



# **The Elliot Foundation Academies Trust**

## **Management of absence policy**

**September 2016**

Approved by TEFAT Board	July 2016
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# 1. Policy Outline

## 1.1 What is the policy about?

The Sickness Absence Management Policy, Procedure and Toolkit is intended to set out a procedural framework and standards of practice which enable academies to reduce the level of sickness absence amongst employees, taking account of the academy's needs, support for sick employees and equalities.

## 1.2 Who does the policy apply to?

This policy applies to all academy based employees and the local governing bodies are responsible for the management of sickness absence.

Employees absent through industrial injury or disease are subject to this policy and procedure.

It is not the purpose of this procedure to deal with abuse of the self-certification procedure. This should be investigated under the Disciplinary Policy.

## 1.3 Responsibility

All employees have a responsibility to ensure that they comply with this policy and any subsequent processes that are developed to support it.

Everyone involved in implementing this policy and any subsequent processes that are developed to support, are responsible for ensuring that it is implemented in a fair and consistent manner and must ensure that they:

- Do not breach the policy or any related processes;
- Seek advice from their HR provider if unsure of how to implement the policy;
- Deal with any issues arising equitably without direct or indirect discrimination on grounds of age, disability, nationality, race, religion, sex, sexual orientation, or trade union membership.

For the purpose of this policy, the Principal is responsible for managing sickness absence within the academy, although they may delegate this responsibility to the Vice Principal, Business Manager or relevant appropriate person within the academy.

## 1.4 Monitoring

Data will be gathered through the management information systems for recording and reporting sickness absence. This data will be reviewed within academy Management Teams to identify the impact of sickness absence within the academy and used to develop any further mechanisms to address significant issues.

Reports on the impact of measures related to the policy will be made on a regular basis to the local governing body.

## **1.5 Training and monitoring**

The local governing body recognises the importance of awareness and training on sickness absence management issues in the academy. The local governing body's support for effective sickness absence management will include training for Principals and Business Managers as appropriate to support them in their responsibilities under this policy.

The Sickness Absence Management Policy, Procedure & Toolkit should be covered as part of employee induction, training and development.

## **1.6 Support**

All absences should be dealt with in a sensitive, confidential and positive manner to encourage and support employees, in order to facilitate a return to work. It is recommended that employees who are subject to sickness absence procedure contact their trade union representative at the earliest opportunity so that the union can offer them appropriate advice, guidance and support. Support can also be sought from Worklife Support (Employee Assistance Programme) on 0845 873 5680 / 020 7700 8370

## **1.7 Confidentiality**

All information will be handled sensitively and used only for its proper purpose. However confidentiality cannot be guaranteed as information might have to be disclosed where an issue results in formal proceedings.

Principals must not disclose information to anyone other than to people who need to know as part of operating this procedure. Personal details about an employee's health are confidential and any breach of confidentiality may lead to disciplinary action.

Under the Data Protection Act 1998 individuals have the right to see their own personal data held subject to the rights of confidentiality of any third parties involved in that information.

## **1.8 Dealing with abuses of the policy**

The procedure must be available to all employees who should be aware of their role and their responsibilities if they are unable to attend work. Employees should be aware of their duty to comply with the sickness absence procedure and the penalties that may be invoked if they do not fulfil the requirements placed on them by the procedure i.e. disciplinary procedures.

## **1.9 Publicising/distribution of the policy**

A copy of this policy is available from the Principal and will be made available to employees on request. A copy can also be viewed on the TEFAT website.



New employees will be informed of the existence of this policy in recruitment and induction information.

### **1.10 Reviewing the policy**

The operation of this policy will be kept under review and such changes will be made to the policy as deemed appropriate following necessary consultation with the trade unions.

### **1.11 Equality and Diversity**

We are committed to including equalities in everything we do. This includes the elimination of unlawful discrimination, promoting diversity as a positive force and valuing and celebrating our diverse workforce and community.

## **2. Procedure**

### **2.1 Core Principles**

Effective absence management is important in securing effective service delivery. The academy is committed to improving the health of the workforce, which will have major benefits within the academy. Not only does sickness absence impact upon service delivery and produce direct costs but it also takes its toll on colleagues within the academy.

The basis for the academy absence management is to adopt a caring approach with clear and fair procedures. It is emphasised that an employee's sickness absence is not generally an issue where an employee should be treated as being "to blame". However, given the impact on the service and colleagues, it must be recognised that the academy has a responsibility to engage with individual employees, acting to support and encourage improvement.

It does have to be recognised that, despite the efforts made, sickness absence may, in some cases, lead to consideration of alternative employment or to termination of employment in due course.

The academy values the diversity of its workforce and will ensure consideration of equalities in the management of sickness absence, in individual cases and in its general approach.

The academy is required to provide safe places and systems of work under Section 2 of the Health and Safety at Work Act 1974, and is committed to providing a healthy working environment so as to support employee's health and good attendance. The academy works to promote workforce health and recognises the importance of a pro-active approach to Health and Safety in the workplace, including the management of stress at work.

The academy further recognises that sickness absence may, on occasion, be caused by work-related health and safety issues. Where this is thought to be the case, there should be an investigation and the identification and implementation of appropriate countermeasures to minimise risk.

### **2.2 Roles and responsibilities**

#### **2.2.1 Principals' Responsibilities**

The primary responsibility for managing and reducing levels of sickness absence is with the Principal. The responsibility to make decisions in connection with managing an employee's absence also rests with the Principal. The HR provider and Occupational Health may advise the Principal but the decision is theirs. In cases of Principal sickness absence, the Chair of Governors is responsible for managing the process.



It may also be appropriate for the Principal to delegate the role to another member of staff in particular circumstances. For instance, where it is otherwise appropriate and reasonably practicable, it may be that the role is transferred to another manager of the same gender or ethnic group as the employee.

Principals have responsibility for the health, safety and welfare of their employees. Principals should ensure that risk assessments are carried out and regularly reviewed with the findings communicated. The hours worked by their employees should be reasonable and comply with Working Time Regulations.

Principals are responsible for monitoring absence and maximising attendance levels to ensure effective service delivery. Employees should be treated consistently and with respect and understanding.

