due to ill health / continued persistent short term absences **(amend as appropriate)**).

OR

- 2 To continue to monitor the situation and support **(employee)** in a welfare capacity, continue discussions with him/her about redeployment opportunities, to keep the situation under review at this stage and seek further medical advice.

### **Or if Third review**

In view of the medical advice and that there is no sustained improvement in **(employee's)** attendance, and following discussions with (employee) to consider a recommendation to terminate (employee's) employment if he/she is unable to carry out the duties of her post due to ill health / continued persistent short term absences amend as appropriate.

It is possible for the Head / Governors to consider whether they wish to adopt one or more of the above options or to consider any other strategies which they may consider appropriate in the particular circumstances of the case.

Signed Head Teacher

Date

## Appendix 7 - First Review Meeting Invite Letter

### Private & Confidential

\*Name\*

\*Address\*

\*Address\*

\*Address\*

\*Address\*

### Date

Dear \*

### First Review Meeting (School) Attendance Management Procedure

Further to the welfare meeting on **(date)** and your history of sickness absence since **(date)** which prevented you from maintaining regular attendance at work to the level the school would normally expect, I am writing to confirm the details of the review meeting arranged for **(date)** at **(time)** in **(place)**. At this meeting your **long term/short term persistent** absence(s) from school due to your ill health will be reviewed. The meeting will be held within the framework of the school's Attendance Management Procedure. A copy of the procedure is available in school in **(place)** for your information.

The purpose of the meeting is to:

1. Provide an opportunity to discuss your absence record and its implications for your capability to undertake the role of **(post)** in school, and I will also ask you or your representative questions and review the situation presented.
2. Enable us to make a decision as to how the issue of your absence will progress and consider the possible ways forward.

During the meeting discussion will take place regarding the current situation surrounding your absence(s), **including the medical advice from the Occupational Health Physician (delete as appropriate)**.

You are entitled to receive copies of relevant information/documents which will be considered at the meeting. I have enclosed a statement of case and **(give details of documents enclosed i.e. absence record, OHU reports etc.)** which I shall be referring to during the meeting. Also enclosed is an order of events for the meeting.

The meeting will be with myself and I will be advised at the meeting by **(name)** HR Business Partner. Notes will be taken of the meeting.

You are strongly advised to be accompanied by a trade union representative, or a work colleague. If you are unable to attend or do not wish to attend the meeting, they may represent you in your absence. Whether you choose to attend the meeting or not you are encouraged to provide a written statement setting out any matters you wish to bring to my attention. This would be in addition to any representation you arrange for the meeting on the day.

I should be grateful if you would confirm by **(date)** whether or not you will be attending the meeting or, alternatively, whether someone else will be attending on your behalf. You have the right to present evidence to support your case, including the attendance of any appropriate witnesses relevant to your case. If it is your intention to submit evidence or invite appropriate witnesses, you must let me have the names and the information by **(date)** so that I can circulate

copies and / or make appropriate arrangements prior to the meeting. Otherwise any documents you wish to rely on may not be considered. I will assume you will be attending the meeting unless I hear from you to the contrary. You should be aware that the meeting is likely to proceed in your absence unless you provide appropriate notice and explanation of your non-attendance. If you should have any queries please do not hesitate to contact either myself or (**name**) of the HR team who can be contacted on 0115 977\*.

I must inform you that a possible outcome of this meeting may be a decision to issue you with a written / final written warning and that unless there is a significant improvement in your attendance your continued employment at the school may be at risk.

Yours sincerely,

Head Teacher

Cc HR Team TU Representative

Enc. Statement of Case

Order of Events

## Appendix 8a – Review Meeting

### MANAGING THE ATTENDANCE OF SCHOOL STAFF PROCEDURE

#### REVIEW MEETING

##### Order of Events

1. Head Teacher presents the case (a).
2. Questions from employee and/or employee representative.
3. Employee (or representative) presents their case to Head Teacher (b).
4. Questions from Head Teacher.
5. Head Teacher sums up.
6. Employee (or representative) sums up.
7. Both parties withdraw.
8. Head Teacher reviews evidence/makes decision.
9. All parties reconvene. Decision given to employee.
10. Decision confirmed to employee in writing within 3 working days (including notice of right to lodge appeal within 14 days – if appropriate).

(a) Where the head teacher calls a witness to support the management case, the following procedure applies:

- The witness will be asked questions by the head teacher
- The witness may be asked questions by the employee and / or their representative
- Once both sides have had the opportunity to ask questions, the witness will be asked to withdraw from the meeting, be reminded of confidentiality and instructed not to discuss the case in any way. Unless otherwise determined by the parties to the hearing, the witnesses will remain available for recall if required.

(b) Where the employee calls a witness in support of his / her case, the following procedure applies:

- The witness will be asked questions by the employee
- The witness may be asked questions by the head teacher
- Once both sides have had the opportunity to ask questions, the witness will be asked to withdraw from the meeting, be reminded of confidentiality and instructed not to discuss the case in any way. Unless otherwise determined by the parties to the hearing, the witnesses will remain available for recall if required.

## Appendix 8b – Review Meeting with Governors / Appeal Hearing

### MANAGING THE ATTENDANCE OF SCHOOL STAFF PROCEDURE REVIEW MEETING / APPEAL HEARING Order of Events

1. Head Teacher / Presenting Officer presents the case to Panel (a)
2. Questions from employee and/or employee representative to Head Teacher / Presenting Officer.
3. Questions from the Panel to Head Teacher / Presenting Officer.
4. Employee (or representative) presents their case to Panel (b).
5. Questions from Head Teacher / Presenting Officer to employee and / or employee representative.
6. Questions from the Panel to employee and / or employee representative.
7. Head Teacher sums up.
8. Employee (or representative) sums up.
9. Both parties withdraw.
10. Panel reviews evidence/makes decision.
11. All parties reconvene. Decision given to employee.
12. Decision confirmed to employee in writing within 3 working days (including notice of right to lodge appeal within 10 working days' – if appropriate).

APPEAL - The same panel of 3 governors can be used for all appeal stages but should not be used to hear the case at Third Review / Dismissal stage.

Important - Where the head teacher is subject to these procedures, the chair of governors or other nominated governor may conduct the meeting and consider the case or alternatively may present the case to a panel of 3 governors who will determine the outcome.

- (a) Where the head teacher / presenting officer calls a witness to support the management case, the following procedure applies:
  - The witness will be asked questions by the head teacher
  - The witness may be asked questions by the employee and / or their representative
  - The witness may be asked questions by the panel
  - Once all parties have had the opportunity to ask questions, the witness will be asked to withdraw from the meeting, be reminded of confidentiality and instructed not to discuss the case in any way. Unless otherwise determined by the parties to the hearing, the witnesses will remain available for recall if required.
- (b) Where the employee calls a witness in support of his / her case, the following procedure applies:
  - The witness will be asked questions by the employee
  - The witness may be asked questions by the head teacher
  - The witness may be asked questions by the panel

- Once all parties have had the opportunity to ask questions, the witness will be asked to withdraw from the meeting, be reminded of confidentiality and instructed not to discuss the case in any way. Unless otherwise determined by the parties to the hearing, the witnesses will remain available for recall if required.

