



Snape Wood Primary and Nursery School
Excellence for All



Nottingham
City Council



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'To provide excellence for all within a happy, safe, and stimulating learning environment'

ATTENDANCE MANAGEMENT POLICY

(Staff Management Handbook for Schools)

SHAPE WOOD PRIMARY AND NURSERY SCHOOL	
Approved by: Full Governing Body	Date: Spring 2023
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Attendance Management (Staff Management Handbook for Schools)

The aim of attendance management is not to prohibit sickness absence but to improve the overall employee attendance levels. The policy is intended to be supportive rather than punitive.

The health and welfare of all employees is vital to ensure high levels of attendance, the delivery of quality education and to minimise the disruption of pupils' education. This section is designed to provide advice and support to head teachers and governing bodies in managing employee attendance.

High levels of absence have a cost to the school in terms of direct costs - through the payment of statutory sick pay, occupational sick pay and supply cover, and indirect costs such as the impact on management time, the effect on morale, goodwill and performance of other staff who may take on additional work during the absence.

Key objectives for achieving improved attendance at work include:

- a) establishing an 'attendance culture' - where sickness absence is recognised as an important factor affecting the efficient running of the school;
- b) promoting occupational health and staff welfare;
- c) addressing issues such as health and safety at work, stress and demotivation that can lead to either problems at work or sickness absence; and
- d) establishing and reviewing policies and procedures for monitoring and managing sickness absence levels.

Implications of the Education Act 2002

In the minority of cases an employee may be dismissed on the grounds of capability due to poor attendance. The governing body has overall responsibility for all staff dismissals in school, however it may delegate these responsibilities to the head teacher, an individual governor, or a group of governors with or without the head teacher (Section 35 (8) and 26 (8) of the Education Act 2002).

Head teachers will normally be expected to lead in all staff dismissals (with the exception of the dismissal of the head teacher, where the governing body will be responsible).

In certain circumstances the governors should apply alternative arrangements, for example where:

- a) the head teacher is unwilling to perform these functions and whose previous history of service at the school did not include any such responsibilities;
- b) the head teacher is subject to suspension, disciplinary procedures (including capability), or disciplinary sanction;
- c) the LA has made representations to the chair of the governing body on the grounds of serious concerns about the performance of the head teacher;
- d) the head teacher has failed to abide by financial limits agreed by the governing body for any school purpose;
- e) the governing body of a faith school has agreed staffing policies which provide for governor involvement in the interests of preserving the school's religious character;
- f) the head teacher has been directly involved in the procedures leading to dismissal or has instigated a proposal to dismiss.

Governing bodies should have a decision minuted as to whether or not the first decision on dismissal will be taken by the head teacher or the Staff Dismissals Committee.

The governing body should review, at least annually or otherwise where necessary, the continuation of any circumstances where the head teacher does not lead on dismissals. Where a head teacher is on long-term sick leave, secondment or some other long-term absence the governing body should consider whether it is appropriate to pass delegated responsibility to the person appointed to act in the head teacher's place. The head should have an opportunity to make representations on any decisions to discontinue or continue delegated responsibility.

In cases where there are concerns regarding the attendance of the head teacher the Chair of the Governing Body should contact the school's HR advisor. An appropriate investigating officer should be appointed.

Representation at formal meetings and dismissal hearings

At all formal meetings staff have a legal entitlement to be accompanied by a trade union representative or a work colleague. If the chosen companion is not available at the time proposed and a reasonable alternative is proposed which falls within 5 working days of the day proposed for the interview, the school must rearrange the event to the time proposed.

If the employee is unable to attend a meeting s/he should notify the Head/Chair of panel and give the reason for non-attendance. Where the employee fails to attend because of circumstances outside his/her control, the head/chair should invite him/her to another meeting. Where there is no valid

reason for non-attendance the head/chair may inform the employee that the meeting will continue in his/her absence.

Legal Requirements

In addition to the above requirements, the ACAS Code of Practice issued under section 199 of the Trade Union and Labour Relations (Consolidation) Act 1992, which came into force on 6th April 2009 should also be followed.

Failure to follow the Code does not automatically make the organisation liable to proceedings. However, Employment Tribunals will be able to adjust any award made in relevant cases by up to 25 per cent for unreasonable failure to comply with any provision in the code.

The code requires organisation to have Discipline and Grievance policies which meet clearly defined key elements, including that matters are dealt with promptly, parties act consistently, employees have a right to be accompanied at any formal meetings and that employees are made aware of the basis of the problem and the opportunity to put their case forward.

The requirements of the Code are incorporated in this policy. More information regarding the ACAS Code of Practice can be found on www.acas.org.uk.