Principals must:

- Continuously review sickness absence levels of employees and take action needed to prevent and reduce it, taking into consideration all circumstances of each case.
- Ensure that everyone they manage understands the rules and procedures and are aware of their responsibilities in relation to sickness absence.
- Determine when to take appropriate action in line with this policy and procedure.
- Ensure that regular contact with absent employees is maintained.
- Undertake return to work discussions on each and every occasion of sickness absence.
- Comply with sickness absence reporting and recording requirements.
- Identify support where appropriate to facilitate employee's attendance.
- Ensure the employee understands the level of performance and attendance required.
- Develop an atmosphere which encourages high attendance, including ensuring employees are aware that their individual contribution to the academy is acknowledged.
- Keep employees informed of the sickness absence rate within the academy.
- Be prepared to discuss and follow up sickness absence issues with employees.

- Comply with their responsibilities for Health and Safety at Work.
- Take action where employees identify their sickness absence as work related by completing the Corporate Accident/Incident/ill-Health Report Form and resulting actions taken.
- Take action in cases of reported work related stress, completion of the stress questionnaire and action plan should also be considered - this can be found in the Academy's Stress Management Policy, Procedure & Toolkit.
- Not set or expect work from employees whilst they are absent from work due to sickness.

### **2.2.2 Employee Responsibilities**

Employees must:

- Attend work when fit to do so unless on authorised leave.
- Notify their Principal of sickness absence in person before their usual start time/prior to the start of the day. Employees genuinely unable to telephone personally should arrange for someone to call on their behalf. If their Principal is not available, they should contact another nominated person within the academy team. If the sickness absence is work related they should inform their Principal of this.
- Maintain contact with their Principal during sickness absence, unless the Principal agrees other arrangements.
- Attend appointments with the Occupational Health Service when required. Release of information from the Occupational Health Service to Principals following an employee's clinical assessment will be subject to appropriate clinical and professional conduct guidelines.
- Advise the Principal of the potential effect of any medication which they are using on their capability in the workplace.
- Comply with their responsibilities for Health and Safety at Work.
- Ensure they seek and receive medical advice and treatment in order to facilitate a return to work.
- Not undertake any work/activities, related to or outside of their work, incompatible with their illness or that may delay recovery.

If a problem with the reporting process is anticipated, for instance because the employee lives alone and feels that on occasion this may be an issue in



reporting sickness, then alternative arrangements should be agreed in advance by the Principal.

If an employee becomes sick during the working day then for operational and health and safety reasons, they must speak with their Principal, or if they are not readily available, another nominated person, before leaving work.

The completion of a 'Return to Work Interview/Sickness Declaration' form by the employee is required after every sickness absence (see section 3.5 in the toolkit). The academy accepts the information provided on this form, which is completed at the Return to Work interview, as a self-certification form. All employees (including those working part time) must provide a fit note for any absence exceeding 7 consecutive calendar days, whether or not these are working days. If a Principal considers that the reasons given for the absence are inadequate and has sufficient evidence to support this, they may consider other action, such as disciplinary and refusal to pay for the period in question.

Employees may have a condition or an impairment that they wish to keep confidential. They are not obliged to disclose these unless it is a condition, which might endanger colleagues, pupils or themselves. In such cases the condition or impairment must be disclosed. In choosing not to disclose information, employees must understand that, when considering appropriate action, the Principal can only take into account the information available to them.

Employees are encouraged to advise Principals if they consider workplace practices are causing or exacerbating sickness levels. Such practices can also be raised with Health and Safety Representatives or Trade Union Representatives. Where employee absence is presented as work-related, for example in a return-to-work interview, the Principal should investigate this, taking advice as necessary from Occupational Health and/or the HR provider.

Where an employee believes that their sickness absence has been caused by work, they must tell the Principal of this, and they should also report this. The Principal must investigate, taking advice as appropriate from Occupational Health and/or the HR provider.

### **2.2.3 Role of the HR provider**

The management of sickness absence is primarily the responsibility of the Principal. The HR provider can provide Principals with advice, guidance and support to maximise attendance levels, based upon best practice and taking into account academy needs, contractual rights and legal obligations.

### **2.2.4 Role of the Trade Unions**

The academy believes that addressing both its sickness absence levels and its health and safety arrangements at an organisational level is most effectively done with employee partnership and therefore positively welcomes





the involvement of the recognised trade unions in the consideration of these matters. This can be done through local joint committee arrangements.

Trade union representatives are able to advise and support employees upon this policy and related procedures.

Employees have the right to be accompanied by a trade union representative or workplace colleague at Sickness Absence Interviews.

### **2.2.5 Meetings in the procedure**

These allow the Principal and employee to discuss absences to date, along with any relevant issues. The nature, purposes and potential outcomes of the meetings vary as described.

It is important to note that these meetings provide a framework intended to facilitate discussion about attendance. However where additional, less formal discussion or meetings may be beneficial, there is no restrictions on these in this procedure.

### **2.2.6 Return to Work Interview**

The Principal (or first line supervisor) should conduct a Return to Work Interview on each and every occasion when an employee returns from any sickness absence. This should be a discussion held in a confidential setting, aiming to welcome the employee back to work, update them on work issues, identify reasons for their sickness absence, how their absence has impacted upon the academy, other relevant information, and any immediate support or immediate changes to working practices needed. A copy of the 'Return to Work Interview/Sickness Declaration Form' must be completed to record the employee's return, see section 3.4 in the Sickness Absence Toolkit.

Employees do not have the right of representation by trade unions at return-to-work discussions as these are normal management meetings.

### **2.2.7 Fit Notes**

The 'Statement of fitness for work', or 'fit note', is a medical certificate that GPs issued from 6 April 2010. It replaced the old 'sick note' and gives GP's the opportunity to outline what work an employee may be able to do at work rather than what they cannot do. A fit note will be helpful in the decision as to whether the employee can return to work. This will also help the Principal with their obligations under the Equality Act 2010 in relation to making reasonable adjustments.

On the new form GP's are able to advise if a patient is either 'not fit to work' or 'may be fit for work':



**Not fit for work** – this means that the GP’s assessment of the employee is that they have a health condition that prevents them from working for the stated period of time. This is just like on the old ‘medical certificate’ where the doctor advises the employee to “refrain from work”.

**May be fit for work taking account of the following advice** - this means the GP’s assessment of the employee is that their condition does not necessarily stop them from returning to work. For example, they could return to work but may not be able to complete all of their normal duties, or they could benefit from amended working hours.