## Appendix 9 - First Review Meeting Outcome Letter

### Private & Confidential

\*Name\*

\*Address\*

\*Address\*

\*Address\*

\*Address\*

### Date

Dear \*

### First Review Meeting (School) Attendance Management Procedure

This letter is to confirm the outcome of the first review meeting held on (*date*) to consider your continued absence. The meeting was with myself, (name of HR Business Partner) and your representative (name) **or** (*despite being advised of your right to representation you chose not to exercise it*). As you are aware the meeting took place in your absence (**include if appropriate**). The meeting was arranged within the framework of the School's Attendance Management Procedure. You were notified that the purpose of the meeting was to review your continued **long term/short term persistent** absence from school as a (**Post Title**) due to medical reasons. Notes of the meeting were taken and a typed copy will be forwarded to you in due course (**amend as appropriate**)

The outcome of the review was to issue you with a **written / final warning** on the grounds of capability due to your continued **long term/ short term persistent** absence(s) from your (*title*) post from (*date*) as a result of your ill health. This decision was taken in view of the **length of absence / short term persistent absences, and the medical advice dated (date) from (name of Doctor) (delete as appropriate)**. I also gave careful consideration to the points you raised. (**Refer to the discussion and outcome of the meeting**). The written warning will remain on file for 12 months after which it will be reviewed.

You have the right of appeal against this decision and should you wish to exercise this right you need to inform me of your intention by writing to me within 10 working days of this letter, stating briefly the grounds of your appeal. I will then arrange for your appeal to be heard by an appeal panel of governors. At the meeting we agreed a provisional date which has been set for (*date*) at (*time*)

In view of the situation and as discussed, I have set a review period of (**insert number of weeks/months**) which will end on (*date*). I will review your absence again on (*date*) at (*time*) a.m./ p.m. in (*room*).

I sincerely hope that your health will improve to enable you to **return to school/improve your level of attendance**. As head teacher I will remain in contact with you during your **absence/ the review period** and please feel free to contact me at any point if there are any developments in your medical condition or if you have any concerns. As I have already indicated to you, I am prepared to consider any reasonable steps and adjustments to facilitate **your return to work/improve your level of attendance** if this is at all possible. This could include a phased or part-time return, a consideration of a change in your duties and, if you think this would be helpful, I can arrange for HR to discuss possible redeployment opportunities with you. You are advised to speak to your trade union about this matter and you may contact myself or (*name*) (*number*) from the HR Team. (**amend this paragraph as appropriate**).

Yours sincerely,

Head Teacher  
cc HR Team TU Representative

## Appendix 10 - Second Review Meeting Invite Letter

### Private & Confidential

\*Name\*  
\*Address\*  
\*Address\*  
\*Address\*  
\*Address\*

### Date

Dear \*

### Second Review Meeting (School) Attendance Management Procedure

Following the first review meeting on **(date)** I wish to confirm the details of the second review meeting arranged for **(date)** at **(time)** in **(place)** which we agreed at that time. At this meeting your **long term/short term persistent** absence(s) from school due to your ill health will be reviewed. The meeting will be held within the framework of the school's Attendance Management Procedure and will be minuted. A copy of the procedure is available in school in **(place)** for your information.

The meeting will provide an opportunity to discuss your absence(s) since the first review meeting and I will also ask you or your representative questions and review the situation presented including the medical advice from the Occupational Health Physician. This will enable us to make a decision as to how the issue of your absence will progress and consider the possible ways forward. You are entitled to receive copies of relevant information/documents which will be considered at the meeting. I have enclosed an updated statement of case and other documentation which I shall be referring to during the meeting **(give details)**. Also enclosed is an order of events for the meeting.

The meeting will be with myself and I will be advised at the meeting by **(name)** HR Business Partner. Notes will be taken of the meeting.

You are strongly advised to be accompanied by your trade union representative or a work colleague. If you are unable to attend or do not wish to attend the meeting, they may represent you in your absence. Whether you choose to attend the meeting or not you are encouraged to provide a written statement setting out any matters you wish to bring to my attention. This would be in addition to any representation you arrange for the meeting on the day.

Please confirm by **(date)** whether or not you will be attending the meeting or, alternatively, whether someone else will be attending on your behalf. You have the right to present evidence to support your case, including the attendance of any appropriate witnesses relevant to your case. If it is your intention to submit evidence or invite appropriate witnesses, you must let me have the names and the information by **(date)** so that I can circulate copies and / or make appropriate arrangements prior to the meeting. Otherwise any documents you wish to rely on may not be considered. I will assume you will be attending the meeting unless I hear from you to the contrary. You should be aware that the meeting is likely to proceed in your absence unless you provide appropriate notice and explanation of your non-attendance. If you should have any queries please do not hesitate to contact either myself or **(name)** of the HR team who can be contacted on 0115 977\*.

I must inform you that a possible outcome of this meeting may be a decision to issue you with a final written warning and that unless there is a significant improvement in your attendance, your continued employment at the school may be at risk.

Yours sincerely,

Head Teacher

Cc HR Team

TU Representative

Enc: Statement of Case

Order of Events

## Appendix 11 - Second Review Meeting Outcome Letter

### Private & Confidential

\*Name\*

\*Address\*

\*Address\*

\*Address\*

\*Address\*

### Date

Dear \*

### Second Review Meeting (School) Attendance Management Procedure

This is to confirm the outcome of the second review meeting held on (*date*) to consider your continued absence. The meeting was with myself, (name of HR Business Partner) and your representative (name) **or** (*despite being advised of your right to representation you chose not to exercise it*). As you are aware the meeting took place in your absence (**include if appropriate**). The meeting was arranged within the framework of the school's Managing Attendance Procedure. You were notified that the purpose of the meeting was to review your continued **long term/short term persistent** absence(s) from school as a (**Post Title**) due to medical reasons. Notes of the meeting were taken and a typed copy will be forwarded to you in due course. (**amend as appropriate**)

#### Option 1:

We discussed your attendance since the first review meeting and as the necessary improvement has been reached as discussed the formal procedure will now stop. I must inform you however that this improvement in your attendance must be maintained. The written / final written warning issued at the first review meeting will remain on file for 12 months and I will continue to monitor your absence levels. Should you meet the key indicators during this period the procedure will be invoked at the second review stage.

#### Option 2:

We discussed your attendance since the first review meeting and I explained my concern that your attendance remained unsatisfactory. We discussed the Occupational Health report dated (**date**) and your **health / short term persistent absence(s)**, which has not improved since our first meeting.

I wish to confirm that the outcome of the review meeting which was to extend the review period (give details) / issue you with a **final written warning** on the grounds of capability due to your continued **long term/ short term persistent** absence(s) from your (**title**) post from (**date**) as a result of your ill health. This decision was taken in view of the **length of absence / short term persistent absences** and the medical advice dated (**date**) from (**name of Doctor**). I reiterated that your continued absence was having a detrimental effect on students and departmental colleagues. We talked about support measures that are available and it was indicated that you were receiving support through your GP and advice and support through your union. I also gave careful consideration to the points you raised. (**Refer to the discussion and outcome of the meeting and amend as appropriate**). The final written warning will remain on file for 12 months after which it will be reviewed.