The ACAS Code of Practice requires the following procedure to be applied;

- Step 1 - The employer must provide a statement of grounds for action and an invitation to a meeting
- Step 2 - The meeting to discuss the issue, the employer must inform the employee of his decision
- Step 3 - The employee must be given an opportunity to appeal against the employer's decision

These model procedures do not relieve the governing body of its responsibility for the control of staff conduct and discipline.

Governing bodies that do not adopt the model procedures are required to consult with trade union representatives and provide their HR advisor with a copy of their own procedure having considered the statutory requirements detailed above.

Improving Attendance

Promoting Employee Welfare

Employee welfare is concerned with the physical and emotional well-being of employees, helping to prevent problems arising, or if they do, helping employees cope with them as well as possible - and so minimising the impact on their work.

Providing support demonstrates the school's concern for the well being of employees and its commitment to them. This in turn can generate loyalty and aid good employee relations. A positive approach to employee welfare can create, maintain and improve performance and school achievement.

There is a range of support available to employees, for example:

- a) PAM Assist – Employee Assistance Programme – where appropriate Employee Wellbeing services are purchased, Nottingham City Council offers a 24 hour confidential counselling service. They offer a number of services including individual sessions and a telephone support line;
- b) Teacher Support Line - a telephone service providing support, advice and counselling for teachers;
- c) employee's 'Stress Guide' - advice and support in managing stress;
- d) Occupational Health Service - medical advice via a referral process;
- e) reduced gym membership - to all Nottingham City Council Leisure Centres;
and
- g) trade union representatives.

Flexible working practices and family friendly policies such as part-time and job share can have a positive impact of employee welfare.

The head teacher and line manager play key roles in promoting staff welfare, for example:

- a) creating a climate in which all employees feel valued;
- b) ensuring an open culture promoting open and honest discussion;
- c) providing training and development to ensure employees have the necessary skills to do their job;
- d) organising work to motivate staff and minimise undue stress;
- e) looking for signs that an employee may need help and supporting and offering this;
- f) encouraging employees to support and help each other; and
- g) helping employees gain full advantage of the support available.

Return to Work Support

As part of creating a more open culture managers should offer support to staff when they return from any period of sickness absence. Evidence indicates

that managers' concern for staff is a key element in reducing sickness absence levels. The concern should be expressed by the manager in terms of the individual's contribution being missed.

The return to work meeting should occur as soon as the employee returns to work, ideally within 48 hours of the return but no longer than 5 working days.

The discussion should be confidential and held somewhere private. It should be part of the routine contact between managers and their staff - the discussion may only last a few minutes but it gives the opportunity to acknowledge that the employee has been off work and to offer them support in their return to work. [Appendix 1: Managers' Guide for Return to Work Support](#) [28kb] outlines a suggested discussion format.

The return to work support should focus on the employee's welfare, their health and the reason for his/her absence e.g. is it a recurring problem? What help and support may be needed? Are there any health and safety issues? Has the employee sought the appropriate medical care and treatment? Advice should be sought from the school's HR advisor regarding any disability issues (also see [Appendix 2: Absence Involving a Disability](#) [41kb]).

It is also an opportunity to discuss any work related issues that are causing the employee concern. There may also be personal or home-related issues. Support from the PAM Assist – Employee Assistance Programme (where applicable), their trade union or assistance from the school's Occupational Health provider may be appropriate.

The return to work support is an informal discussion and is not a means of issuing the employee with a notification of concern. As such there is no right to representation, but employees may request to be accompanied by a union representative or colleague. The supportive discussion will not be unduly delayed if a representative is not available. The union representative will not attend to represent the employee as such but to support him/her.

A record of this meeting should be taken and should be signed by both parties. A copy should be given to the employee and kept on the employee's school file.

Fit Notes

From 6th April 2010 the sick notes issued by doctors were replaced with 'Fit Notes'. Fit Notes differ to sick notes as consideration should be given as to whether an individual is able to return to work earlier with some basic support from their employer. The aim is to facilitate a return to work earlier and to help reduce sickness absence levels.

The Fit Notes focus on what the employee may be able to do at work rather than what they are not able to do. It is not an attempt at trying to get employees back to work when they are not fit to do so but about removing potential challenges of them returning to work.

The Fit Notes offer a new option that the employee 'may be fit to return to work taking into account the following advice'. The advice may be about returning to work on a phased basis, implementing flexible working practices, temporarily amending duties or implementing workplace adaptations.

Consideration needs to be given to the advice provided on the Fit Note and this should be discussed with the employee. Advice may need to be sought from the school's HR advisor or Occupational Health provider. It may be that the advice is feasible within the school and the temporary changes should be agreed with the employee with relevant timeframes. These changes need to be reviewed regularly to ensure a successful return to work.