A GP will give a ‘may be fit for work’ Statement if they think that the employee’s health condition may allow them to work if they get suitable support from their employer. They provide more information on an employee’s condition and how they might be able to return to work. This might mean discussing:

- **Phased return to work.** A doctor will recommend this where they believe that the employee may benefit from a gradual increase in the intensity of their work duties or their working hours.

For example, agreeing that:

- an employee following an operation could return to work on reduced hours, gradually increasing to their normal hours over an agreed period of time; or
  - an employee with a back or shoulder problem, whose job involves lifting, gradually increases the quantity or intensity of their work. This could help them return to work earlier whilst rebuilding their capacity for manual work.
- **Altered hours.** A doctor will recommend this where they believe that your employee will benefit from a change to the hours that they work, in order for them to return to work. This does not necessarily mean working fewer hours.

Examples of altered hours:

- Providing the option to start (and/or leave) later could support someone who is unable to drive and struggles with rush hour public transport to continue working.
  - Allowing more flexible hours could support someone who is still receiving treatment to return to work and attend treatment sessions during working hours.
- **Amended duties.** A doctor will recommend this where they believe the employee may be able to return to work if their duties are amended to take into account their condition.

Examples of amended duties:

- Removing heavy lifting from the job of someone who has a back injury could help them return to work whilst recovering from their injury.
- Reducing or removing a more pressured part of a job role (such as dealing with complaints), could help someone off work with stress return to work.
- **Workplace adaptations.** A doctor will recommend this where they believe your employee may be able to return to work if their workplace is adapted to take into account their condition.

Examples of workplace adaptations:

- A ground floor workstation for an individual who has problems going up and down stairs (this may occur in cases of arthritis, for example).
- Arranging for a parking space near the entrance to the workplace, could help someone who has reduced mobility post surgery return to work.

The Principal has a duty to consider these suggestions to see if they are reasonable to facilitate a return to work within an acceptable timeframe. In determining what action is able to be taken as a result of advice given on a fit note, the Principal will need to consider whether a revised workplace risk assessment is required and to keep it under review. It may be helpful to discuss this process with the employee and their trade union representative.

If an employee is issued with a fit note stating they 'may be fit for work' and the employee returns to work based on the GP recommendations which are agreed with their Principal, this should be recorded as returned to work and payroll informed if applicable.

If it is not possible for the Principal to provide the support for the employee to return to work, the Principal and the employee should use the Statement as if the doctor had advised 'not fit for work'. Principals should document why any adjustments are not feasible, the employee does not need to return to their doctor for a new Statement to confirm this. However, if no agreement can be reached, the Principal should refer the employee to the Occupational Health Service for further advice.

Reasons why it may not be possible to make the suggested reasonable adjustments could include excessive cost, issues related to the building that could not be changed or some other reason which is out of the control of the Principal to provide.

Principals should also be aware of grants available through the governments 'Access to Work' scheme and this means of support should be explored. Grants can pay for support such as:

- adaptations to the equipment you use
- special equipment

- fares to work if you can't use public transport
- a support worker or job coach to help you in your workplace
- a support service if you have a mental health condition and you're absent from work or finding it difficult to work
- disability awareness training for your colleagues
- a communicator at a job interview
- the cost of moving your equipment if you change location or job

In cases where reasonable adjustments are not possible, the academy, with support from TEFAT, should see if there are alternative employment opportunities or if ill-health retirement is an option.

If an employee is too ill to work the GP will advise that they are 'not fit for work' on the fit note.

## 2.3 Managing Sickness Absence

The purpose of setting out this defined procedure is to provide a robust structure within which an employee's sickness absence can be managed fairly and equitably with them. Its objective is to support their return to good health and a sustainable level of attendance at work within a fair and reasonable period.

The academy aims through this procedure to enable employees who are absent because of illness to receive all appropriate support and consideration, while recognising that maintaining an effective service to the community has to be a prime consideration in managing sickness absence.

### 2.3.1 Types of sickness absence addressed in the procedure

Incidents of sickness absence can generally be treated as falling into one of two categories:

- **Intermittent Short-Term absences**, which have no principal underlying or ongoing medical cause.
- **Long-Term absence** where either absence has exceeded four continuous working weeks or where there is a principal underlying medical cause to intermittent short-term absences.

The Principal needs to consider the employee's sickness record in these terms in order to judge the way forward. Different approaches are appropriate for the two types of absence, though each is managed using the same settings and standards.



It is quite possible, that in particular cases, the absence record will include both types. In this case, the absences should then be managed by using each of the two approaches in relation to the particular incidents that fall into each of the two types (see section 2.6).

In this connection, it is important to note that while short-term absence may be managed through target-setting, where there is a consideration of overall capability prompted by long-term absence, then the number of days attributed to short-term absence will also be included in the absence record for this purpose.

**Please note:** These categories and their benchmarks such as the four working weeks boundary are intended to facilitate, not obstruct, positive absence management, including appropriate support, in the best interests of all parties. Principals may consider the reasonable variation of such boundaries in appropriate cases. For instance, where an absence somewhat exceeds four weeks but is clearly self-limiting in nature, it may be common sense to approach it as short-term absence. Similarly, there may exceptionally be several absences, each extending over four weeks, but with self-limiting causes, rather than one principal underlying medical cause behind them. In this case, it may be reasonable for the Principal, having taken proper account of any disability or other relevant issues, to set improvement targets for the employee.

Again, a brief return to work during an otherwise continuous four working weeks would not, of itself, prevent consideration of the absence as long-term if this would otherwise be appropriate.

### 2.3.2 Incident Points

Where an employee's level of absence is of concern, it is essential that it is managed appropriately. The manager should normally convene a Sickness Absence Interview for this purpose when one of the following incident points is reached:

- 10 days' absence, across more than two periods of absence, within any six-month period
- where a combination of odd days, longer periods and patterns of absence causes concern

However, if the manager, based on his or her knowledge of the circumstances of the individual case, feels that a sickness absence interview is unnecessary then he/she has the discretion not to take action at this point but must record the reason why and maintain monitoring and review this decision.

### 2.3.3 Sickness Absence Interview



An initial Sickness Absence Interview is convened when an employee's level of absence gives cause for concern, generally when a trigger point is reached.

