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**Human Resources &**
**Workforce Development**

# SCHOOLS SICKNESS PROCEDURE

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## 1. Scope of the Procedure

1.1 This procedure applies to all teachers and school-based staff employed by the London Borough of Tower Hamlets or the School.

1.2 The Headteacher will be responsible for ensuring that appropriate action is taken where there are concerns regarding an employee's level of sickness absence and may delegate responsibilities to other senior members of staff as appropriate. Where the Headteacher's attendance is a matter of concern, the role of the Headteacher in relation to the management of the sickness absence will be undertaken by the Chair of Governors.

1.3 The procedure will apply in full to all teachers and school-based employees on satisfactory completion of their probationary period.

## 2. Aims of the Procedure

2.1. This document explains what employees must do when absent from work due to sickness and what procedures will be followed when absence occurs.

2.2. Regular and punctual attendance is a contractual condition on all employees. The governing body is committed to maintaining good attendance levels. The governing body will also manage sickness with sensitivity bearing in mind the occupational sick pay entitlement. However, nothing in this policy will prevent or restrict the governing body's right to terminate employment before entitlement to sick pay is exhausted.

2.3. Employees who abuse this procedure, or the provisions of the sick pay scheme, may have their sick pay withheld and/or be subject to disciplinary action. Examples of abuse include: not reporting sickness or providing statements of fitness to work (fit notes) as required; failing to attend meetings with management or the Occupational Health Service (OHS) and engaging in activities which are inconsistent with the alleged illness or which may aggravate the illness or delay recovery (such as undertaking employment or participating in sport).

## 3. Equal Opportunities Considerations

3.1 Sickness absence patterns should be monitored to identify problems in particular areas or in specific occupations with a view to examine possible causes and seek solutions.

3.2 In order to establish whether any single person or group of employees is being treated less favourably than others under this procedure it is important that all action taken is monitored. If details are not already available, employees may be asked to provide information (e.g. about

their ethnic origin) to enable the School to review the impact of this procedure.

3.3 There are a number of conditions which affect particular groups within the workforce, e.g., menstrual problems, domestic violence, cervical and breast cancer, sickle cell, thalassaemia and HIV/AIDS. Where sickness occurs Headteachers must consider relevant equalities issues. If there is a problem around the level of absence in such cases it will be appropriate to seek advice from Occupational Health and/or the School's Personnel Provider.

## 4. Equality Act

4.1 Headteachers should be alert to the possibility that certain health or medical conditions may amount to a disability under the Equality Act 2010. Where this is a possibility, particular care should be taken to seek specialist advice (e.g. from Occupational Health and the Personnel Provider) and to consider any reasonable adjustments to the individual's working systems/environment that may be appropriate. The School should obtain advice from the Personnel Provider on what constitutes an impairment under the Equality Act 2010.

4.2 Disabled employees are required to comply with this procedure. The School has a duty to consider reasonable adjustments to assist staff in carrying out their job and their manager/Head teacher will discuss with them whether there are any adjustments that can be made to help them carry out their duties

4.3 If an employee has informed the School that they are disabled and the nature of their impairment, in situations where they are fit for work but need time off for treatment, physiotherapy, health assessments or to attend courses to help them manage an impairment, they can request Rehabilitation Leave. This request will need to made in line with the Annual and Special Leave Procedure or in line with another appropriate procedure set out by the school. This leave can be requested for both short and long term periods of absence. For example:

4.4 Regular short periods of absence needed to attend appointments that will assist a disabled employee in managing an impairment. This may help reduce the possibility of the disability leading to future periods of sickness absence.

4.5 Longer periods of absence to help manage changes caused by a new or existing impairment. For example, attendance at a course to be trained to use a guide dog, pain management therapy or to adjust to changes in personal circumstances following an accident that results in an employee becoming disabled. Rehabilitation leave is not to be used for periods of sickness absence.

4.6 Sickness absence related to a disability will be identified on an

employee's absence record.

4.7 Managers should still follow the sickness procedure for disabled employee's in order to identify any reasonable adjustments or support that can be made available to the employee. However, the disabled employee may be allowed more time than non- disabled staff before moving to the next stage of the procedure. This may be considered a reasonable adjustment.

## 5. Terminal Illness

5.1 Where an employee is suffering from a terminal illness the following factors need to be taken into account:

- the benefits available for the relatives/partner upon death of the employee may be substantially more if the employee remains employed by the School until the time of death.

- people are affected differently by the knowledge that they are terminally ill. Some may wish to continue working for as long as they are able, while others may find it impossible to remain at work. The employee's actual ability to carry out work must however be taken into account with the benefit of medical opinion.

