

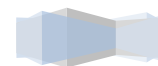
# Sickness Policy and Procedure

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# 1. Introduction

## 1.1 Aim

- 1.1.1 The aim of the Sickness Policy and Procedure is to improve employee attendance at work. The procedure sets out the process for managing short and long-term absences in a fair and consistent way across the School.
- 1.1.2 The purpose of the procedure is to promote the health and wellbeing of all employees and to provide a framework to ensure that staff with health-related issues receive appropriate support, whilst achieving acceptable levels of attendance.

## 1.2 Scope, and Application

- 1.1.3 The Sickness Policy and Procedure applies to all school-based employees.
- 1.1.4 The employer has a general duty of care to all employees and a statutory obligation under the Health and Safety at Work Act 1974, to ensure, as far as is reasonably practicable, the health, safety and welfare of all its employees.
- 1.1.5 Employees who are unable to attend work due to ill health will be treated fairly and every effort will be made to assist recovery and safeguard employment whilst managing sickness absence in accordance with this policy and procedure.
- 1.1.6 The policy is closely aligned with the sections of the Code of Conduct relating to honesty, integrity, high standards, fairness and working cooperatively.
- 1.1.7 Details of sickness proceedings and outcomes should remain confidential and restricted to those who need to be involved.

# 2. Responsibilities

- 2.1 Employees have responsibility:
  - Attending work when fit to do so;
  - Complying with the sickness absence reporting procedures;
  - Reporting sickness absence when unfit to attend or remain at work;
  - Attending return to work meetings, occupational health appointments, and any other meetings arranged in accordance with this procedure.
- 2.2 Responsible managers are responsible for:
  - Using the procedure to ensure consistency and fairness;
  - Ensuring that employees are treated sensitively and objectively;
  - Maintaining confidentiality throughout the process;
  - Monitoring and maintaining accurate sickness absence records; and
  - Ensuring employees are aware of the procedure for reporting sickness absence.
- 2.3 Presenting managers are responsible for:
  - Presenting the facts to a sickness hearing;
  - Taking over the responsible manager role at the time of their involvement, for example in relation to maintaining contact with the employee and ensuring fairness and



consistency.

2.4 Schools' Human Resources is responsible for:

- Providing impartial advice and support throughout the process;
- Monitoring the application and effectiveness of the procedure;
- Reporting trends and non-compliance to the Chair of Governors and the Director of Education & Learning.

2.5 The Governing Body is responsible for:

- Appointing panels for sickness hearings and appeal hearings;
- Where the Headteacher is the employee with the sickness absence, the role of the responsible manager and presenting manager in this policy will be undertaken by the Chair of Governors (or another governor designated by the governing board to carry out this role).

## 3. Principles and Definitions

### 3.1 Principles

3.1.1 This grievance policy and procedure has been adopted by the governing board in accordance with legislation<sup>1</sup>. Care has been taken to ensure that the policy is consistent with relevant legislation and with ACAS Code of Practice on Disciplinary and Grievance Procedures.

3.1.2 This policy has been negotiated and agreed with School Trade Unions

### 3.2 Definitions and Terminology

3.2.1 References to 'the policy' or 'this policy' mean to Schools Sickness Policy and Procedure.

3.2.2 References to 'colleague' means an employee working at the same school or federation.

3.2.3 References in this document to 'responsible manager' means the manager designated by the school to deal with that particular stage of the sickness process. For example this may be the line manager, the Headteacher, a different manager, or for example the school business manager. The responsible manager may differ for different stages of the process. E.g. a school may decide that a business manager should be the responsible manager for return to work interviews, but a different person should be the responsible manager to deal with a formal review meeting.

3.2.4 References in this document to 'presenting manager' mean the manager designated by the school to present the management case at a sickness hearing.

3.2.5 If the school has not specified otherwise the responsible manager will be the line manager and the presenting manager will be the Headteacher. However please note that the school may allocate these roles as it thinks fit, and it is possible that the responsible manager and the presenting manager will be the same person.

3.2.6 References in this document to 'line manager' usually mean the immediate line manager but could also include that manager's manager, or anyone else who has an overall line

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<sup>1</sup> See School Staffing (England) Regulations 2009.



management responsibility for an individual's work or role.

- 3.2.7 References to 'governor panel' will be a panel of three governors. The governing board will select three governors and will nominate one of them to be chair of the panel. The chair of the panel shall either be trained or suitably experienced in chairing formal panels. No governor who has had prior involvement in a particular case should sit on the panel. If there are insufficient suitable governors available from the school's governing board, then governors from the governing boards of other schools may be appointed to the panel. The panel will make decisions by majority vote, although the chair or the panel may make decisions in relation to procedure for example postponements. If the Chair of Governors is not a member of the panel the Chair of Governors will be given brief information only about the matter, they will not be given full details in case the Chair of Governors is needed as a future decision maker in the matter.