The purpose of this interview is to support the employee to attain and maintain the required levels of attendance in future, by offering a time and opportunity to explore their situation, including any factors affecting their attendance. It will also enable assessment and formal review of the sickness absence period.

The meeting will explore issues felt relevant by the Principal and employee. The employee must have the opportunity to participate in the interview and to respond fully to any points made. The Sickness Absence Interview Form provides a framework for this discussion as outlined in section 3.7 of the toolkit. Employees have the right to be accompanied by a trade union representative or workplace colleague at Sickness Absence Interviews

### **2.3.4 Administration of Sickness Absence Interviews**

In convening a Sickness Absence Interview, the Principal must write to the employee, giving a minimum of 7 working days' notice unless shorter timescales have been agreed by both parties, advising of the purpose of the meeting and the right to be accompanied by a trade union representative or workplace colleague. A draft letter is outlined in section 3.5 in the toolkit. Relevant documentation that will be referred to in the meeting should be made available to the employee.

Key points and outcome of the Sickness Absence Interview should be confirmed to the employee in writing within 7 working days using a Sickness Absence Interview Form. Additional information may also be confirmed in a letter accompanying the Sickness Absence Interview Form, refer to section 3.8 to 3.11 in the toolkit for the documents.

## **2.4 Managing persistent short-term absence with no principal underlying medical cause**

This is generally short-term absence at a level which, taking into account academy absence rates and their needs, is unacceptable. The issue may be less whether the absences are "genuine", but rather the effect of persistently repeated absence on the capacity of the employee to provide a service effectively through their job.

The academy's approach is to support the employee in achieving and sustaining improved attendance through successive periods of monitoring and support. Where improvement is not achieved and sustained, then, in due course, termination of employment may ultimately need to be considered by referral to an Ill Health Capability Hearing.

A flowchart of how to manage short term sickness absence can be found in section 3.3 in the toolkit.



## 2.4.1 First Stage Interview

Where sickness absence reaches a trigger point a Sickness Absence Interview is initiated. Issues about the absence, its causes and effects, the employee's situation, medical advice obtained, relevant support and equalities issues should be shared and explored in accordance with the issues set out on the First Sickness Absence Interview Form (see section 3.7 in the toolkit). Required improvements should be specified clearly and an attendance target is normally set, usually to have less than 3 incidences of absence in the next 3 months or less than 7 days absence in the next three months. This should be detailed on the Sickness Absence Interview Form, signed by the employee and a copy provided to them.

## 2.4.2 Second Interview

Where the employee does not achieve an attendance target, or does not otherwise meet attendance requirements during a monitoring period set following the initial Sickness Absence Interview, the Principal will normally convene a Second Sickness Absence Interview. This interview will take place in accordance with the issues set out on the Second Interview Form (see section 3.8 in the toolkit).

At the Sickness Absence Interview, if an attendance target has not been met, or there has otherwise been insufficient improvement in attendance, over the monitoring period, the Principal should review the reasons for the absence with the employee and consider if there are any further options to support the employee.

Depending on the employee's progress to date under the procedure, the options open to the Principal in managing short-term absence can include in appropriate cases:

- Consider, where appropriate, other support measures. For instance whether the employee's otherwise unrelated absences are felt to be related to their domestic situation.
- The Principal should ask the employee if they believe there is a principal underlying health reason leading to all or most of their absences. If the employee states this is the case the Principal should refer the employee to Occupational Health for assessment. If this is confirmed by Occupational Health, the subsequent occupational health report to management should enable each aspect of absence to be considered separately.

- In exceptional circumstances managers may require an employee to provide a fit note for absences of less than 7 calendar days. The employee will be reimbursed with any costs on submission of a receipt.

At the Sickness Absence Interview, a further attendance target should be set, normally to have less than 3 incidents of absence in the next 3 months or less than 7 days total in the next 3 months. In this case, the Principal may advise the employee that, should they not meet this further attendance target, then a further Sickness Absence Interview will be convened to review progress, and further action may need to be considered in the light of the continuing level of absence.

In some cases targets may be achieved, but the sickness absence record may be of such concern that extended periods of monitoring are required.

### 2.4.3 Final Stage Interview

Although the Principal should continue to provide appropriate support and guidance to the individual throughout the process, a situation may arise, where successive attendance targets have not been met after they have been set at earlier meetings. If, following previous advice given to the employee that further action might need to be considered, the required improvement in attendance has still not been achieved, and if there is also no principal underlying medical cause behind the continuing absences, then this ongoing situation must be considered very seriously. In these circumstances, the Principal should again discuss the employee's situation with them in a sensitive and positive way, looking at what options are open to support improvement, but must also have regard to the ongoing level of persistent absence and the reasonableness and practicality of the academy continuing to sustain this in the future. This interview will take place in accordance with the issues set out on the Final Stage Sickness Absence Form (see section 3.9 in the toolkit).

In such a case, a further attendance target may again be set as above. Additionally, on this occasion, the employee may now be advised by the Principal that should they not meet this further attendance target, further action will again need to be considered. Where there are continuing circumstances involving a series of missed attendance targets, this could include referral to an Ill Health Capability Hearing where termination of employment would be considered. When reviewing what further action may be needed, a decision should only be reached after examining the ongoing level of absence, the history of continuing not to meet successive attendance targets, and the needs of service provision. Where there is an underlying medical condition the manager should consider advice from Occupational Health before deciding on action.

If, following successive targets not being met, management discretion is exercised so as not to set a further target then, in the interests of equity, Principals should note the reasons for this. The Principal should advise the



employee of the possibility that further action could include consideration of termination of employment.

With short term absences, Occupational Health advice on any relevant issues, including the lack of a principal underlying medical cause behind the absences, is required prior to the final review which could potentially result in a referral to an Ill Health Capability Hearing. In referring the employee to Occupational Health the Principal must indicate the intention to progress to a final Sickness Absence Interview.

A representative of the HR provider must be present at the Final Stage Interview. With short-term absence, termination of employment may only be considered when at least three opportunities to reach the required levels of attendance have failed to result in the employee achieving the required level of attendance. It must also be clear that the employee has been advised that further action would need to be considered and then, in due course, that further action including termination of employment would need to be considered, if these levels of attendance were not met.