- management will need to demonstrate sympathy and sensitivity to the employee's situation and will make every attempt to apply the sickness procedure in the light of the individual's circumstances. Guidance should be sought from the Personnel Provider at this stage.

## 6. Health and Safety Obligations

6.1 The Health and Safety at Work Act 1974 requires employers to ensure the health, safety and welfare at work of their staff so far as is reasonably practicable. Additionally, the management of Health and Safety Regulations 1992 impose the duty on every employer to conduct a suitable and sufficient assessment of the risk involved in each job.

6.2 Advice on conducting Risk Assessments is available from the LA's Health and Safety Team (based at Mulberry Place).

## 7. The Role of Occupational Health

7.1 The Occupational Health (OH) Service is primarily an advisory service to provide managers with guidance on how to manage and support the health and wellbeing of staff, making recommendations as appropriate. OH work impartially maintaining strict confidentiality so employees can feel as comfortable as possible in the process and decision making. Please note that schools may use their own Occupational Health Advisor.

## 7.2 Management referrals

7.2.1 OH usually becomes involved where a health related issue has been identified which requires managing within the workplace. Employers have a duty of care to each employee and OH gives advice on how to legally discharge this responsibility.

7.2.2 OH advises on potential actions required to support the manager and staff member so they can plan for a successful return to work after a period of sickness or injury. A referral may also take place for staff who are identified by their manager as requiring support whilst still in the workplace.

## 7.3 Reports and recommendations

7.3.1 Recommendations for reasonable adjustments may form part of a report to managers to support staff with disabilities or where an individual's health status changes during the course of their employment.

## 7.4 Reports from specialists

7.4.1 OH liaise with outside agencies working collaboratively to understand any medical conditions and recommendations for rehabilitation.

7.4.2 They obtain reports from GP's and Specialists and work with special agencies and projects to enable staff to return to gainful employment or advice on redeployment as appropriate.

## 7.5 Dismissal on medical capability, redeployment, and ill health retirement

7.5.1 Sometimes difficult decisions may need to be made, when there is no possibility of a return to the staff member's substantive role having considered reasonable adjustments which the business can support. In line with the sickness management process medical redeployment will be looked at but should this fail then dismissal on medical capability may occur.

7.5.2 Where it appears the person will not be fit to return to any type of alternative work having explored and pursued all relevant medical options, staff are seen by an Occupational Health Physician to advice on whether ill health retirement is appropriate. For teachers this process is undertaken by the Teacher Pension Service.

## 7.6 The Counselling Service

7.6.1 The counselling service can be accessed through the normal management referral route as a request for counselling. Details do not have to be discussed at referral stage by the employee.

7.6.2 Once assessed by the OH adviser an appointment will be given as appropriate.

7.6.3 Where Schools use their own OH Provider, alternative arrangements will need to be made where counselling is required. This will be agreed by the employee and the school.

## 8. Dealing with Stress in the Workplace

8.1 Please refer to the attached guidance in Appendix A.

## 9. Returning to work after a period of Absence

9.1 When an employee returns after any period of absence, the manager should discuss the absence with the employee to ascertain:

- The employee's health (e.g. whether they are fully able to work or require temporary adaptations to their duties);
- Whether there is anything that needs to be done to avoid a recurrence of the illness; and,
- If the employee is disabled, whether the absence was related to an impairment.

9.2 If an employee returns to work following a period of absence on a phased return basis the school should take into account the advice received from its occupational health provider and be guided by that. It is important to bear in mind that the purpose of a phased return is to achieve a successful full time return to work. Custom and practice is that staff returning to work on a phased basis are paid their full salary for a limited period of time. A phased return would normally be between 2 – 6 weeks.

## 10. Confidentiality

10.1 When managing an employee's sickness absence, the need to maintain confidentiality is of paramount importance. All staff have a personal responsibility for ensuring that information they receive is kept confidential, whether it is written or verbal, and whether it is received directly or indirectly. It should be noted that in some circumstances the School could become liable for unauthorised disclosure of confidential information. For further advice on data protection matters please contact the LA's Data and Security Manager or the Information Governance Team based at Mulberry Place.

## 11. Sick Pay

11.1 For levels of sick pay, please refer to the relevant conditions of service document.

## 12. Sickness Absence relating to Maternity

12.1 Where an employee is off work sick due to maternity, managers may not be able to pursue this through the formal route. Each case must be dealt with on an individual basis. However, where necessary informal meetings should be conducted to ascertain the issues and support the employee may need. For further information, please refer to the Maternity Policy or seek advice from the school's personnel provider. A Risk Assessment must be carried out for every expectant and nursing mother.