## 4. Procedure

### 4.1 Monitoring sickness absence and return to work meetings

- 4.1.1 Accurate records of all sickness absences and action taken should be kept confidentially and monitored on a regular basis. The responsible manager must conduct a return-to-work interview as soon as practicable following each episode of sickness absence so that support and advice can be provided at an early stage. Following return from sickness leave the responsible manager will carry out a return-to-work meeting, hold a record of the meeting on file and provide a copy of the record to the employee.
- 4.1.2 Where work may be impacting on an employee's health, or where health issues may be affecting an employee's attendance or performance, the responsible manager should obtain advice from the School's nominated Occupational Health service provider, in consultation with Schools' HR.
- 4.1.3 In deciding whether to implement the formal stages of this procedure the most important consideration is the need to act reasonably in the circumstances of the particular case. The following may act as a trigger for the responsible manager to initiate the formal stage of this procedure:
- 4 periods of absence due to ill health in a rolling 12 months; or
  - A total of 8 days within a rolling 12 months.
- 4.1.4 However, the responsible manager will consider the circumstances of each case and shall have discretion not to implement the formal stages of the procedure where this would be inappropriate, for example, where an employee is absent for more than 8 days recuperating from an operation on medical advice and there is a known return to work date. The responsible manager may also take action before triggers are met where patterns or trends of absence are evident, for example repeated absences on Mondays and/or Fridays.
- 4.1.5 The responsible manager is responsible for producing reports for their work area on a monthly basis to identify employees whose level of sickness absence is approaching or has exceeded these standards.



## 4.2 Disability

- 4.2.1 Where an employee's sickness absence is related to a disability, the absence will be managed with due regard to and in accordance with the Equality Act 2010. The school must have procedures in place to ensure that reasonable adjustments are made for disabled employees.
- 4.2.2 The standard by which a disabled employee's attendance is measured must take account of their disability. Absence which is on account of an employee's disability shall be recorded separately.
- 4.2.3 If an employee is or becomes disabled (as defined by the Equality Act 2010), the responsible manager will discuss with the employee any reasonable adjustments to support them in their work. Schools' HR and/or other appropriate specialist advice should be sought and the employee should be advised of their right to seek advice from their trade union.

## 4.3 Reporting sickness absence and contact during sickness absence

- 4.3.1 It is the responsibility of both the employee and the responsible manager to maintain contact during periods of sickness absence. This will enable the Council/School to offer appropriate support, if required.
- 4.3.2 On the first day of sickness absence, (except in exceptional circumstances) an employee must contact the responsible manager, or the person designated for this purpose within the school, by telephone at least one hour before the time they are expected to start work or in accordance with agreed local arrangements jointly agreed with staff and Trade Unions.
- 4.3.3 The employee will be asked to give as much of the following information as possible:
- The nature of the illness or a broad indication of the cause for the absence;
  - The anticipated length of absence.
- 4.3.4 Where an employee prefers not to provide detailed information about their health to the responsible manager they may choose to provide this information to another officer designated by the school for this purpose.
- 4.3.5 The employee must contact the responsible manager or designated officer on the 4th calendar day of sickness absence, or in accordance with agreed local arrangements jointly agreed with staff and Trade Unions and provide further notification as to the probable duration of the absence. If the school office is not open on the 4th calendar day of sickness absence then the employee must report on the next day that the school office is open.
- 4.3.6 The employee must contact the responsible manager on the 8th calendar day of sickness absence to provide further notification as to the probable duration of the absence. For example if sickness leave starts on a Wednesday, the employee must contact on the following Wednesday (whether they are full-time or part-time). After one week off sick the employee must submit a medical certificate from a GP. The original certificate must be forwarded to the responsible manager as soon as possible and within 5 days of the start of the 2nd week of absence. Further medical certificates must be supplied to cover the entire period of sickness absence after the first 7 calendar days.



- 4.3.7 The 'Sickness Absence and Self Certification Notification Form' must be completed on the employee's return to work. This form is completed by the employee and responsible manager. The form is a record of self-certification of absence for absences of up to 7 days, and a record of the return meeting for all sickness absences.
- 4.3.8 It is a condition of the sick pay scheme to follow the sickness reporting procedures as outlined above. Failure to comply will result in loss of sick pay unless there are exceptional circumstances.
- 4.3.9 The responsible manager should not contact the employee on sick leave on work related matters without prior agreement except in exceptional circumstances. Employers have a duty of care towards staff - managers may keep in touch with employees during their sickness leave to ensure their wellbeing, for example telephone calls on a fortnightly basis<sup>2</sup>.
- 4.3.10 If employees have been certified sick by a medical professional (i.e. their GP) and have a fit note, they must not attend work.