If an Ill Health Capability Hearing is convened and discretion is exercised to set a further target, for example, perhaps with an extended monitoring period, as an alternative to termination of employment, Principals must note the reasons in the interests of equity.

See section 2.8 for further guidance on Ill Health Capability Hearings.

Alternative employment as outlined in section 2.7 would not normally be considered in relation to absence presenting as short-term unless either:

- Occupational Health confirms that this is principally caused by a single underlying medical condition, when it would then be addressed as a long-term absence or,
- If the employee is 'at risk' of dismissal and it is confirmed by Occupational Health that alternative employment would support the employee in achieving improved attendance.
- In exceptional circumstances where the employee has a chronic progressive health condition.

#### **2.4.4 Short-Term Absence initially treated as short-term but then determined to have a principal underlying medical cause**

Where absence initially presents as short-term, it may become clear, as new medical information becomes available e.g. through Occupational Health, that there is a principal underlying medical cause for repeated absences. If so, it

will be appropriate that the relevant absence is managed according to the principles of the long-term provisions covered in section 2.5.

Any attendance target that has been set pending the determination by Occupational Health that there is a principal underlying medical cause will normally no longer apply.

Absences due to “one-off” or self-limiting incidences of cold, flu, simple sports injuries etc are not normally examples of a single or principal underlying cause. Where, exceptionally, such medical reasons result in prolonged absence or are otherwise identified by the employee as related to an underlying medical reason, then Occupational Health advice should be sought to determine that this is so. If this is confirmed, the process relating to long term absence will apply. If this is not confirmed, the absence will continue to be considered under the short-term provisions.

## 2.5 Managing long-term sickness absence

The academy normally considers any continuing absence of more than four working weeks for a medical reason as long-term sickness absence. Additionally, periodic short-term absences, which are determined to have a principal underlying medical cause, should be managed as long-term absences.

### 2.5.1 First Stage Interview

When trigger points are hit and long term absence is identified, information needs to be gathered and shared through a Sickness Absence Interview about the employee’s position, available support, medical information and the way ahead. Information from the First Stage Sickness Absence Interview should be recorded on a Sickness Absence Interview Form referred to in section 3.7 in the toolkit. If there is no indication of a return to work date after the first Sickness Absence Interview, consider a referral to Occupational Health. Additionally if there are any health and safety concerns raised or anticipated in relation to work a referral should be made to the Occupational Health Service.

With long-term absences it is essential that Principals consult regularly throughout the absence management process with employees who are off sick and make every effort to assist their recovery and identify appropriate support.

Arrangements for regular contact with the Principal should also be in place. Exceptionally, the responsibility for maintaining contact may be transferred to another nominated person within the academy, but the Principal is still responsible for ensuring that the alternative contact arrangement is effective. Under no circumstances should employees be “left to one side” and isolated from the academy, for instance, by contact being allowed to lapse for



extended periods. It is important that reasonable and sensitive arrangements are in place to ensure that there is inclusion of absent employees in the circulation of information about academy developments.

## 2.5.2 Second Interview

If following the First Sickness Interview the employee is still absent a Second Interview should be convened. It is advisable that there is a 4 to 6 week gap between Sickness Absence Interviews. If it is not possible to convene Sickness Absence Interviews because of the individual circumstances relating to the employee's ill health, it is still the responsibility of the Principal to maintain an appropriate level of contact. Where appropriate, and following discussions with the employee, it may be a practical step to hold a Sickness Absence Interview in the employee's home. If Sickness Absence Interviews are not undertaken Principals must keep a written note of the reasons why this hasn't happened.

Information from the Second Sickness Absence Interviews should be recorded on a Sickness Absence Interview Form referred to in section 3.8. The aim of the Subsequent Interview is to provide an update on the current state of health and should discuss the advice from the fit note, Occupational Health reports and other appropriate sources, to establish an update on a return to work or to identify a clear way forward. Options to support the employee should be considered including reasonable adjustments or other means of support to help the employee return to work or otherwise achieve a sustainable level of attendance and identify whether improvement is expected.

With long-term sickness, in supporting a return to work, it is fundamental to establish what duties the employee can undertake. It is for the Principal then to consider what reasonable opportunity there may be for this to provide the basis of a return, taking careful consideration of the sustainability of adjustments.

Reasonable adjustments always need to be considered and are mandatory where the underlying cause of absence amounts to a disability.

Additional support may, in appropriate cases, also include counselling, physiotherapy, or professional development and training, or manual handling. Occupational Health can advise on the appropriateness of these areas.

Where absence presents as being directly related to some form of long-term alcohol, substance or drug misuse, the misuse may be dealt with as long-term absence, depending on the circumstances. In these cases it is appropriate for Principals to discuss whether employees are receiving support, including rehabilitation in appropriate cases, with absence for rehabilitation in such cases being recorded as sickness absence. Dependency is not regarded as a

disability, and this should be noted in assessing the reasonability of any adjustment to work.

At the Sickness Absence Interview, any assessment of a person's employment position must be made in an open, sensitive and shared way, and a clear way forward must be identified and communicated to the employee following the meeting. It is not normally appropriate for successive formal attendance improvement targets to be set for long-term absences in the way that these may be applied under the short-term absence provisions. Were these are to be applied to a long-term case the Principal would need to note carefully the reasons.

### 2.5.3 Final Stage Interview

The academy will work supportively and sensitively with employees whose ill-health causes long-term sickness absence. However, in cases of continuing long-term absence, the academy's ability to sustain this in all the circumstances will need to be assessed. The timing of such an assessment and its communication to the employee will vary between cases, but it should not be unreasonably premature in the light of known information, and must be informed by available relevant medical advice. Communication to the employee must be sensitive in every way. The Principal should consider the positive benefit of involving the trade union representative or other support person fully in such communication.

The employee should also be advised as to whether, if they are not able to achieve this level of attendance, possible referral to an Ill Health Capability Hearing might be the outcome at that point.

Where an employee's long-term situation is considered to be sufficiently serious that it may lead to consideration of termination of employment, via an Ill Health Capability Hearing, Occupational Health advice must be sought on the employee's situation, including the feasibility of alternative employment, prior to the Final Stage Interview. Up to date medical advice is essential for any cases referred to Ill Health Capability Hearings.