12.2 Please note that where an expectant mother is absent with maternity related sickness absence in the 4 weeks prior to the expected week of confinement, this may trigger the maternity leave to commence.

## 13. Procedure for reporting Sickness Absence

13.1 If staff are sick they must notify their supervisor as soon as possible on the first day of absence, and no later than within two hours of the normal starting time (**however staff are advised to check with the Headteacher whether different local arrangements exist within their school**). Staff should telephone personally, other than in exceptional circumstances when a relative or friend may call on their behalf.

13.2 Staff should state a) the reason for their absence
b) the estimated period of absence

- If the absence continues into a 4th day staff must notify their supervisor or Head of Department of their continued ill health, giving (where possible) an indication of the probable duration of the illness. The 4th day is regarded as the fourth consecutive day of absence, inclusive of rest days and weekends. If the 4th day occurs on a Saturday, Sunday or public holiday and the place of work is closed, notification must be made as soon as possible the next working day.

- If absence continues into an 8th calendar day, staff must visit their doctor to obtain a medical certificate. This must be forwarded to their supervisor/Line Manager without delay, and normally no later than the tenth calendar day of absence.

- If staff have stated an intention to return to work on a certain date, but find they are unable to do so, a further explanatory telephone call must be made to their Supervisor/Line Manager.

- Staff must submit medical certificates to their manager at regular intervals covering their periods of sickness consecutively.

- Should a period of sickness commence in the period leading up to a school holiday, and the employee is not fit to work on the last day of the school term, then a medical certificate will need to be obtained to provide evidence of when the staff member is fit to return to work. Failure to provide the correct certificate under these conditions may affect pay.

- Under exceptional circumstances, and with prior notification, employees may be required to provide medical certificates at more frequent intervals than those given above.

- It is very important that staff comply promptly with the procedures as set out above. If they do not, there is every possibility that any allowances to which they are entitled will be delayed. Additionally, payments under the Occupational Sick Pay Scheme may be stopped if the terms of the scheme are not complied with, and absenteeism procedures could be considered under the Schools Disciplinary Code. If staff submit any false information as to their incapacity, it will be dealt with in accordance with the Schools Disciplinary Code.

- "Four week's absence" – If an employee's illness continues for four weeks they will be automatically referred to the Occupational Health Physician for medical examination. Written permission may be required to contact an employee's doctor for a medical report, and they have the right to see this report before it is sent to the OH Doctor. It is a requirement of the Occupational Sick Pay Scheme that employees so requested shall attend a medical examination. Failure to do so without good reason could lead to the stopping of Occupational Sick Pay for the entire period of sickness and/or disciplinary action.

  **For long term periods of absence the school should ensure that they are in regular contact with the employee.**

## 14. Procedure for Managing Sickness Absence

### 14.1 Attendance Review Meeting

14.1.1 This stage applies where:-

- Where a combination of odd days, longer periods and patterns of absence causes concern; or,

- There is a total of 11 days absence in a rolling 12 month period

14.1.2 The above are guidelines only. Managers should monitor all absence and take appropriate action as soon as they believe there is a problem.

14.1.3 A confidential meeting between a manager nominated by the Headteacher, and employee should be arranged as soon as the manager identifies a sickness problem (see above). Normally a HR Officer or trade union representative need not be involved at this stage, but this can be varied by mutual agreement. Meetings under this procedure could be held at your home or another location, if you agree, in circumstance where your mobility is preventing your from travelling long distances. Where exceptionally it is not possible to hold a meeting with you either at work or at home, you may send a trade union representative or work colleague to speak on your behalf, or may be given the opportunity to respond in writing or equivalent method.

**14.1.4 Aims of the Attendance Review Meeting**

The purpose of this meeting is to:

- Signal that the employee's time off is a cause for concern

- Allow the employee to inform the manager if there is an underlying medical problem or disability restricting their attendance at work.

- Give the employee an opportunity to explain other reasons for sickness, e.g. domestic difficulties, work, stress, alcohol or drug related problems etc.

- Where appropriate refer the employee to Occupational Health. Any OH referral must be discussed with the employee. Where appropriate, support should be offered such as assistance with making arrangements for treatment, special leave, temporary adjustments to working hours, or access to counselling.

14.1.5 Following the Attendance Review Meeting the employee should be allowed reasonable time to demonstrate an improvement in their attendance. As a general guidance this monitoring period would normally be for a period of 3-6 months, although there may be occasions when a shorter/longer monitoring period would be reasonable.