#### **4.4 Illness at work**

- 4.4.1 Where an employee becomes ill whilst at work, they must, inform the responsible manager of their intention to leave their place of work, either temporarily or for the day. Absence from work for part of a working day will be recorded as sickness absence.

#### **4.5 Unauthorised absence**

- 4.5.1 Unauthorised absence is considered to be misconduct under the Schools' Disciplinary Rules. An employee who fails, without good reason, to follow the above reporting procedures may have their pay suspended and may be subject to disciplinary action and appropriate disciplinary sanctions in accordance with the Schools' Disciplinary Policy and Procedure.

#### **4.6 Sickness and annual leave (applicable for all year around support staff only)**

- 4.6.1 If an employee falls sick whilst on annual leave the normal reporting and certification arrangements apply. Annual leave may be reclaimed if the employee without delay provides a valid medical certificate for the entire length of the absence. Medical certificates, or equivalent, issued abroad should be copied and sent to the responsible manager as soon as possible. The original documents must be supplied on return to work.
- 4.6.2 Annual leave will not be re-instated on production of a self-certificate.

#### **4.7 Reporting to work interviews**

- 4.7.1 A return to work interview must be undertaken by the responsible manager following every period of sickness absence. The meeting should be informal and informative, based on the concern for the health of the employee and any underlying causes which may affect health/performance. The responsible manager will use their discretion in determining the level of detail required at the return-to-work interview based upon the duration of the employee's sickness absence and the complexity of the issues to be discussed. In general, the following should be discussed:

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<sup>2</sup> The ACAS website has useful information about keeping in touch with employees during sickness absence.





- The employee's fitness for return to work
- Any underlying work, domestic or welfare issues related to the absence
- An update on any workplace developments during the absence
- Review the employee's absence record
- Where appropriate remind the employee about the sickness policy and the applicable stage of the policy if there is further sickness absence
- It is good practice to carry out a return-to-work meeting, hold a record of the meeting on file and provide a copy of the record to the employee

#### **4.8 Long-term sickness absence**

- 4.8.1 Where an employee has long-term sickness absence that lasts more than 28 calendar days or absence that is anticipated to last more than 28 calendar days, the responsible manager will establish regular contact with the employee to monitor progress, and keep the employee informed of any significant workplace developments.
- 4.8.2 Where long term absence has occurred, the employee will be invited to attend a sickness supervision meeting with the responsible manager. The responsible manager will obtain detailed information on the employee's absence in order to ensure the employer's duty of care is established. In such cases, a management referral to the Council's Occupational Health service will usually be made. (See appendix one for further information on Occupational Health referrals).
- 4.8.3 An employee may be entitled to early ill health retirement benefits if they are a member of a pension scheme and a medical professional agrees that the individual meets ill health retirement.

## **5. Informal stage – Stage 1**

### **5.1 Supervisory meeting**

- 5.1.1 Where the line manager, Headteacher or responsible manager considers that attendance is not satisfactory or has genuine concerns about an employee's health, welfare or wellbeing, they will arrange for the employee to attend an informal one to one supervisory meeting with the responsible manager. At least 2 working days' notice of the supervisory meeting will usually be given to the employee (this notice could be reduced if both parties agree). Aims of the supervisory meeting:
- Investigate the problem by seeking relevant information from the employee;
  - Establish any underlying cause for the sickness absence;
  - Discuss the reasons for any health / wellbeing concerns and consider the wellbeing of the employee;
  - Ask the employee for their own views on the managerial concerns;
  - Ask the employee what support the employer could give to assist with reduction of absence from work / improved wellbeing; and
  - To determine if there are any reasonable adjustments to the work environment that would aid the employee to maintain a better level of attendance.
- 5.1.2 Following the informal supervisory meeting the responsible manager will determine an appropriate course of action; normally one or more of the following:



- Monitor the employee's sickness absence over a specified period of time of not more than 6 months – the responsible manager will warn the employee that poor attendance may result in formal action being taken under this procedure;
- Refer the employee to the school's occupational health provider (see appendix one);
- If appropriate, arrange support or reasonable adjustments to assist the employee to reduce their absence;
- Any other reasonable action.

5.1.3 The responsible manager will confirm the decision in writing to the employee. They will also be informed that they need to maintain satisfactory levels of attendance and should there be cause for concern at any point during the review period the matter may be referred to the formal stage. At the end of the review period the employee will be informed, in writing, if their attendance is satisfactory and if so will be advised that in the event there is cause for concern about their absence within 12 months of the stage 1 supervisory meeting then the matter may progress straight to formal stage 2.