Taking into account available support together with available medical and other advice, the Principal's assessment at the Final Stage Interview may be that the continuing level of absence may not be sustainable by the academy and referral to an Ill Health Capability Hearing may be necessary. If this is the case, then the employee should be advised of this carefully and sensitively.

The Principal should ensure that the employee:

- Has the full reasons for the referral to an Ill Health Capability Hearing carefully explained to them.
- Is given a clear indication of the timescale within which it is anticipated that a return to a sustainable level of attendance would need to be achieved.

- Is advised when any further assessment of their position would be made via a Final Stage Interview.
- Is given the opportunity to consider redeployment.
- Is given the opportunity to review with the Principal any particular needs for support or reasonable adjustments.
- Is aware of their statutory right to be accompanied at Sickness Absence Interviews as detailed in section 2.13.

The feasibility of reasonable adjustments to the job need to be considered prior to an Ill Health Capability Hearing and if discounted the reasons documented. Where an employee's disability as defined under the Equality Act relates to absence which is being considered as part of a possible termination of employment, the Principal must be satisfied that all reasonable adjustments have been thoroughly explored. It does not suffice for an assumption to be made that no reasonable adjustments are possible. The final decision as to whether an adjustment is 'reasonable', taking into account all relevant circumstances and appropriate advice from Occupational Health and/or other agencies on options, is for the Principal.

Referral to an Ill Health Capability Hearing in the case of long-term absence should only take place once all other options referred to above have been considered and exhausted.

In particular cases, for instance where an employee is suffering from a serious progressive or degenerative disease, managers should give sympathetic consideration to a phased exit from academy employment.

After six months of continuous or near-continuous absence in a twelve-month period, Principals should have assessed whether termination of employment is a reasonable option (see section 2.8)

## 2.5.4 Phased return to work

After long term periods of sickness absence the employee may, if appropriate, benefit from reintegration back into the workplace on a phased return basis. This should be supported by the GP, Occupational Health, and only if operationally feasible for the Principal. A phased return to work may include:

- Return to work on a phased basis (e.g. where an employee builds up from reduced hours to the normal contractual hours over an agreed time period in order to facilitate an earlier return to work e.g. part-time, reduced hours). The time period should be agreed by the Principal and would not normally exceed four weeks.
- A mid-week return – where an employee returns for two or three days followed by a weekend or other normal rest breaks

- Return to work on light duties or modified workload - where the employee's workload is lightened or eased slightly for an agreed period of time.
- Any other reasonable adjustments following advice from the GP, Occupational Health and discussion with the employee.

During such time the arrangements will be continuously monitored. Payment should be made in accordance with the phased return to work guidance (see section 3.12 in the toolkit)

i.e. Full pay whilst working less than full time hours during the period of entitlement to full pay or when full pay expires payment should be at half pay if working half time or less or if appropriate proportion of full pay if working more than half time hours. In circumstances where an employee returns to work after utilising all of their sick pay entitlement, they should receive a level of payment equivalent to the amount of hours worked.

## 2.6 Sickness record including both long and short-term

Principals may identify, in appropriate cases, that an employee's total absence clearly breaks down into distinct periods of long-term absence, but that there are also incidents of short-term absence. In such a case, the approach can be to use Sickness Absence Interviews to progress parallel action under the two headings in respect of absences.

However, it is, of course the employee's overall capability, which is being looked at and supported. It is therefore important to note that while any short-term absence may be being managed in its own right through target-setting, it will also be included in the total absence record for the purpose of considering overall capability where this is prompted by incidence of long-term absence.

For example, an employee may have sporadic absences, some of which are due to a chronic medical condition identifiable as a principal underlying medical condition and/or disability (long-term), and some of which have other self-limiting causes e.g. flu, minor injuries etc (short-term). At the appropriate meetings under the procedure, the Principal would look at appropriate support and explore with the employee the range of issues and options detailed in sections 2.4 to 2.5 above as appropriate to the types of absence. It is recommended that the Principal generally adopts an approach of successive target-setting in relation to the short-term absences, while at the same time bringing the approach of periodic assessment in relation to the long-term absence(s) attributable to the principal underlying medical cause.

In any assessment of overall capability prompted by the long-term assessments however, the number of days lost through short-term would also be considered in the total sickness absence record along with the number of days actually attributed to long-term absence.

## 2.7 Alternative Employment on Medical Grounds

Supporting employees to achieve better attendance and health involves considering what they can do, and this may be facilitated in appropriate cases by doing a different job. Alternative employment is an option, which should be considered with long-term sickness absence, or exceptionally with short-term absence when employment is considered 'at risk' and Alternative Employment is supported by Occupational Health.

Alternative employment can be an option that may be considered to a dismissal where the employee concerned is unable to carry out the duties and responsibilities of their existing job, but may be well enough to do the duties and responsibilities of another job.

The Principal is required to initiate and lead the process prior to a referral to an Ill Health Capability Hearing and where Occupational Health have confirmed that it is unlikely the employee will return to their substantive post within a reasonable timeframe. In these circumstances alternative employment should be considered.

If a decision is taken to terminate employment an employee can be considered for alternative employment until the end of his/her statutory or contractual notice period, whichever is the greater. If the employee unreasonably declines an offer of employment to a suitable alternative post, any existing decision to terminate employment will stand (subject to any appeal rights).

In addition to the employee being otherwise established as suitable for a particular alternative post, e.g. through an interview demonstrating the potential to carry out the duties and consideration of reasonable training needs, Occupational Health advice should be sought as to whether:

- The employee is able to carry out the duties of the post, subject to any reasonable adjustments.
- It is anticipated that future attendance levels within the new post will be acceptable.

## 2.8 Ill Health Capability Hearing

The academy's intention is that the possibilities for improvement in attendance and all other reasonable options will be explored thoroughly prior to referral to an Ill Health Capability Hearing to consider termination of employment.

A decision to terminate an employee's employment on the grounds of their sickness absence may be taken only by a Principal having the delegated

authority to do so or a Committee of Governors under the remit of an Ill Health Capability Hearing.