You were issued with a final written warning that your absence was unsatisfactory and if your attendance remains unsatisfactory your continued employment could be at risk.

You have the right of appeal against this decision and should you wish to exercise this right you need to inform me of your intention by writing to me within 10 working days of this letter, stating briefly the grounds of your appeal. I will then arrange for your appeal to be heard by an appeal panel of governors. At the meeting we agreed a provisional date which has been set for **(date)** at **(time)**.

In view of the situation and as discussed, I have set a review period of **(insert number of weeks/months)** which will end on **(date)**. Your absence will be reviewed again on **(date)** at **(time)** a.m./ p.m. in **(room)**. If the necessary improvement has been made the meeting will be with myself if however your absence is still unsatisfactory this meeting will be held with a panel of 3 governors.

I sincerely hope that your health will improve to enable you to **return to school/improve your level of attendance**. As head teacher I will remain in contact with you during your **absence/review period** and please feel free to contact me at any point if there are any developments in your medical condition or if you have any concerns. As I have already indicated to you, I am prepared to consider any reasonable steps and adjustments to facilitate **your return to work/improve your level of attendance** if this is at all possible. This could include a phased or part-time return, a consideration of a change in your duties and, if you think this would be helpful, I can arrange for HR to discuss possible redeployment opportunities with you. You are advised to speak to your trade union about this matter and you may contact myself or **(name)** **(number)** from the HR Team. **(amend this paragraph as appropriate)**.

Yours sincerely,

Head Teacher

Cc HR Team  
TU Representative

## Appendix 12 – Third Review Meeting Invite Letter

### Private & Confidential

\*Name\*

\*Address\*

\*Address\*

\*Address\*

\*Address\*

### Date

Dear \*

### Third Review Meeting - Attendance Management Procedure

Further to the second review meeting on (**date**) in which you were issued with a final written warning. I wish to advise you of the action the school proposes to take in view of your prolonged and continued **long term/short term persistent** absence(s) due to ill health and in light of advice received from the Occupational Health Physician. You are invited to attend a formal meeting with a panel of 3 governors, the meeting has been arranged for (**date**) at (**place**) as agreed at the second review meeting. (**Amend as appropriate if meeting with head teacher**) The meeting will be held within the framework of the school's Managing Attendance Procedure. A copy of the procedure is available in school in (**place**) for your information. The governors on the panel are \*\*\* and they will be advised by (**name**) HR Business Partner.

At this meeting the panel of governors will be asked to review your current situation given the information presented to them in the form of a statement of case provided by me, a copy of which is enclosed (**give details of all papers enclosed**), and, in addition, you will have the opportunity to add any further information which you feel the governors should consider. The governors will be able to ask questions of myself and you/your representative and then make a decision on one of the recommendations contained at the end of the report or, alternatively, adopt one of their own. Also enclosed is an order of events for the meeting.

You are strongly advised to be accompanied by your trade union representative, or a work colleague. If you are unable to attend or do not wish to attend the meeting, they may represent you in your absence. Whether you choose to attend the meeting or not, you are encouraged to provide a written statement setting out any matters you wish to bring to the governors attention. This would be in addition to any representation you arrange for the meeting on the day.

Please confirm by (**date**) whether or not you will be attending the meeting or, alternatively, whether someone else will be attending on your behalf. You have the right to present evidence to support your case, including the attendance of any appropriate witnesses relevant to your case. If it is your intention to submit evidence or invite appropriate witnesses you must let me have the names and the information by (**date**) so that I can circulate copies and / or make appropriate arrangements prior to the meeting. Otherwise any documents you wish to rely on may not be considered. I will assume you will be attending the meeting unless I hear from you to the contrary. You should be aware that the meeting is likely to proceed in your absence unless you provide appropriate notice and explanation of your non-attendance. If you should have any queries please do not hesitate to contact either myself or (**name**) of the HR team who can be contacted on 0115 977\*.

I must inform you that, given the continuing concerns about your level of attendance a possible outcome of this meeting may be a decision to terminate your contract of employment on the grounds of capability due to ill health.

Yours sincerely,

Head Teacher

Cc HR Team  
TU Representative

Enc: Statement of Case  
Order of Events

## Appendix 13: Guidance on governors' hearing

### THE ATTENDANCE MANAGEMENT PROCEDURE

#### GOVERNORS' PANEL HEARING

1. It is recommended that any panel convened as part of a Third Review Meeting where there is the possibility to dismiss or any appeal to a sanction issued as part of a First or Second Review Meeting should normally comprise three governors drawn, where possible, from the Pupils and Personnel Committee. In line with the 2003 School Staffing Regulations, the head teacher is also able to take such decisions, if s/he is not acting as the presenting officer at the meeting and has not undertaken the role of presenting officer within previous review meetings. In relation to the 2003 Staffing Regulations regarding dismissal decisions, Nottinghamshire County Council strongly advises schools that dismissal decisions are best made by a panel rather than by one person acting alone. It is therefore recommended that the panel should also include two governors in cases where the head teacher will be involved in a meeting convened to consider dismissal. The selection of governors must also ensure that there is no conflict of interest which may arise in hearing the case. Staff governors should not be involved, where there is a potential conflict of interest.

2. The date of the review meeting should be agreed with the employee as soon as possible and at least 10 working days before the due date, unless an earlier date is mutually agreed between the parties. The employee should be given the opportunity to send any written submission of evidence to the Panel prior to the meeting, or arrange for the attendance of appropriate witnesses with relevant evidence. A copy of any submission should also be made available to the head teacher/presenting officer and the HR Business Partner. The head teacher/presenting officer should always submit the statement of case in writing to the panel with a copy to the employee. This must be sent in time to ensure this is received by the employee at least 10 working days before the date of the meeting, unless an earlier date is mutually agreed between the parties.

3. The date of the review meeting should always be determined in consultation with the HR Service and the trade union or work colleague to ensure that (a) an appropriate officer is available to attend and advise the panel on any procedural aspects or matters of employment law and (b) the employee's trade union or colleague is available to attend. For community schools, it is the panel's duty to consider the advice given by Nottinghamshire County Council. This is particularly important where the meeting or appeal relates to a decision to dismiss.

4. At the meeting the head teacher/presenting officer will be responsible for presenting the evidence to the panel in the presence of the employee and their trade union representative or work colleague. Witnesses may be called individually by the head teacher/presenting officer in support of the case e.g. direct line manager.

5. The head teacher/presenting officer and any witnesses called may be asked questions by the employee or his/her representative.

6. The witnesses may then be asked further questions by the head teacher/presenting officer.

7. Members of the panel may ask questions of the head teacher/presenting officer and witnesses on the evidence submitted.

**Note:** After completion of the above stages the witnesses will be:

a) *Instructed not to discuss the case in any way until after the meeting has been determined*

b) *Asked to retire. Unless otherwise determined by the parties to the meeting, the witnesses may be subject to recall*

8. The employee or representative will state her/his case in the presence of the head teacher/presenting officer. Witnesses may be called individually by the employee.