## 6. Formal stage – Stage 2

### 6.1 Formal review

6.1.1 A formal review meeting may be arranged in the following circumstances:

- Following a supervisory meeting an employee fails to demonstrate that their attendance is improving;
- The trigger point specified a para 4.1.3. Above has been reached; or
- For some other reason a formal review stage is considered appropriate by the responsible manager.

6.1.2 The responsible manager will write to invite the employee to a formal review meeting to discuss their attendance. The employee will be given at least 5 working days' notice of the review meeting. The letter will detail the employee's absence and advise them of their right to be accompanied by a trade union representative or work colleague.

6.1.3 The employee will be informed that their attendance has been unsatisfactory. The purpose of the meeting will be to:

- Identify the causes of the poor attendance;
- Consider the wellbeing of the employee;
- Consider any support the employer could give to assist with recovery and reduce absence from work;
- Determine what actions can be taken;
- Identify if there are any reasonable adjustments to the work environment that would aid the employee to maintain a better level of attendance; and
- Obtain the employee's commitment to reaching a satisfactory level of attendance

6.1.4 The responsible manager will decide on an appropriate course of action, which may include:

- Setting a period of time (e.g. Half a term or 2 months) for the employee to reach a satisfactory standard and establishing a monitoring plan;
- A further referral to occupational health;
- If appropriate, arrange support or reasonable adjustments to assist the employee to reduce their absence;



- Advising the employee that their employment may be at risk if their attendance does not improve;
- Any other reasonable action.

6.1.5 Details of the formal review discussions and decisions will be confirmed to the employee in writing as soon as possible after the meeting.

6.1.6 Where a review period is set, the employee will be informed as follows at the end of the review period:

- Whether or not their attendance is satisfactory
- the need to maintain satisfactory attendance and
- that any further cause for concern in the next 12 months may result in the matter progressing to stage three of the procedure i.e. A formal sickness hearing.

6.1.7 In some exceptional situations a formal review may be undertaken without holding a meeting with the employee. For example if the employee is too ill to attend a meeting or participate in the process, or if the employee refuses to participate in the process. In such situations the responsible manager may carry out a formal review without a meeting with the employee. The responsible manager will use their best endeavours to obtain information and decide on an appropriate course of action.

## 7. Formal stage – Stage 3

### 7.1 Decision to convene a sickness hearing

7.1.1 Where having followed stage 2 of this procedure there has been no significant improvement, the responsible manager may write to the employee instructing them to attend a formal sickness hearing. Similarly, if an employee has been on long term sick leave and all the options available have been explored and exhausted, the responsible manager will write to the employee instructing them to attend a sickness hearing before a sickness absence governor panel. (See definitions section re governor panel).

### 7.2 Preparing for a sickness hearing

7.2.1 The management case will be presented by the presenting manager.

7.2.2 The responsible manager shall arrange for the governing board to convene a governor panel. The school will notify Lambeth Schools' HR of the sickness hearing in good time and Lambeth Schools' HR<sup>3</sup> may arrange for a manager to attend the hearing for the purpose of giving advice.

7.2.3 The responsible manager should write to the employee instructing them to attend a sickness hearing. The letter instructing the employee to attend the hearing must:

- Give the employee at least 5 working days' notice of the hearing;

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<sup>3</sup> The School Staffing (England) Regulations 2009 Regulation 14 – in relation to a Community or Maintained or Controlled School / Nursery the Local Authority is entitled to attend and offer advice at all proceedings relating to the dismissal of any teacher. Regulation 26 – in relation to Foundation, Voluntary Aided and Foundation Special Schools the Local Authority is entitled to offer advice on the dismissal of a teacher and the governing board is required to consider that advice.



- Set out the date, time and place of hearing and the names of the 3 governors of the panel;
- Where possible, be accompanied by the documents that the responsible manager will present at the hearing, although these can be sent under separate cover provided they arrive no later than 5 working days before the hearing. Documents to be considered at a formal hearing should be set out in a logical order, indexed and paginated, with a written introduction including any conclusions and recommendations to the panel;
- Advise the employee of the right to be accompanied by a work colleague or trade union representative;
- Provide a copy of the school's sickness policy and procedure;
- Advise the employee that they need to provide any documentation at least 2 full working days before the hearing;
- Explain that dismissal could be an outcome after the first formal hearing; and
- If an employee assistance programme is available for the employee then make reference to that.

### **7.3 Attendance at a formal hearing**

#### **7.3.1 The following may attend a sickness hearing:**

- The employee;
- The panel of 3 governors who will hear the case;
- A schools hr representative who shall act as an impartial advisor to the panel;
- The employee;
- The employee's TU representative or colleague;
- The responsible manager presenting the case;
- The responsible manager may be accompanied by a schools' hr officer;
- A note taker;
- Any other member of staff invited by the panel to advise or give information as a witness who shall remain only for the duration of their evidence;
- Any witnesses called by the employee who shall remain only for the duration of their evidence; and
- Other employees may attend for training purposes with the consent of the chair of the panel.