### **2.8.1 Procedure**

An Ill Health Capability Hearing will be convened to consider termination of service. The employee will be informed in writing, at least 7 working days prior to the meeting to allow sufficient time to prepare and arrange representation. The letter will be sent recorded delivery and will include:

- Informing the employee that there is to be an Ill Health Capability Hearing;
- The date, time and location of the hearing;
- A copy of the report and supporting documents (The employee has a responsibility to provide his/her representative with a copy);
- The right to be accompanied by a trade union representative or work colleague;
- A copy of the sickness absence management policy, procedure and toolkit;
- A copy of the procedure to be followed at the hearing
- Names of any witnesses that the Principal is requesting to attend;
- Requesting from the employee confirmation of attendance, the name of their representative, the name of any witnesses the employee intends to call and copies of any additional documentation that the employee intends producing at the hearing. (This information should be provided at least 2 working days prior to the hearing);
- Enquiring as to whether the employee has any reasonable adjustments for the hearing venue, for example, accommodating the needs of a person with disabilities.

The letter must include reference that dismissal could be a potential outcome (see section 3.13 in the toolkit for an example letter).

The procedure to be followed at an Ill Health Capability Hearing is outlined in section 3.14 in the toolkit.

In reaching a decision about whether to terminate employment, the Principal or Governors must consider the relevance of factors including:

- Sickness record, including length/periods of and reasons for absence.
- Impact of the absence on the academy.
- The practicality and reasonableness of providing cover for the absence.
- Responses to requirements to improve where these have been notified.
- Medical advice, including whether the employee can be confirmed by Occupational Health as being likely to give regular and reliable service in the foreseeable future.
- The employee's own wishes and views.
- Whether alternative employment is an option and has been explored.
- If reasonable adjustments have been explored where relevant.
- Any other factor deemed relevant to the employee's position.





Employees whose employment is terminated are entitled to contractual or statutory notice (whichever is the longer) of termination of service at full (normal) pay.

Employees would normally serve their notice although they will not normally be required to report to work. Employees are entitled to paid leave (which will be added to the notice period for untaken annual leave of up to 28 days, or pro rata) accrued during the leave year in which termination takes place (including bank holidays).

See section 3.15 in the toolkit for an example letter detailing the outcome of an Ill Health Capability Hearing.

## 2.8.2 Right of Appeal

Appeals against the decision to terminate an employee's employment are heard by the relevant Appeals Panel of the local governing body. The Appeals Committee has the power to uphold or overturn a dismissal decision. Appeals should be lodged within 10 working days of receipt of the letter confirming the dismissal.

The appeal will be heard by the relevant Appeals Panel of the local governing body and a representative from the HR provider. The employee has the right to be accompanied by a trade union representative or workplace colleague. After the employee has put their case, the Hearing Officer will be required to present the case to the Appeals Panel. This will usually be with the assistance of the Principal (see section 3.16 of the toolkit for the procedure to be followed at an appeal).

Where possible, once a decision is reached at the appeal hearing, the employee will be given verbal notification of the decision and the reasons at the conclusion of the hearing. This will then be confirmed in writing by recorded delivery as soon as possible thereafter. The decision made by the Appeals Panel at this stage is final and concludes the Sickness Absence Management Procedure.

## 2.9 Ill Health Retirements

### 2.9.1 Local Government Pension Scheme (LGPS)

Non-teaching staff may qualify for early release of pension benefits on the grounds of permanent ill health if certified by the Independent Registered Medical Practitioner (IRMP).

Principals should not normally seek their employee's referral to the Independent Registered Medical Practitioner until such time as the academy has issued notice to terminate the employment contract. However, in exceptional circumstances it may be possible to refer to the Independent



Registered Medical Practitioner prior to issuing notice to terminate employment.

Taking into account the opinion of the Independent Registered Medical Practitioner, the employer certifies release of the ill health pension following the expiry of notice of termination.

Where an employee in membership of the Local Government Pension Scheme is given notice of termination but is deemed not to meet the criteria for early release of benefits on the grounds of ill health, the employee will have the right of appeal to an Independent Arbitrator appointed through the Scheme.

## 2.9.2 Teachers' Pension Scheme (TPS)

An employee may qualify for early release of pension benefits if they are permanently incapable of teaching, either full or part-time, due to illness or injury.

Unlike the LGPS, the provisions of the TPS are such that it is the member who initiates an application. However, ill health retirement should be a last resort. Principals should ensure that ways of helping the employee return to work have been explored, with the benefit of Occupational Health advice. This includes timely consideration or rehabilitation, redeployment, workplace adjustments, flexible working or increased support. This ensures all that can reasonably be put in place to overcome the health related barriers to return to work have been considered, and help ensure compliance with the Equalities Act 2010, prior to any pension application.

It should be noted that Occupational Health is required by the TPS to collate the evidence for an ill health retirement application where possible. This evidence includes action considered by the academy to overcome barriers to return to work, and absence of such evidence may make a successful application less likely.

More information regarding, and applications for, ill health retirement is available at [www.teacherspensions.co.uk](http://www.teacherspensions.co.uk)

## 2.10 The Equality Act 2010

Disability is one of the protected characteristics within the Equality Act 2010. A person has a disability if they have a physical or mental impairment, which has a substantial and long-term adverse effect on their ability to carry out normal day-to-day activities (such as using a telephone, reading a book or using public transport). Anyone who has HIV, cancer or multiple sclerosis is automatically treated as disabled under the Act.



Some recurring conditions are also covered by the Equality Act, for example, some back injuries and conditions where there are periods of remission. The employee may develop or sustain the impairment during their period of employment with the academy.

The academy wants to employ and retain more people with disabilities and is committed to supporting people with disabilities in their employment.

The Equality Act places a duty on the academy to do all it reasonably can to establish whether an employee has a disability and to make reasonable adjustments to overcome the impact of the disability (or potential disability) on their employment.

If this responsibility is not observed, dismissing a person with a disability on the grounds of sickness absence relating to their disability can be unlawful. The employer would have to show that the treatment was justified. The employee's job may need to be adjusted to support them in carrying it out effectively, and/or to enable them to return to work following a period of sickness absence.

Principals should consult with the employee and should seek advice from their HR provider with regard to an employee's attendance or performance at work which is being affected by such a physical or mental impairment and any changes to working arrangements that may be required for an employee to be able to return to work, or to reduce their level of sickness absence to an acceptable level.

Absence directly related to a disability should be identified separately to other absence for recording purposes however the sickness absence interview process still needs to be conducted.