If the employee's doctor has assessed that the employee may be fit to return to work if their advice is followed, this does not automatically mean that the adjustments have to be implemented. There may be situations where it is not possible for the school to provide the support that would enable the employee to return to work. In these cases the reasons for this should be discussed with the employee and the use of the Fit Note is as if the doctor has advised 'not fit for work'.

Accidents/Incidents at work

If any absence is a result of an accident at work then the incident must be recorded on an Accident Report form and sent to the Health and Safety Section at Loxley House, Station Street. The HR advisor can provide further advice on dealing with and the implications of an accident at work.

Monitoring Absence

The basic tool of managing absence is a record that details the absence of an individual employee. Absence must be recorded for payroll purposes and the school should keep a record on the personal file of the length, frequency and stated reason of the absence. The school is also required to provide absence returns to the LA and DfE.

Short-Term Persistent Absence Procedure

Short-term persistent absence can be defined as cases where an employee has regular periods of absence, usually on health grounds, interspersed by periods at work or where an employee has odd days off, reported as sickness but uncertified by a doctor. From the monitoring records, the absences may or may not reveal a pattern.

If an employee declares that they are absent through ill health, whether that absence is certified or not, it should be assumed that the illness is genuine. However, on-going persistent absences are a cause for concern. In extreme cases once this procedure has been followed an employee can be dismissed for persistent short-term sickness absence.

In managing short-term persistent absence the following procedure should be adopted (see flowchart in  [Appendix 3: Flowchart for Short-Term Sickness Absence](#) [32kb]):

- a) undertake an analysis of the individual's absence records - considering the total absences over a defined period, the reasons for absence, whether the absences were certified, whether there are identifiable trends/patterns and whether there are any disability issues;
- b) consider the outcomes of any return to work discussions;
- c) record initial views and concerns of the operational effects of the absences;
and
- d) meet with the employee to provide an opportunity to discuss the reasons for the absences and whether any support or further action is required.

Triggers

In dealing with frequent short-term absence it is important to determine what an acceptable standard of attendance in school is. The aim is to reduce the amount of absence over a period and it is suggested that schools take a longterm approach to reducing absence. It is recommended that schools adopt the following trigger levels:

Local Government Service (LGS) Employees

Under the provision of Single Status, implemented in schools from 1 May 2013, the trigger levels for LGS employees changed to:

10 days (pro-rata for part-time employees) or 3 occasions within a rolling 12 month period

Teachers

The trigger levels for teachers currently remain as 12 days (pro rata for parttime employees) or 4 occasions within a rolling 12 month period.

(both self-certified absences and absences certified by a GP are counted towards the triggers).

The trigger levels will be subject to review and may be modified from time to time following consultation with the relevant Trade Unions.

Absence Involving a Disability

The Attendance Management Procedure ensures that a single approach is taken in managing sickness absence regardless of whether the absence is attributable to a disability.

Consideration needs to be given on a case by case basis where the absence is covered by the Equality Act 2010 to ensure that reasonable adjustments have been made by the school to assist the employee with their attendance levels.

Employees who do have a disability are not exempt from this procedure.

Refer to  [Appendix 2: Absence Involving a Disability](#) [41kb] on managing sickness absence for an employee with a disability.

Recording Sickness Absence

For the purpose of sickness absence recording, the school day will be classed as two sessions; morning and afternoon session. The morning session will be from the start of the working day until lunch, and the afternoon session will be from after lunch until the end of the school day.

If an employee attempts to attend work by arriving at the start of the day but then leaves the workplace due to sickness absence at any time that morning, the absence record will show attendance in the morning and absence in the afternoon.

Should an employee attend work in the morning and then leave during the afternoon session, this will not be recorded as sickness absence.

In terms of triggers, half a day will count as a single occasion. An employee can 'trigger' on four occasions within a 12 month period by being absent for 4 (LGS) or 3 (Teachers) sessions i.e. 3/4 afternoons.

There will be a need for discretion by the head teacher when dealing with these types of triggers and consideration will need to be given to the attempt made by the employee to attend work.

Where employees have undertaken to work additional weeks as part of Single Status implementation, the average weekly hours (over the course of the year) should be used for the duration of the absence. This should be pro rated by the number of days worked.

For example: An employee contracted to work 37 hours per week, for 40 weeks per year (i.e. 39 weeks Core Contractual Hours (CCH) during term time and 1 week's Additional Contracted Hours (ACH)) is off for 1 week and 1 day. The 37 CCHs x 39 term time weeks plus 1 week at 37 ACHs are added together and divided by the 39 term time weeks. The employee's average contracted hours per working week are therefore 37.95 hours. To convert the decimal part into minutes, multiply it by 60. In this example, $0.95 \times 60 = 57$ minutes, so the additional time that should be recorded for sickness is 23 minutes. Therefore the average contracted hours is **37 hours 57 minutes per week**. Hours of sickness will therefore be recorded as follows:

Week 1 of sickness: 37.95 hours

1 day of sickness: 7.59 hours

This approach has been designed to prevent irresolvable deficits of hours over the year when a colleague is off sick for an extended period of time.