9. The employee and any witnesses may then be asked questions by the head teacher/presenting officer.

10. Members of the panel may ask questions of the employee and her/his representative and any witnesses.

**Note:** *After completion of the above stages the witnesses will be:*

a) *Instructed not to discuss the case in any way until after the meeting has been determined*

b) *Asked to retire. Unless otherwise determined by the parties to the meeting, the witnesses may be subject to recall*

11. The head teacher/presenting officer shall then have the opportunity to sum up the case.

12. The employee or her/his representative shall have the opportunity to sum up on her/his behalf.

13. The employee, trade union representative/colleague and head teacher/presenting officer shall then withdraw.

14. The panel (together with the HR adviser) will then deliberate in private, only recalling the employee (and her/his representative) and the head teacher /presenting officer to clear points of uncertainty on evidence already given. If recall is necessary, both parties will return, notwithstanding that only one of them is concerned with the point giving rise to doubt.

15. After deliberating, the panel will announce the decision to the employee, representative and head teacher/presenting officer personally. Any right of appeal against the decision will also be explained. The panel will formally write to the employee within three working days confirming the decision and any appeal rights.

## 16. APPEALS

The procedure outlined above will also be followed to hear any appeals against decisions of formal, final warnings or dismissal given by head teachers or panels.

17. See appendices for appropriate letters.

## Appendix 14: Third Review Meeting Outcome Letter

### Private & Confidential

\*Name\*

\*Address\*

\*Address\*

\*Address\*

\*Address\*

### Date

Dear \*

### Third Review Meeting - Attendance Management Procedure

This is to confirm the outcome of the third review meeting held with the governors panel on (*date*) to consider your continued absence. The meeting was with myself as chair of the panel, \* and \* of the governing body, (name of HR advisor) and your representative (name) **or** (*despite being advised of your right to representation you chose not to exercise it*). As you are aware the meeting took place in your absence (**include if appropriate**). (**where option 1 or 2 the meeting will be held with the head teacher**) The meeting was held to consider your continued and prolonged **long term/short term persistent** absence(s) from school as a result of your ill health and was arranged within the framework of the school's Attendance Management Procedure. The governors were advised by (**name**) from the HR Team. Notes of the meeting were taken by \* and a typed copy will be forwarded to you in due course. (**amend as appropriate**)

At the meeting the governors considered all the information presented by (**employee/representative**) and (**name**) head teacher, including the advice received from the Occupational Health Physician dated (**date**). (**add or amend as appropriate giving details**)

#### Option 1:

We discussed your attendance since the second review meeting and as the necessary improvement has been reached as discussed the formal procedure will now stop. I must inform you however that this improvement in your attendance must be maintained. The final written warning issued at the second review meeting will remain on file for 12 months and I will continue to monitor your attendance. Should you meet the key indicators during this period the procedure will be invoked at the third review stage. It is most important that you speak to me immediately if you require additional support.

#### Option 2:

There has been **some improvement** in attendance but it **is considered insufficient**. The employee must, therefore, be advised that their attendance should be improved, agree to review over a set period, say, 2 months and will continue to be monitored at which point a further review meeting will take place on (**date**) at (**time**) (**add or amend wording as appropriate**)

#### Option 3:

The governors were very sympathetic and concerned about your current health situation, however, taking into consideration your levels of attendance, the medical advice provided and the needs of the school it was the decision of the governors' panel to recommend that you be

dismissed from your post in respect of your capability to undertake your duties as a (**job title**) at this school due to your continued **long term/short term persistent** absence(s) as a result of your ill health. (**For community and VA schools**) You will now receive a letter from the LA terminating your contract of employment on the grounds of capability due to your continued absence due to ill health. (**In the case of foundation and academy schools the termination letter will be issued by the school**)

If you wish to appeal against this decision you may do so, in writing, within 10 working days of this letter stating briefly the grounds of your appeal. I will then arrange for your appeal to be heard by an appeal panel of governors. Should you choose to appeal a provisional date has been set for (**date**) at (**time**). Should your appeal be upheld your contract of employment will be reinstated.

***School can add its own paragraph thanking etc.***

Yours sincerely,

Chair of Panel (**option 1 Head Teacher**)

cc: HR Team  
TU Representative

## Appendix 15: Appeal invite letter

### Private & Confidential

\*Name\*

\*Address\*

\*Address\*

\*Address\*

\*Address\*

### Date

Dear \*

### Appeal Hearing (School) Attendance Management Procedure

Further to the meeting on **(date)** in which you were issued ***with a written warning / final written warning / dismissed*** in view of your prolonged **long term/short term persistent** absence(s) and advice received from the Occupational Health Physician. Further to your appeal I am referring your absence to an appeal panel of governors. As agreed at the review meeting a date has been arranged for **(date)** at **(time)** in **(which room)**. The governors on the appeal panel are \*\*\* and they will be advised by **(name)** HR Business Partner.

At this meeting the panel of 3 Governors will be asked to review your attendance up to the date of the review at which you were issued ***with a written warning / final written warning / dismissed*** given the information presented to them in the form of a statement provided by me, a copy of which is enclosed, **(give details and attached copies of all the paperwork circulated for the original review(s)/hearing together with the outcome letter and any papers previously submitted by the employee)** and in addition you will have the opportunity to present your appeal and add any information presented at the ***first/second/third*** review meeting which you feel the governors should consider. The Governors will be able to ask questions to myself and you/your representative and then make a decision on one of the recommendations contained at the end of the report, or alternatively, adopt one of their own.

You are strongly advised to be accompanied by your trade union representative, or a work colleague. If you are unable to attend or do not wish to attend the meeting, they may represent you in your absence. Whether you choose to attend the meeting or not you are encouraged to provide a written statement setting out any matters you wish to bring to my attention. This would be in addition to any representation you arrange for the meeting on the day.

Please confirm by **(date)** whether or not you will be attending the meeting or, alternatively, whether someone else will be attending on your behalf. You have the right to present evidence to support your case, including the appropriate attendance of any witnesses with relevant evidence. If it is your intention to submit evidence or bring appropriate witnesses you must let me have this by **(date)** so that I can circulate copies prior to the meeting. Otherwise any documents you wish to rely on may not be considered. I will assume you will be attending the meeting unless I hear from you to the contrary. You should be aware that the meeting is likely to proceed in your absence unless you provide appropriate notice and explanation of your non-attendance. If you should have any queries please do not hesitate to contact either myself or **(name)** of the HR team who can be contacted on 0115 977\*.

Yours sincerely,

Head Teacher

Cc HR Team  
TU Representative

Enc: Statement of Case  
Order of Events

## Appendix 16: Outcome of Appeal

### Private & Confidential

\*Name\*

\*Address\*

\*Address\*

\*Address\*

\*Address\*

### Date

Dear \*

### Governors Appeal Hearing (School) Attendance Management Procedure

I refer to the meeting of the panel of governors held on **(date)** to consider your appeal against the decision of the earlier panel of **governors / head teacher**, who met on **(date)** and issued you with a **\* warning / dismissal** on the grounds of capability due to your continued **long term/short term persistent** absence(s) from your **\* post** as a result of ill health and my letter of **(date)**. You attended the meeting and were represented by **(name)** your Trade Union representative (**amend as appropriate**). The meeting was arranged within the framework of the School's Attendance Management Procedure.

The Governors who heard your appeal were **(names)** and they were advised by **(name)** HR Business Partner. **(name, HT)** presented the case on behalf of the school.