### **7.4 Request for postponement**

#### **7.4.1 If requesting a postponement, the reasons for the request must be explained to the chair of the panel, who will consider the merits of the request and decide whether to agree or not to the postponement. The employee is usually expected to give an alternative date not more than 5 working days after the original date for the hearing.**

#### **7.4.2 The employee is expected to take all reasonable steps to attend a hearing.**

#### **7.4.3 If the employee is unable to attend a hearing in person then the panel will consider alternative arrangements such as allowing the employee to attend the hearing by video link or telephone, accepting written submissions / documents, dealing with the matter in writing instead of in person or allowing the representative or colleague to attend on their behalf.**

#### **7.4.4 If the employee's trade union representative or colleague is unavailable to attend the sickness hearing, then the hearing will be postponed on one occasion for up to five working days to an**



alternative date when the representative or colleague is available.

7.4.5 Requests for postponement or adjournment will be at the discretion of the chair of the panel.

7.4.6 The hearing will not normally be re-arranged more than once. Further requests for postponement of a hearing will be considered on their merits by the Chair of the Panel and will not always be agreed.

7.4.7 The hearing may proceed in the absence of the employee.

7.4.8 If an adjournment is requested during any stage of the hearing, the panel shall consider the request in private before making a decision.

7.4.9 If any new facts emerge which require further consideration, the chair may decide to adjourn the hearing and reconvene at a later date.

### **7.5 Procedure at sickness hearing**

7.5.1 The chair of the panel will arrange for notes of the hearing to be taken and retained for future reference. The order of business at a sickness hearing will normally be:

- a. At the commencement of the meeting the chair of the panel will
  - Introduce all parties;
  - State the purpose of the hearing;
  - Go through the meeting 'housekeeping' such as expected duration of meeting, arrangements for breaks, reminder to switch off mobile phones, reminder that recording is not permitted; emergency evacuation instructions, confidentiality reminder;
  - Summarise the order of the proceedings; and
  - Answer any questions regarding the procedure.
- b. The presenting manager will state their case and call any witnesses to give evidence.
- c. The employee (or their representative) will have the opportunity to question the presenting manager and the management witnesses (if any).
- d. The panel will have the opportunity to question the presenting manager and any management witnesses.
- e. The employee (or their representative) will explain their case and call the employee's witnesses to give evidence (if any).
- f. The management representative will have the opportunity to question the employee, the employee's representative and any employee's witnesses.
- g. The panel will have the opportunity to question the employee, the employee's representative and any employee's witnesses.



- h. The panel may adjourn the case so that further evidence can be obtained by the presenting manager.
- i. The presenting manager will be invited to summarise their case.
- j. The employee (or their representative) will be invited to summarise their case.
- k. The panel will deliberate in private and decide what the outcome should be.
- l. The panel will take account of all appropriate factors before reaching a decision. If the panel is considering whether dismissal is an appropriate sanction, it shall also consider whether any alternatives to dismissal are appropriate (see section on available sanctions).
- m. The panel will report the decision to the parties at the hearing, a reconvened hearing, or in writing direct to the employee. See section below on giving the decision.

## **7.6 Outcomes at sickness hearing**

7.6.1 The panel may decide one or more of the following:

- An adjournment to obtain more medical or other information;
- to issue a written warning for 12 – 24 months, to the employee that their attendance is unsatisfactory, setting a further period for monitoring;
- to issue a final written warning for 24 – 60 months, to the employee that their attendance is unsatisfactory, setting a further period for monitoring;
- recommendation for dismissal<sup>4</sup> with notice or pay in lieu of notice. There will not normally be a recommendation for dismissal at the employee's first sickness hearing. However, in exceptional circumstances recommendation for dismissal at the first hearing may be an option;
- recommendation to make a reasonable adjustment for example to the working arrangements;
- any other reasonable action, for example referral to occupational health or other medical adviser.

## **7.7 Giving the decision**

- 7.7.1 The decision of the Panel will be notified to the employee in writing as soon as practicable after the hearing, not normally to exceed 5 working days.
- 7.7.2 If the outcome is recommendation for dismissal then the chair of the panel will advise Schools' HR of the panel's recommendation and the Local Authority will arrange for dismissal to be confirmed in writing within 14 days (the employee will receive the panel's decision and

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<sup>4</sup> School Staffing (England) Regulations 2009. Regulation 20 – for Community, Voluntary Controlled, Community Special and Maintained Nursery Schools the recommendations to dismiss must be notified to the Local Authority. Within 14 days of being notified the Local Authority's Director of Education and Learning or Director of Children's Services must terminate the contract of employment with or without notice. Regulation 32 – in relation to Foundation, Voluntary Aided and Foundation Special Schools the same procedure as maintained schools applies to Local Authority employees who are being dismissed, otherwise the decision to dismiss sits with the governing board.



separate dismissal letter from the Local Authority).