## 2.11 Maternity Related Sickness Absence

The academy is under a legal obligation to take measures to avoid any risk to the health or safety of a pregnant employee and her baby, including carrying out a risk assessment. Where a risk assessment or medical advice shows there to be a significant risk to mother or baby it may be necessary to adjust working conditions temporarily or to move her to another job. Where no suitable alternative employment is available the employee must be suspended on full pay.

Where a number of days of sickness absence are directly related to a woman's pregnancy, that number of days should be discounted for the purpose of any formal action, however the absence should continue to be monitored in line with procedure. Occupational Health advice may be required to establish this.



Principals are strongly advised to seek advice from the HR provider where they are considering an employee's sickness absence related to any aspects of the maternity situation.

## 2.12 Employee accompaniment at sickness meetings

Employees have a statutory right to be accompanied by a work colleague, a recognised trade union representative or an official employed by the trade union at a Sickness Absence Interview or hearing and any appeal. A trade union representative who is not an employed official must have been reasonably certified by their union as being competent to accompany the employee. The individual accompanying the employee must not be someone whose presence would prejudice the hearing or who might have a conflict of interest. The employee should advise who is accompanying them before any hearing.

The representative (trade union representative or colleague) may play a full part, including addressing the meeting to present and sum up the employee's case, responding on behalf of the employee to any view expressed, asking questions of witnesses, summing up the employee's case and conferring with the employee during the hearing. However, they should not answer questions that are put directly to the employee.

The employee must make all reasonable efforts to attend the hearing. If the employee's chosen representative is not available on the original date for the hearing, or if the employee is unable to attend due to unforeseen circumstances, such as illness, the employee has the right to have one postponement. This should normally be within 5 working days of the original date. This time limit can be extended by mutual agreement in exceptional circumstances.

If the employee fails to attend and a valid reason is not provided, the employee will be informed in writing of an alternative date and that if he/she fails to turn up without a valid reason then the hearing will proceed and decisions taken in their absence.

In exceptional circumstances, an employee may not be well enough to attend for a Sickness Absence Interview. In these circumstances, a Sickness Absence Interview can be held in the employee's absence subject to:

- The employee being advised in writing that the interview may be held in their absence and of the possible outcomes.
- The employee having the right to nominate a trade union representative or colleague to represent them at interview.

- The employee having the right to make a written submission to the interview and/or to submit medical evidence to the manager for consideration at the interview.

Principals are advised that they should give favourable consideration to a reasonable request for the deferral of the interview on medical grounds for a brief period. Occupational Health advice may be sought on an employee's fitness to attend specifically for an interview when they are absent from work.

## 2.13 Medical advice: medical support through Occupational Health

Occupational Health will provide professional advice to Principals in order to support them in making informed decisions and taking appropriate action.

Principals may seek advice in relation to long term sickness absence, also employees experiencing short term persistent absence may also need to be referred, if the employee declares a single or principal underlying medical cause for their recurrent absences. Additionally employee's wishing to seek advice on how their health is being affected by their work or how their work is being affected by their health can request Principals to refer them to Occupational Health at any time.

In relation to 'fit notes', Principals should usually only refer an employee to Occupational Health if the sickness absence is expected to continue beyond four weeks or if they require specific advice resulting from the fit note.

Referral through Occupational Health for psychological counselling support is available, employees should be advised to first contact the Employee Assistance Programme (EAP) provider, Worklife Support to seek advice in relation to counselling services available.

The Principal will decide the point at which to refer an employee to Occupational Health, however the advice in the Sickness Absence Management Toolkit should normally be followed and in cases of long term absence this should be subject to the first Sickness Absence Interview being completed. The timing of the referral will depend upon the circumstances of each case, for example, when the absence of the employee is impacting upon service levels, work performance is affected or there are other concerns regarding the employee. It should be remembered that there is good evidence that effective occupational health intervention in cases of long term absence is most likely with relatively early Occupational Health referral, at around 4-6 weeks following onset of absence, where there is no clear timescale given by the employee for a return to work.

Employees are entitled to time off to attend appointments with Occupational Health without deduction from pay.

To manage sickness absence effectively, professional, up to date Occupational Health advice should be sought and therefore employees are required to attend Occupational Health appointments. In the event of consent being declined or of non-attendance, Principals may make subsequent management decisions on the basis of such other information as is available. Where an employee feels that they have good cause not to attend an appointment, they must notify their Principal and Occupational Health in advance and in good time in order that this can be considered. Employees should be aware that failure to attend appointments without good cause may lead to deductions from pay.

All contact by the academy with an employee's GP or specialist regarding the employee's health should normally be made through Occupational Health. Such contact will be subject to the informed written consent of the employee.

Occupational Health reports may contain advice on possible durations of absence, functional restrictions and rehabilitation opportunities within the workplace. Whether such advice should be actioned is a management decision, based upon considerations such as available resources and operational feasibility.

## 2.14 Time off for Medical Appointments (including hospital appointments)

In general there is no statutory right for employees to take time off work for medical appointments such as visits to the doctor, dentist or hospital. Time off in these circumstances is at the discretion of the academy.

Employees should try to arrange medical appointments outside of working hours, if this is not possible leave of absence should be requested. Where an employee has to attend a number of hospital appointments during academy hours (for example, a significant course of treatment over a period of time), the Principal may wish to consider whether an adjustment is appropriate. Time off during working hours for medical appointments directly related to an employee's disability or antenatal treatment should be granted with pay.

Paid time off is granted to employees for the purposes of Occupational Health appointments or academy-supported Health initiatives such as cancer screening.

In ordinary circumstances leave of absence for medical appointments related to elective cosmetic surgery will usually be without pay. Where there is medical evidence to suggest that the surgery would alleviate significant psychological or physical problems this may be given as paid leave of absence. Principals should reasonably consider requests for paid and unpaid time off of this nature.



In all of the above circumstances, the employee should approach the Principal to request time off, giving as much notice as possible. The Principal may request confirmation of the appointment, by way of an appointment card, or a statement from the employee to confirm the nature and period of absence.

## **2.15 Industrial Injury/Disease**

Sickness absence resulting from an injury, illness or disease considered to be work-related is included in considerations of absence under this policy. It should, however, be identifiable from other sickness absence in absence records.