Having considered all the documentation that had been presented to them and having listened to the head teacher's presentation during the meeting and your statement to support your appeal, the governors decision was that they upheld **\*the decision of the head teacher / previous panel** to issue you with a **\* Warning /dismiss you** on the grounds of incapability due to your ill health.

**Where the appeal is against dismissal:** You will have received a letter from the Local Authority (*Community and Voluntary Controlled schools*) / the school (*for foundation, Voluntary Aided and academy schools*) terminating your contract of employment on the grounds of capability due to your continued absence due to ill health and therefore this letter confirms that your appeal is unsuccessful and your dismissal from your post as **\*** will take effect from **(dismissal date)**.

**Or**

**\* upheld your appeal (give details as appropriate).** The Written Warning / Final Written Warning has been withdrawn / Your contract of employment will now be reinstated.

I must inform you that you have no further right of appeal against this decision.

Yours sincerely

Chair of Appeal Panel

Cc HR Team  
TU Representative

## Appendix 17: Ill Health Retirement – Teachers

1. This process may apply where the teacher is absent due to ill health for at least 4 weeks and is likely to remain so for much longer with a serious medical condition.
2. The school should contact the HR Service who will provide advice on whether it is appropriate to refer the teacher to Occupational Health if this has not yet happened.
3. Teacher attends initial consultation with the Occupational Health Adviser or Physician and a report is produced which includes medical advice on the action required to support the teacher in the ill health application, and explores all possible alternatives to assist the teacher in returning to work, and/or a programme of review appointments.
4. Throughout the absence period the school should maintain contact with the teacher, who should be made aware of all the appropriate options which could assist them in returning to work, i.e. phased return, part-time working, stepping down, and redeployment. Records should be kept of this and an appropriate HR Business Partner will support the school with this action.
5. When the appropriate options to facilitate a return to work have been exhausted and the Occupational Health Physician has considered all medical evidence from the GP and consultant, they may, in discussion with the teacher, feel it appropriate to apply for ill health retirement.
6. Upon a request from the teacher, their representative (if appropriate) or Occupational Health, HR Service will provide the teacher with the appropriate forms and guidance notes.
7. The teacher will complete and forward the Teachers' Pensions ill health retirement medical information form (IllHealthMED) to the Occupational Health provider. The form will be checked by an Occupational Health Nurse Adviser, who will make contact with the individual to discuss the content of the form. The teacher will be assisted with the medical aspects of the applications process by Occupational Health who will have an in-depth knowledge of the teacher's case from previous contact and can support the teacher in commissioning any relevant medical advice.
8. If the Occupational Health service have concerns about the level of medical advice provided, the teacher, their representative (if appropriate), HR Service and Occupational Health will work together before the completed application forms are submitted. Ultimately, however, it will be the teacher's decision to submit the application.
9. The teacher should send the ill health application form (IllHealth APP) to HR to be checked for completeness.
10. When all forms and medical evidence have been checked and received by the HR Service they should be forwarded to Teachers' Pensions for processing. The governing body and Local Authority/Trust will treat their application as an indication of their wish to retire.
11. Following receipt of the application, Teachers' Pensions will decide whether to accept or reject the application. The application may be rejected unless it has the full support of a specialist and all avenues of treatment have been exhausted.
12. If the application is accepted by Teachers Pensions, a final date of service will be agreed between the teacher and their school. Under the Pension Regulations a teacher's employment will terminate at the end of the month in which the notification is received, or earlier if requested by the teacher and agreed by the governing body.
13. There are two tiers of ill-health retirement benefits – Total Incapacity Benefit (TIB) and Partial Incapacity Benefit (PIB)

14. If the application is rejected by Teachers Pensions, HR, Occupational Health, the teacher and their representative (if appropriate) will work together to consider commissioning further medical advice and decide whether to submit a fresh application or consider other options.

For further guidance see [Retirement and Pensions](#) or [www.teacherspensions.co.uk](http://www.teacherspensions.co.uk)

## Appendix 18: Ill Health Retirement – Support Staff

1. This process may apply where the employee is absent due to ill health for at least 4 weeks and is likely to remain so for much longer with a serious medical condition.
2. The school should make contact with the HR Service who will provide advice on whether it is appropriate to refer the teacher to Occupational Health if this has not yet happened.
3. The employee attends initial consultation with the Occupational Health Adviser or Physician and a report is produced which includes medical advice on the action required to support the employee and explores all possible alternatives to assist the employee in returning to work, and/or a programme of review appointments.
4. Throughout the absence period the school should maintain contact with the employee who should be made aware of all the appropriate options which could assist them in returning to work, i.e. phased return, part-time working, and redeployment. Records should be kept of this and an appropriate HR Business Partner will support the school with this action.
5. When the appropriate options to facilitate a return to work have been exhausted and the Occupational Health Physician has considered all medical evidence from the GP and consultant, they may, in discussion with the employee, feel it appropriate to apply for ill health retirement and ask employee for their consent to refer them to an independent Occupational Health Physician.
6. The independent Occupational Health Physician will consider whether the employee meets the criteria, under the local government pension scheme, for early retirement on the grounds of ill health and indicate that they are willing to sign a Certificate of Permanent Incapacity.
7. Following notification of the Occupational Health Physician's support for early retirement on the grounds of ill health, it is necessary to present a report to a panel of 3 governors of the Governing body, in the light of which a decision will be taken concerning the termination of the employee's contract on medical grounds. The employee should be given the opportunity to attend this meeting if they wish accompanied by their trade union representative or a work colleague. Alternatively, the employee may opt to use the waiver process
8. ***Certificate of Permanent Incapacity – Support Staff (Pension members only)***

Upon OHU advice:

- **1<sup>st</sup> Tier:** 2 yrs minimum service. Employee has no reasonable prospect of being capable of obtaining gainful employment before normal pension age (age 65). Service enhanced to normal pension age.
- **2<sup>nd</sup> Tier:** 2 yrs minimum service. Employee has no reasonable prospect of obtaining gainful employment within 3 years of leaving but are likely to be capable before normal pension age. Service 25% enhanced to age 65.
- **3<sup>rd</sup> Tier:** 2 yrs minimum service: Permanently incapable of discharging current post, but is likely to be capable of obtaining gainful employment within 3 years of leaving. No enhancement. Reviewed after 18 months via OHU appointment, pension may cease if recovers and gainfully re-employed.

For further guidance see [Retirement and Pensions](#) or [www.nottinghamshirepensionfunds.org.uk](http://www.nottinghamshirepensionfunds.org.uk)

## Appendix 19 - Ill Health Retirement – Tier 1 / Tier 2 (support staff only) letter

### Private & Confidential

\*Name\*

\*Address\*

\*Address\*

\*Address\*

\*Address\*

### Date

Dear \*

### Managing Attendance Procedure (name) School - Ill Health Retirement – Tier 1 / Tier 2 / Tier 3 (support staff only)

As you are aware the school has, for some time, been considering your long term illness in accordance with the Managing Attendance Procedure.