**14.2 First Formal Review Meeting**

14.2.1 This stage applies where there is a long term issue or the individual's attendance record has not sufficiently improved following the Attendance Review Meeting. Where the issue is long term, there is no need for the attendance review stage.

### 14.2.2 Aims of the First Formal Review Meeting

This stage applies where:-

- An employee's absence has gone beyond the levels set at the attendance review stage.

- **for continuing absence**: to explore sensitively the reasons for the sickness absence and the possibilities of a return to work and how workloads can be handled in the meantime, consider and put into action reasonable adaptations that may be made to assist return and/or to consult you about an Occupational Health Referral or to discuss advice received from Occupational Health,

- **for repeated absences**: to alert you to the difficulties caused by your absence, to identify any underlying cause (making reasonable adaptations to the job/premises if needed), and to organise a referral to Occupational Health if your manager feels it is needed.

14.2.3 Your line manager must hold a First Formal Review Meeting. If you are unable to attend such a meeting by coming into work, alternative arrangements will be made. You will be told that this is the first formal stage of the sickness absence procedure and that you have the right to be accompanied by an recognised trade union representative or a work colleague

14.2.4 In all cases Occupational Health advice must be considered at the Formal Stage of the Procedure.

The Purpose of this stage is to:

- Continue to discuss the employee's sickness absence, including the likely length of continuing or repeated absences

- Identify any underlying reasons

- Where an OH referral has not already occurred to refer the employee to the Occupational Health Adviser/counsellor where appropriate if fitness does emerge as the issue. .

- Advise the employee of the employment implications of their absence.

- Check the potential for redeployment, if relevant

- Determine the medical treatment that the employee is receiving and where relevant the prognosis for a recovery within a reasonable length of time

- Explore what the employer can reasonably do to aid the employee's recovery with a view to a return to work/sustained attendance at work, including any reasonable workplace adjustments that may need to be considered (advice on this may be sought from the Occupational Health, and the Personnel Provider)

- Discuss whether in all the circumstances the employer can, in the case of long term absenteeism, be expected to wait for the employee to return to work

- Inform the employee that if there is not a substantial and sustained improvement, a Contractual Review will take place, which may result in the employee's dismissal on grounds of capability. The employee may be given notice of the Contractual Review Meeting at this stage, or at a later stage during the monitoring period, which may be up to 1 year in duration.

- Inform the employee that their attendance will be closely monitored over an agreed time period.

14.2.5 Normally the employee should be given five working days' notice of the first formal review meeting, and advised of their right to be accompanied by a recognised Trade Union representative or work colleague at the meeting.

14.2.6 A Human Resources representative from the Schools Personnel Provider should be present at the 1st Formal Review stage. The outcome of the First Formal Review should be confirmed to the employee in writing by the manager, within 5 working days of the meeting. Where appropriate the Manager may decide to reconvene the First Formal Review Meeting in order to consider further evidence and advice.

### 14.3 Contractual Review Meeting

14.3.1 By this stage the employee would have been given every opportunity to improve their attendance to an acceptable level/to sustain a return to work. If all efforts have failed, the employer has a duty to consider termination of the contract of employment on the grounds that the employee is unable to meet their contractual obligations to work.

14.3.2 A date for the Contractual Review meeting will normally be set at the preceding First Formal Review Meeting, ensuring that there has been long enough time to establish the likely prognosis.

14.3.3 The Occupational Health Adviser should be asked as to whether a further review of progress is necessary before any prognosis of the employee's future state of health can be given.

14.3.4 The employee should normally be given 10 working days' notice of the Contractual Review Meeting and advised of their right to be represented by a recognised trade union or work colleague. The letter should outline the employee's sick record to date and inform them that as a result of the review a determination to dismiss may be made to the Director Education, Children's s..

14.3.5 The panel will normally consist of the Headteacher (who will chair the meeting) and a governor other than the Chair of Governors. Where the Headteacher conducted previous meetings under the procedure, the panel will consist of two governors other than the Chair of Governors, one of whom will be nominated to chair the meeting. The Chair of the hearing will be advised on procedural matters and matters of precedent by the Personnel Provider.

14.3.6 It may be appropriate, if Occupational Health advice indicates that a return to work is not expected in the foreseeable future to proceed from the First Formal Review, to the Contractual Review Stage of the procedure, without the need for reconvened meetings.

14.3.7 The school must show that the employee has been given a chance to improve their attendance by allowing a reasonable time between the First Formal Review and the Contractual Review.