- 7.7.3 Where the sanction is a written warning, the decision must include how long the warning will remain in force. This information must be included in the written notification of the decision along with arrangements for monitoring during the warning period.
- 7.7.4 If the outcome of the sickness hearing is dismissal or written warning, the employee will be notified in writing of their right to appeal.
- 7.7.5 Dismissals or notice periods are effective from the date of notification.
- 7.7.6 If the employee is successful at appeal they will be re-instated. It is, however, possible that an appeal might be concluded within the notice period.

## 7.8 Record of proceedings

- 7.8.1 It is important to keep written records during the entire managing attendance process. Records must include:
  - Health issues
  - The employee's response(s)
  - Findings made and actions taken
  - The reason for actions taken
  - Whether an appeal was lodged
  - The outcome of the appeal
  - Subsequent developments
- 7.8.2 Copies of meeting records, if requested, should be given to the employee including copies of any formal notes that may have been taken, within 10 working days of the hearing.

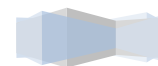
## 8. Process for appeals

### 8.1 Lodging and appeal

- 8.1.1 The employee will have the right of appeal against a decision to dismiss or issue a warning made after an appeal hearing. (Note there is no right of appeal against a decision following a stage 2 formal review.)
- 8.1.2 The employee must appeal in writing, giving clear and specific grounds for the appeal, within 10 working days of receipt of the written decision after the sickness hearing. The appeal letter should be addressed to the Chair of Governors or such other person as directed in the written decision. If grounds for appeal are not stated or do not reference the grounds allowed (see section below), no right of appeal will be allowed

### 8.2 Grounds for appeal

- 8.2.1 The grounds of appeal should relate to one or more of the following:
  - a) **The procedure** – Was the sickness procedure followed and did any failure to follow it materially affect the decision?
  - b) **The facts and evidence** – Did the facts of the case support the decision made? Were irrelevant facts taken into account or was there a failure to take into account relevant facts?



Were the conclusions of the panel unreasonable? Have new relevant facts or evidence come to light?

- c) **The sanction** – Is the sanction too harsh taking account of all the evidence and mitigating circumstances?

### 8.3 Composition of appeal panel and initial steps

- 8.3.1 Appeals must be heard by 3 governors who shall not have had any prior material involvement in the case. (See definition and terms of reference of governor panel above).
- 8.3.2 On receipt of a notice of appeal, the notification of the appeal will be given to the chair of the sickness hearing, the Headteacher and Lambeth Schools' HR. The chair of the sickness hearing will arrange for a copy of the notes of the minutes of the sickness hearing and documents submitted to the sickness hearing to be sent to the employee and the appeal panel. The chair of the sickness hearing will be asked to present the management case for the appeal hearing.
- 8.3.3 On receipt of an appeal the chair of the appeal panel will arrange for an appeal date which is, as far as possible, timely and suitable to all parties concerned. The appeal hearing will normally be arranged within 20 working days of receiving a letter of appeal.
- 8.3.4 The parties will be advised in writing of the date, time and venue and the employee informed the right to be accompanied by a trade union representative or colleague.
- 8.3.5 The chair of the appeals panel should arrange for notes of the appeal hearing to be taken and retained for future reference.

### 8.4 Procedure for appeals

- 8.4.1 The appellant will be given 5 working days' notice of the appeal hearing along with any documents which management will present at the appeal. The appellant must provide their own documents within 2 working days of the appeal hearing.
- 8.4.2 The management case at the appeal hearing will be presented by the chair of the sickness hearing panel.
- 8.4.3 The following documents must be made available for the appeal panel:
- All papers presented to the original sickness hearing;
  - The hearing notes;
  - The written decision of the governor panel;
  - Local authority letter confirming dismissal if applicable;
  - Any subsequent correspondence;
  - Any new evidence which the employee or management wishes to introduce which should be copied to all parties within the following time scales:
    - employer documents - at least 3 working days before the hearing
    - employee documents – at least 2 working days before the hearing





8.4.4 The purpose of the appeal is to review the decision taken by the sickness panel, not to re-hear the case. At the hearing the panel will review whether the original decision was reasonable having reviewed the grounds for appeal.