[Name], County Occupational Health Physician at the Occupational Health Unit, who is an independent doctor has been contacted regarding your ongoing absence from work. He/she has reviewed your case and has confirmed that he/she will issue a Medical Certificate of Permanent Incapacity in relation to your employment as [post title]. As you are in the Local Government Pension Scheme this means that you are entitled to receive [Tier 1/Tier 2/Tier 3] pension benefits payable immediately after your contract of employment with the County Council has ended in accordance with the definitions below:

#### **Delete non-applicable tiers as appropriate**

#### **Tier 1**

If the employee has no reasonable prospect of being capable of obtaining gainful employment before normal pension age (age 65), the pension payable will be based on accrued memberships + 100% of prospective membership between leaving and normal pension age.

#### **Tier 2**

If the employee has no reasonable prospect of gainful employment within 3 years of leaving but are likely to be capable before normal pension age, the pension payable is based on accrued membership + 25% of prospective membership between leaving and age 65.

#### **Tier 3**

A short-term reviewable pension is payable based on accrued membership only where the employee is likely to be capable of obtaining gainful employment within three years of leaving. Tier 3 pensions cease when gainful employment is found and in any case may not be paid for longer than three years. As the employer, the county council is required to review payment at 18 months and may subsequently determine that the pension should cease if the employee is deemed capable of gainful employment, or, if the employees condition has deteriorated, may determine that a tier 2 pension may be awarded.

The estimates for your [Tier 1/Tier 2/Tier 3] pension benefits are:

[details of pension benefits]

**OR**

The estimates for your [Tier 1/Tier 2/Tier 3] pension benefits are as previously indicated in my letter dated [date].

Having received this advice from the County Occupational Health Physician the school is now at the stage where it is necessary to review your continuing employment, in line with the Managing Attendance Procedure, and consider whether it would be appropriate to terminate your employment on the grounds of ill health.

There are two ways that the school can manage this process. If you are in agreement that your employment is terminated on the grounds of ill health this would be progressed by writing to you informing you of the decision and giving you appropriate notice of your termination of employment. At the same time arrangements would be made for your pension benefits to be paid.

Alternatively if you wish you could attend a formal hearing at which your status and the possibility of terminating your employment in accordance with Occupational Health advice will be considered in detail. The hearing would consist of a panel of three governors and you would be given the opportunity to state your case against the possible termination of your employment. At this hearing you would have the opportunity to be represented by a Trade Union representative or work colleague. If you were not satisfied with the outcome of this process you could appeal to a governors appeal panel.

Before taking any decision about which option you wish to pursue it is important you discuss these issues and take advice from your Trade Union representative or a work colleague. Having fully considered all points, please complete the section below, indicating which option you wish to pursue. If you have any queries then please do not hesitate to contact [Name] on [telephone number]

I, [Name], have consulted with my trade union representative or work colleague and confirm:

	I agree that termination of employment on the grounds of ill health is appropriate, and understand that if I wish I have the right to a formal hearing. I have decided that I want to have my pension benefits released and I do not wish to proceed to a formal hearing to discuss the possible termination of my employment with the School.
--	--

**OR**

	I would like you to arrange a formal hearing at which I will have the opportunity to state my case against the possible termination of my employment with the School on the grounds of ill health.
--	--

Signed: .....

Print Name: .....

Date: .....

Yours sincerely

Head Teacher

CC: HR Team  
TU representative

## Appendix 20: Ill Health Waiver letter (teaching & support staff)

### Private & Confidential

\*Name\*  
\*Address\*  
\*Address\*  
\*Address\*  
\*Address\*

### Date

Dear \*

### Attendance Management Procedure (name) School – Ill Health

As you are aware the school has, for some time, been considering your long term illness in accordance with the Managing Attendance Procedure. The school has, regrettably, now reached the position whereby it is necessary to consider the termination of your employment on the grounds of capability due to prolonged ill-health. Where there is mutual acceptance that the termination of your employment due to ill health is inevitable the procedure does allow for a signed agreement to this effect. If you are in agreement that your employment is terminated on the grounds of ill health this would be progressed by writing to you informing you of the decision and giving you appropriate notice of your termination of employment plus the payment of any outstanding leave (*if appropriate – support staff only*).

Alternatively, if you wish you could attend a formal hearing at which the possibility of terminating your employment will be considered in detail. The hearing would consist of a panel of three governors and you would be given the opportunity to state your case against the possible termination of your employment. At this hearing you would have the opportunity to be represented by a Trade Union representative or work colleague. If you were not satisfied with the outcome of this process you could appeal to a governors appeal panel.

Before taking any decision about which option you wish to pursue it is important you discuss these issues and take advice from your Trade Union representative or a work colleague. Having fully considered all points, please complete the section below, indicating which option you wish to pursue. If you have any queries then please do not hesitate to contact [Name] on [telephone number].

I, [Name], have consulted with my trade union representative or work colleague, and confirm:

	I agree that termination of employment on the grounds of ill health is appropriate, and understand that if I wish I have the right to a formal hearing. I have decided that I do not wish to proceed to a formal hearing to discuss the possible termination of my employment with the School.
--	--

**OR**

	I would like you to arrange a formal hearing at which I will have the opportunity to state my case against the possible termination of my employment with the school on the grounds of ill health.
--	--

Signed: .....

Print Name: .....

Date: .....

Yours sincerely

Head Teacher

CC: HR Team  
TU representative

## Appendix 21: Confirmation of outcome of review of warning letter

### Private & Confidential

\*Name\*

\*Address\*

\*Address\*

\*Address\*

\*Address\*

### Date

Dear \*

### Review of \* warning (School) Attendance Management Procedure

I wish to confirm the outcome of the review of the *written / final written* warning that was issued to you on (*date*) for a period of (*number*) months.

#### *Option 1 – attendance satisfactory*

The warning has been reviewed by (head / governors) and confirmed as spent, it will not be taken into account if further attendance management sanctions are being considered.

#### *Option 2 – attendance not satisfactory*

The warning has been reviewed by (head / governors) and confirmed as not spent. The reason for this decision is (explain why). The warning will remain on your record for a further (number) months. The warning will then be reviewed again. It will continue to be taken into account if further managing attendance sanctions are being considered.

*(Give details of any other options being proposed – a further referral to OHU etc.)*

You are not able to appeal against this decision.

Yours sincerely

Head Teacher

CC: HR Team  
TU representative

**Appendix 22: Formal Request for County Council to terminate Contract of Employment  
(Community Schools, Voluntary Controlled, Community Special and Maintained Nursery  
Schools only)**

PRIVATE AND CONFIDENTIAL

Name of (HR Business Partner)  
HR Team  
Nottinghamshire County Council  
Trent Bridge House  
Fox Road  
West Bridgford  
Nottingham  
NG2 7QP

Dear

**(Name of School) School Managing Attendance Procedure – Outcome of Hearing**

(Name of Employee) (Post Title)

Further to the hearing held at this school on (date), attended by (Name) HR Business Partner, I wish to confirm that the outcome of the meeting was a decision to dismiss the above named employee from this school. I should be grateful if you could make the appropriate arrangements for the County Council to formally terminate this employment on the grounds of capability to undertake duties as a (**job title**) at .....school due to continued **long term/short term persistent** absence(s) as a result of ill health with effect from (date of termination of employment).

The decision is subject to appeal and I will inform you of the outcome of any appeal to be heard during the notice period in due course. I should be grateful if you could send me a copy of the formal dismissal letter.