14.3.8 If the panel makes the decision to recommend dismissal they must be satisfied that all reasonable efforts to support the employee have been made. If dismissal is the outcome, Community Schools must send a determination to dismiss to the LA notifying them of the decision and the reasons for it. In the case of Foundation, Voluntary Aided Schools and Foundation Special Schools where the power to dismiss has not been delegated to the head teacher, a recommendation to dismiss will be made to the Governing Body.

14.3.9 The panel will communicate their decision in writing to the employee within 5 working days of the meeting. If possible, the panel will verbally inform the employee of the Panel's decision at the conclusion of the meeting. If dismissal is the outcome, notice will start from the date of the Contractual Review Meeting.

**14.3.10 Purpose of the Meeting**

- To consider medical evidence where it is available or appropriate. Should the employee wish the panel to consider additional evidence such as further medical reports, this should be supplied to him/her at least 5 working days in advance of the Contractual Review meeting.

- To consider possible solutions for improved attendance. The panel may if appropriate, defer any decision in order to seek further advice.

- To explain the medical advice received.

- Where the advice is not encouraging, to explain the implications for the employee's colleagues and the service.

- Determine the likely duration of the absence or continuation of the condition.

- Check the potential for redeployment/job redesign or any other reasonable adjustments that may still need to be considered.

- Check the appropriateness of ill-health retirement.

- Where a full return is expected but not within the near future, where the prognosis is indeterminable, or where there is an underlying medical condition causing persistent short term sickness, the panel should assess whether in all the circumstances the employee's continued absence is tolerable. Where a determination to dismiss is made, this will be on the grounds of incapability with the required pay in lieu of notice.

14.3.11 The employee will be informed in writing of the outcome of the Contractual Review meeting within 5 working days, and advised of their right to appeal against dismissal. Appeals must be made in writing to the Chair of Governors within 10 working days of the date of the dismissal letter.

**14.4 Appeal**

14.4.1 The Chair of Governors will write to the employee giving details of the appeal hearing, which will normally take place within 10 working days of receipt of the employee's appeal. The employee will be advised in writing of their right to be accompanied at the appeal hearing by an recognised trade union representative or work colleague.

14.4.2 The Chair of Governors plus two other governors will hear the appeal. A representative from the LA Human Resources may also attend to advise the panel on procedural matters and matters of precedent.

14.4.3 The Chair of Governors will communicate their decision, which will be final, in writing to the employee within 10 working days of the appeal hearing.

**Appendix A: Guidance on Stress in the Workplace**

Stress in the workplace can cause high levels of absenteeism.

Please note that this appendix is a guide only and will not be applicable for all posts. Each case must be dealt with on an individual basis

How managers can help support work life balance:

- Ensure you are familiar with all the strategies which have been developed to tackle the issues of stress and mental wellbeing.
- Encourage a culture of openness about time constraints and workload.
- Use staff meetings to highlight emerging issues which are of concern to staff
- It is important to create a culture where employees feel they can raise concerns with their manager if they feel the demands placed on them are too great.
- Promote a culture of 'working smart, not long', as outlined above
- Ensure that employees' jobs are manageable within the time for which they are contracted
- Audit their work environments to identify elements of practice, policy or culture that may be detrimental to a healthy work-life balance
- Allow staff to attend counselling and support services during working hours as they would for other medical appointments subject to the relevant approval and procedures by the school.
- Encourage activities that promote good mental health, for example the lunchtime walking group.
- Encourage staff to take lunch away from their desk.

- Employees should be encouraged to take personal responsibility for work-life balance in the following ways:
- Try to 'work smart, not long'. This involves tight prioritisation – allowing yourself a certain amount of time per task – and trying not to get caught up in less productive activities
- Try to ensure that a line is drawn between work and leisure. If you do need to bring work home try to ensure that you only work in a certain area of your home – and can close the door on it.
- Take seriously the link between work-related stress and mental ill health. Try to reduce stress, for example through exercise, relaxation or hobbies.
- Recognise the importance of protective factors including exercise, leisure activities and friendships. Try to ensure that these are not sacrificed in working longer hours, or try to ensure that spare time is spent on these things.

- Watch out for the cumulative effect of deciding to work long hours by keeping track of your working hours over a period of weeks or months rather than days. Take account of hours spent worrying or thinking about work when assessing your work-life balance. If possible, assess your work life balance in collaboration with your colleagues and with the support and involvement of your manager.
- For any stress related conditions the school should make an automatic referral to Occupational Health..