8.4.5 The order of business at an appeal hearing will normally be as follows:

- a. The chair of the panel will introduce all parties, state the purpose of the appeal hearing, summarise the order of the proceedings and answer any questions regarding the procedure **(see notes for chair of meeting at para 7.5.1 above – same ‘housekeeping’ list will apply here)**.
- b. The appellant, their trade union representative or colleague may present their case based on the grounds specified when submitting the appeal. The appellant can refer to documentation and call any witnesses necessary in connection with the grounds for appeal.
- c. The management representative may ask questions of the appellant and any witnesses (including any questions on the documentation presented).
- d. The appeal panel may ask questions of the appellant and any witnesses (including any questions on the documentation presented).
- e. The management representative will then respond to the appellant's presentation, call witnesses as necessary in connection with the grounds for appeal and use any relevant documents.
- f. The appellant and/or their representative may ask questions of management and any witnesses (including any questions on the documentation presented).
- g. The appeal panel may ask questions of management and any witnesses (including any questions on the documentation presented).
- h. The appellant and/or their representative may summarise their appeal case.
- i. The management representative may summarise their appeal case.
- j. The parties to the case will be asked by the chair to withdraw.
- k. The appeal panel will deliberate in private and come to a decision.

8.4.6 The appeal panel shall go into as much detail as they consider necessary to give fair hearing within the grounds of the appeal.

8.4.7 The decision at appeal shall be either to uphold the original decision of the sickness hearing, issue a lesser sanction or to overturn the original decision and impose no sanction.

8.4.8 It is the duty of an appeal panel to overturn a previous decision if it becomes apparent that this was not soundly based and this action should not be regarded as undermining authority.



8.4.9 In cases where the decision of the appeal panel is to reinstate the employee following appeal, the effective date of reinstatement will be from the initial dismissal date.

8.4.10 The appeal panel's decision shall be final and will be confirmed in writing.

8.4.11 In giving reasons for its decision, an appeals panel upholding an original decision needs to give reasons why the appeal failed addressing each of the specific grounds of appeal. If the panel reaches a different decision or awards a different penalty the panel should explain the reasons why.

8.4.12 Notes shall be taken at the appeal hearing and a copy provided to the appellant within 10 working days of the hearing if requested.



## 9. Approval and Variation Process

- 9.1 Where the School/Council wishes to amend this policy, it will consult with the relevant Trade Unions with a view to reaching agreement over the proposed amendment(s). This policy may be amended by agreement with the relevant Trade Unions at any time. Where agreement has not been reached with the relevant Trade Unions arising from consultations, the School/Council reserves the right to implement its proposed amendment(s) by giving one month's notice to employees of its proposal(s).

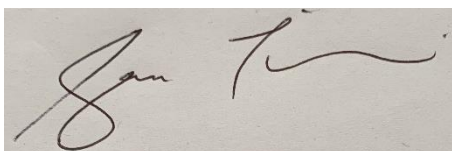
This Policy is approved and signed by:



Director, Education & Learning

Name: Abrilli Phillip

Date: April 2022



On behalf of Trade Unions: Sara Tomlinson Lambeth Trade Union's Joint Education Secretary

Name: Sara Tomlinson

Date: April 2022

Chair of Governors of School or Federation .....

Name:

Date:



# Appendix 1 – Occupational Health Referrals

## Introduction

If the responsible manager has concerns regarding an employee's absence from work due to ill health, or where an employee has long term sickness absence, a management referral to Occupational Health may be made. The responsible manager will discuss the referral with the employee concerned giving the reasons for the referral. If requested, all correspondence with Occupational Health shall be copied to the employee and to their representative.

Cases referred to Occupational Health may involve:

- Prognosis on the condition of an employee who is on long-term sick leave
- An assessment over concerns for an employee's health or well-being
- An assessment of reasonable adjustments
- An assessment of the employee's fitness to carry out the duties of their post
- An assessment for redeployment purposes
- An assessment for potential medical retirement

Management referrals should seek advice regarding:

- The impact of a health problem on the employee's ability to work
- Timescales for expected improvement
- An opinion on the implications of the equality act 2010
- Proposals for a rehabilitation programme, if appropriate

Interviews with Occupational Health are confidential. The outcome of assessments will be summarised and made available to Schools HR and the responsible manager. The responsible manager will arrange a review meeting with the employee to discuss the outcome of the assessment, review the medical advice given and discuss any actions that need to be initiated in order to either improve attendance or support the employee to return to work. The employee can choose to be accompanied by a trade union representative or work colleague.

If the individual is unable to travel, the meeting can be conducted, if agreed by the employee, at the employee's home. Exceptionally, the meeting can be conducted via telephone or video link if agreed by the employee.