A copy of this letter has been sent to the HR Team.

Yours sincerely

Head Teacher

## Appendix 23: Calculation of Sick Pay

How sick pay is calculated:

<b>Teachers: Length of Service</b>	<b>Full Pay Days</b>	<b>Half Pay Days</b>
0-4 months	25	0
After 4 months	25	50
During 2 <sup>nd</sup> Year	50	50
During 3 <sup>rd</sup> Year	75	75
After 3 Years	100	100
<b>Support Staff: Length of Service</b>		
0-4 months	26	0
After 4 months	26	52
During 2 <sup>nd</sup> Year	52	52
During 3 <sup>rd</sup> Year	104	104
During 4 <sup>th</sup> & 5 <sup>th</sup> Year	130	130
After 5 Years	156	156
<b>Support Staff (equated pay): Length of Service</b>		
0-4 months	21	0
After 4 months	21	42
During 2 <sup>nd</sup> Year	42	42
During 3 <sup>rd</sup> Year	84	84
During 4 <sup>th</sup> & 5 <sup>th</sup> Year	105	105
After 5 Years	126	126

The sick pay year for **teachers** runs from 1<sup>st</sup> April to 31<sup>st</sup> March and the full/half pay table sets out the sick pay rates for all staff. If the teacher is absent before 31<sup>st</sup> March and continues beyond 1<sup>st</sup> April the new entitlement does not start until after a return to work. If a teacher is absent on the last day of term the sick pay continues at either full, half or no pay into the holiday period although the holiday period does not count towards the number of days (i.e. working days) The sick pay year for **support staff** is calculated on a rolling year basis.

## **Appendix 24: Attendance Management – Summary Protocol for Managing Head Teacher Attendance**

The Attendance Management procedure sets out the head teacher responsibility for managing the day to day operation and management of the school including the attendance of all staff. Where there are concerns about the head teacher's attendance, the procedure assumes that the governing body will take responsibility for this and that the chair of governors or other nominated governor will request support from the HR Service. This guidance is therefore intended to support the governing body in exercising their responsibilities.

This document within the Attendance Management Procedure provides governing bodies with:

- An understanding of their roles and responsibilities and those of others involved in the management of head teacher absence.
- An awareness of the full complement of resources available to support governing bodies in the process.
- Summary guidance on the management of head teacher attendance to supplement the agreed Attendance Management policy.

### **ROLES AND RESPONSIBILITIES**

#### **The Local Authority**

##### ***HR Service***

The role of the Local Authority (LA) is to ensure that, through the provision of HR Services by a named, dedicated HR Business Partner, governing bodies are:

- Supported at an early stage in identifying appropriate actions and support needs in managing head teacher attendance issues. This will be provided through telephone advisory support and where required will include a meeting at the outset to agree timescales for managing the process, key actions and lead persons.
- Provided with tailored advice and support at each stage of the attendance management procedure.
- Provided with hands-on support in preparing necessary documentation (occupational health referrals, statements of case, letters).
- Supported to manage welfare meetings and review meetings as appropriate in accordance with the purchased package through Services for Schools. Please note that support to attend welfare meetings is only available to those schools who buy the enhanced package.
- Given specialist advice by an independent HR Business Partner where a panel of governors is required to formally review the attendance of a head teacher.
- Supported in managing the absence of the head teacher. The HR Service will ensure that, where appropriate, specialist, tailored advice from relevant agencies who are critical to the effective management of the absence and the school in general (including Education Improvement Service, Governor Services, Occupational Health and Legal Services) is made available to Chairs of Governors and Governing Bodies as part of the Attendance Management process. The relevant contacts will be notified to the chair of governors or nominated governor.

- The support available to governing bodies and head teachers is set out in the Services for Schools brochure and other ad-hoc support as required.

### ***Education Improvement Service and Governor Services***

Education Improvement Service and Governor Services work alongside the HR Service in supporting schools and governing bodies and will provide alerts / updates to the HR Service with contextual information where it is felt appropriate to involve them. Similarly, the services will signpost schools and governing bodies to the support available through the HR Service where appropriate. The Education Improvement Services will support the school to secure interim leadership arrangements where necessary and put in place support to monitor and evaluate the impact of these arrangements in schools causing concern.

### **Governing Bodies**

Governing bodies are responsible for ensuring that an agreed absence management policy is approved and adopted, that this procedure is followed in relation to reporting and managing absences in school and that governing bodies have accessed appropriate training through the Governor Training Programme in relation to Managing Attendance.

Governing bodies must ensure that the school has systems in place so that the chair of governors is alerted to any long term or repeated absences of the head teacher.

Where the absence concerns are in respect of the head teacher, governing bodies are required to identify a governor to manage the process; this would typically be a responsibility taken by the chair of governors, with support from a named HR Business Partner. The identified governor would therefore be responsible for ensuring that:

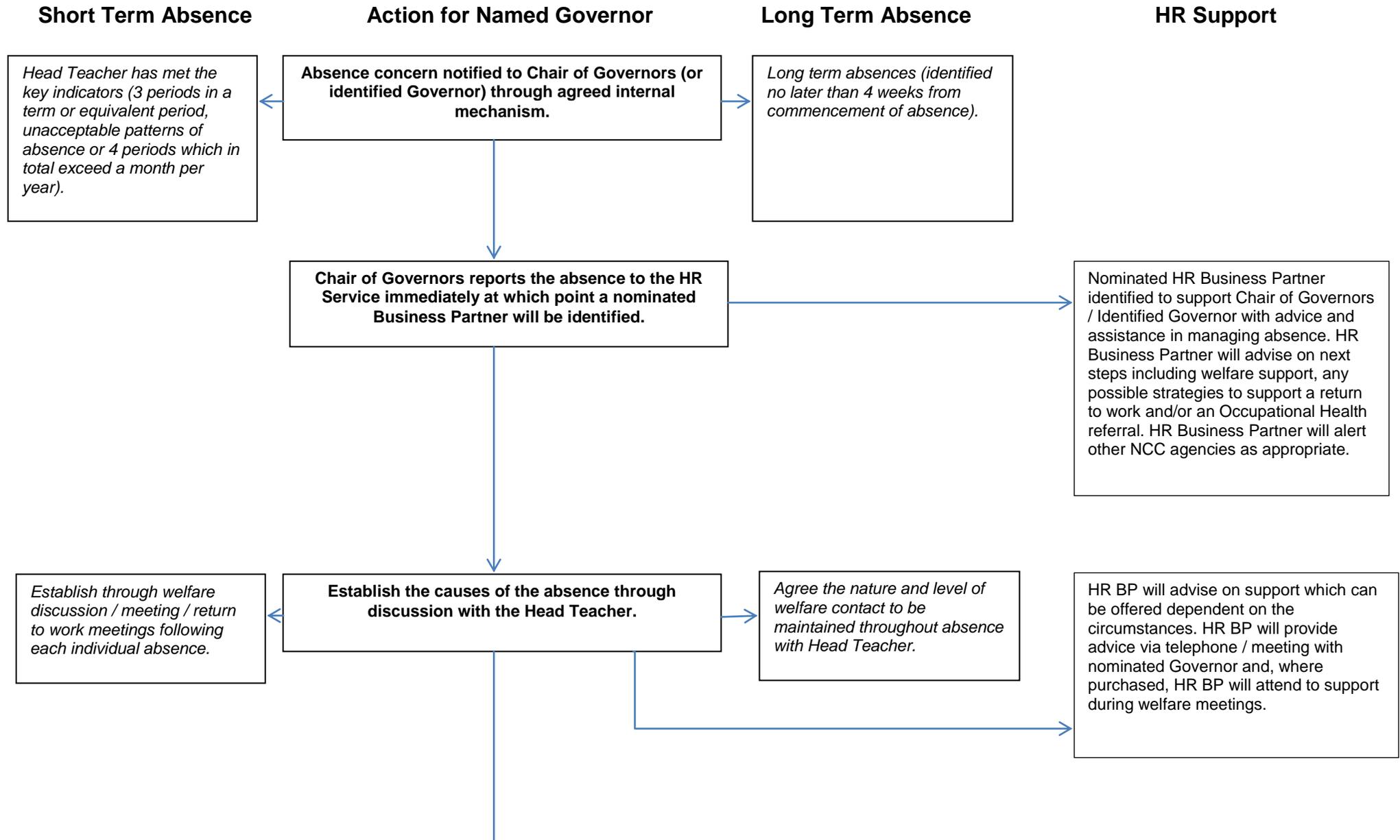
- The Local Authority HR Service is notified immediately where it is anticipated that the HT will be absent from school long term (4 weeks or more) or where there are concerns relating to short-term absences where key indicators are met or about to be met. The chair of governors should, in the first instance, notify the HR Business Partner who will then ensure that other appropriate senior colleagues are notified where appropriate. The relevant senior colleagues may include the Education Improvement Service Team Manager, and the Governor Services Team Manager. Where appropriate, notification to both parties could be made by the Clerk to the governing body on behalf of the chair of governors.
- Immediate advice and support is sought from the HR Business Partner.
- The School's legal obligation for claiming Statutory Sick Pay (SSP) is complied with by ensuring that arrangements are put in place for the immediate recording of the sickness absence via the normal schools payroll system including receipt of medical certificates covering the period of absence.
- The head teacher has access to appropriate support during their absence and / or to support them to return to work.
- The procedure is applied fairly and consistently in relation to absence matters within school.
- During a period of long term absence, welfare contact and visits are conducted by the chair or identified governor (with named HR Business Partner support as necessary) and