## Attendance at Occupational Health Appointments

Employees are contractually required to attend appointments with the Occupational Health provider. If the employee is unable to make the appointment made, they must contact the responsible manager as soon as possible so that an alternate appointment can be arranged. Employees who repeatedly miss appointments, without good reason, may be subject to disciplinary action under the School's Disciplinary Policy and Procedure and/ or may be asked to pay for the cost of missed appointments.



## Occupational Health Recommendations

### Fit for work

- Where Occupational Health advise that the employee is fit for work, this will be discussed with the employee at the review meeting with the intention of agreeing a date for return to work. Any further recommendations regarding any temporary or permanent adjustments to working arrangements will also be discussed.
- If the employee fails to return to work on the agreed date, the responsible manager may consider referring the case to a formal sickness hearing in accordance with this procedure.

### Phased return to work

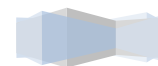
- Where Occupational Health recommend that the employee is fit for work but recommends a phased return to work, this will be discussed with the employee in order that a suitable programme be arranged to introduce the employee progressively back into the workplace.
- Where a phased return to work is agreed, this will normally be on full pay for a maximum period of four weeks. If, exceptionally, the phased return is to exceed this maximum duration, the employee can either opt to use their annual leave (only applicable to all year round support staff) or request unpaid leave to cover any periods not in the workplace.
- A different approach shall be adopted in the case of employees with disabilities where it may be a reasonable adjustment to allow a longer phased return to work; further guidance should be sought from Schools HR.

### Medical redeployment

- Where an employee is deemed unfit for their role despite adjustments, redeployment to a suitable alternative role may be recommended. Where redeployment has been recommended by Occupational Health, the responsible manager will discuss this with the employee at the review meeting with the support of Schools Human Resources. The employee will normally be given a specified period of time, not less than 4 months, to secure suitable alternative employment within the Council/School. An extension to this period may be agreed as a reasonable adjustment
- If after the specified period of time the Council/School has been unable to secure suitable alternative employment for the employee, the responsible manager will meet with the employee to review the case and may progress the case to a formal sickness hearing in accordance with this procedure, following a further referral to Occupational Health.

### Ill health retirement

- Where an employee is deemed permanently unfit for their role or similar role, Occupational Health may assess the employee as being eligible for early retirement on the grounds of ill health. Where this is the case, the responsible manager will discuss this with the individual to seek the employee's agreement.
- Where a member of the Pension Scheme is found to be permanently unfit, their statutory rights to early payment of pension shall apply. Employees found to be permanently unfit shall have the right to appeal against medical retirement. Further advice should be sought from Schools HR in relation to this.



## Appendix 2 – Version Details.

	Version date: April 2022
<b>Section</b>	<b>Summary of changes from 2009 version.</b>
Section 3.2	Amended the document to replace line manager / Headteacher with 'responsible manager' or 'presenting manager' and added a definition of these roles.
Section 3.2	Added definition of line manager.
Section 3.2	Definition of governor panel added.
Section 4.8.3	Added a reference to possible entitlement to early ill health retirement.
Section 5.1	Amended the circumstances in which a supervisory meeting will be arranged. 2 days' notice of a supervisory meeting rather than 5 days.
Section 5.1.1	Amended the agenda at a supervisory meeting.
Section 5.1.2	Amended review period after supervisory meeting to – not more than 6 months.
Section 5.1.3	(Previously 'not less than 3 months'). Added a note to confirm referral to stage 2 if there is cause for concern within 12 months after supervisory meeting.
	Increased reference to consideration of employee wellbeing, support for employee and consideration of reasonable adjustments.
Section 6.7.1	Clarified that in exceptional circumstances a formal review may be undertaken without holding a meeting with the employee and added examples of when this may be appropriate.
Section 6.1.4	Review time after formal review amended from 'usually one month' to 'e.g. half a term or two months'
Section 7.2	Added more detail to the process to be followed at a sickness hearing.
Section 7.4	Clarified process on request for a postponement of hearing.
Section 7.6	Clarified that there may be more than one outcome from the sickness hearing.
Section 7.6	Removed this from list of possible outcomes from sickness hearing: <i>removal of the sick pay scheme, where abuse has occurred</i>
Section 7.6	Added reasonable adjustment to the list of possible outcomes following a sickness hearing.
Section 7.6.1	Amended 'a medical referee' to 'other medical adviser'.
Section 7.7	Clarified the process to be followed following making of decision at sickness hearing.
Section 8	Added more detail to the appeal process.
Section 8.1.1	Clarified that there is no entitlement to appeal following a stage 2 formal review.
Section 8.2	Amended the grounds on which an appeal can be made
Appendix 2	Added a version history section.
	Amended some headings to improve the match to the content.
	Revised order to improve chronological flow.
	Formatting changes.
	Minor changes.

Date of agreement with Trade Unions:

Scheduled review date: 3 years from agreement with Trade Unions.