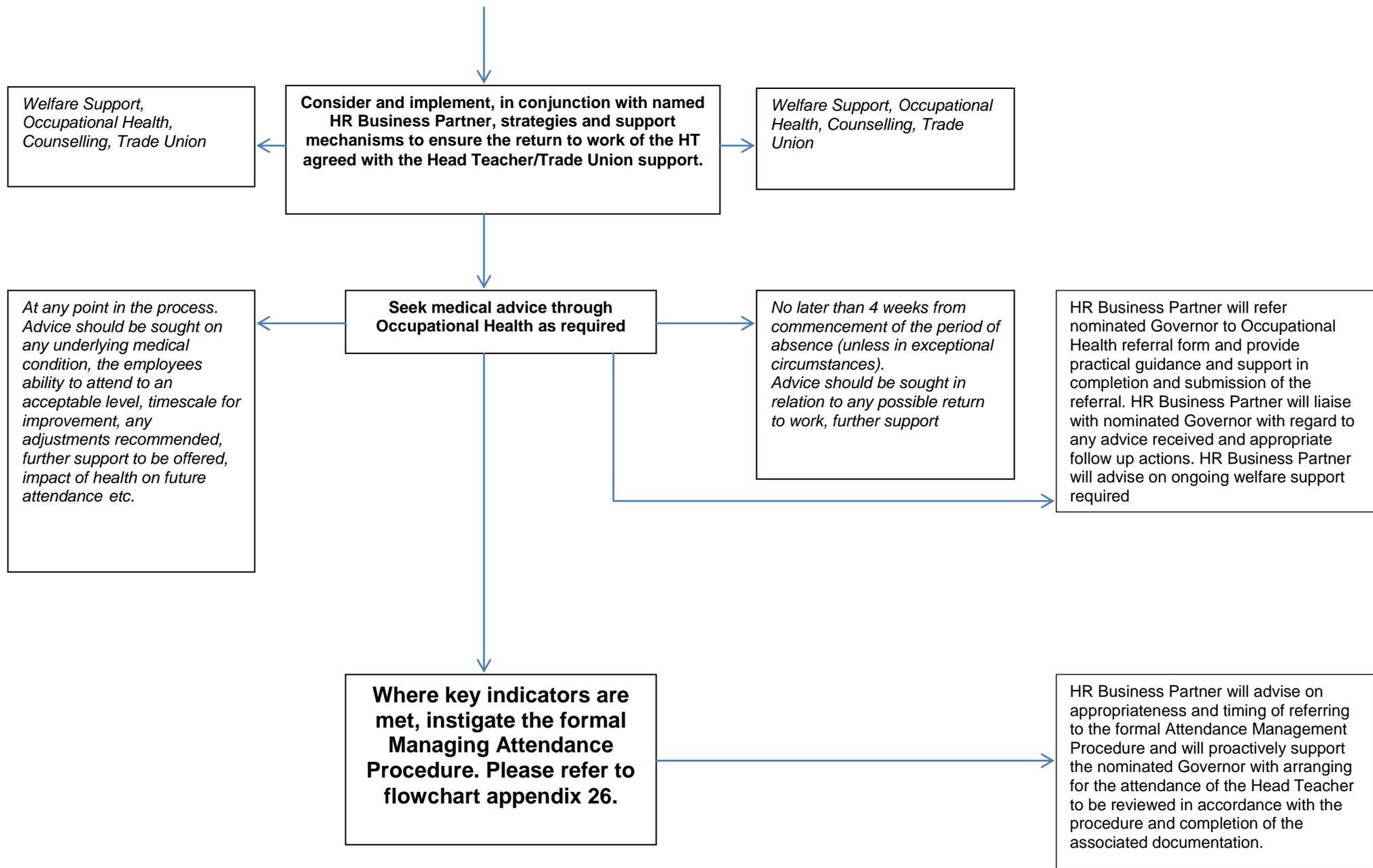
a record kept of any such visits following discussion / advice sought / given by the HR Business Partner.

- The absence is formally reviewed where necessary in accordance with the procedure and issuing staged warnings as necessary. Where schools buy into the HR Staff Absence Protection Scheme, or where the school is in receipt of additional support from the LA (financial or otherwise), there is an implied responsibility on behalf of the school and governing body to effectively minimise absences through application of these procedures in accordance with HR advice. Where governing bodies fail to take effective action to manage absences generally, or specifically in the case of the head teacher, the above scheme and additional support to the school may be withheld.
- Advice is sought from the named HR Business Partner as appropriate on an ongoing basis to the point at which the absence issue is resolved.

## GUIDANCE ON THE MANAGEMENT OF HEAD TEACHER ATTENDANCE ISSUES

The following is intended to summarise and supplement the Attendance Management Procedure. Please read the below in conjunction with the full policy document.





## Appendix 25: Managing Attendance – Summary Flowchart of Procedure