Stage 1

Where an employee's level of sickness absence exceeds the trigger level s/he should be formally interviewed. In circumstances where any disciplinary decision remains with the head teacher the interview should be undertaken by a member of the senior management team. In circumstances where any disciplinary decision remains with the Staff Dismissal Committee the interview should be undertaken by the head teacher.

The member of the senior management team/head teacher should write to the employee inviting them to the meeting ( [Model Letter 1: Invitation to Meeting after Reaching Trigger Level](#) [24kb]) including a copy of their sickness absence record and detailing the reasons why this could result in formal action being taken. The employee must be given 10 days notification of the meeting and be advised that they may be represented by a trade union representative or work colleague.

The meeting should seek to establish the facts, examine the employee's sickness record, look for patterns of absence or the causes of it and seek to resolve problems where possible. The member of the senior management team/head teacher should discuss the support and guidance available to the employee and, as appropriate, ensure that the employee is made aware of the support available from the PAM Assist – Employee Assistance Programme and the Occupational Health Service.

At the end of the interview the member of the senior management team/head teacher should consider all the issues, for example:

- a) how many absences have there been overall? The case should be considered on its own merits but bear in mind how it compares to other employees in school;
- b) is there a pattern that suggests what help could be given to enable the employee to reduce sickness absence? Has the employee been given the chance to explain?
- c) has consideration been given to reviewing the employees work load/timetable/ working conditions?
- d) was it a temporary problem that has now passed?
- e) is the employee making reasonable efforts to reduce the level of absence?

- f) is advice from Occupational Health needed?
- g) would counselling be beneficial to the employee?
- h) has the interview been conducted in a fair and non-discriminatory manner?
and
- i) would a warning be fair and reasonable in the circumstances?

The member of the senior management team/head teacher may decide that issuing a notification of concern is not appropriate and [Model Letter 2: No Further Action](#) [23kb] should be issued.

However, the member of the senior management team/head teacher may decide to give the employee a formal notification of concern that, notwithstanding the reasons for the absence(s) particular effort is required to reduce the level of absence and failure to do so may ultimately lead to dismissal for capability due to poor attendance ([Model Letter 3: Issue of First Warning](#) [24kb]).

The employee may appeal against the decision to a committee from the governing body within 10 working days ([Model Letter 4: Invitation to Appeal Meeting](#) [23kb] & [Model Letter 5: Confirmation of Result of Appeal Meeting](#) [25kb]). The committee should comprise of three governors who are not members of the Staff Dismissal Committee or the Dismissal Appeal Committee. Where there are not three available the appeal can be heard by two governors.

Stage 2

The employee's absence should continue to be reviewed regularly and if attendance is satisfactory over a six-month period the notification of concern will be considered to have lapsed and it will be treated as spent. The documentation should be removed from the employee's personal file. However, if the absence remains above the trigger level and there has been further absence after a first notification of concern has been given, the member of the senior management team/head teacher should move to Stage 2 of the procedure.

In cases where an Occupational Health appointment has not already taken place the employee should be referred at this point ([Appendix 4: Occupational Health Referral Process](#) [27kb]). This is to obtain a qualified opinion on the employee's medical condition or establish if there is an underlying medical reason affecting the level of attendance. Following the appointment, a welfare meeting should be arranged to discuss the report, any issues that need to be addressed and any support that the school can put in place. The HR advisor can attend such meetings to provide advice.

The member of the senior management team/head teacher should write to the employee inviting them to a further formal meeting ([Model Letter 6:](#)

[Invitation to a Second Meeting after Reaching Trigger Level \[24kb\]](#)) including a copy of their sickness absence record, and detailing the reasons why this could result in formal action being taken. The employee must be given ten days notification of the meeting and be advised that they may be represented by a trade union representative or colleague.

At the end of the interview the member of the senior management team/head teacher should consider all the issues and may decide that a further notification of concern is inappropriate ([Model Letter 2: No Further Action \[23kb\]](#)).

However, the member of the senior management team/head teacher may decide to give the employee a second notification of concern that if the absence(s) continue to be a source of concern and that, notwithstanding the reasons for the absence(s), particular effort is required to reduce the level of absence and that failure to do so may lead to dismissal on the grounds of capability due to poor attendance ([Model Letter 7: Issue of Second Warning \[25kb\]](#)).

The employee may appeal against the second notification of concern to a committee from the governing body within 10 working days (see [Model Letter 4: Invitation to Appeal Meeting \[23kb\]](#) & [Model Letter 5: Confirmation of Result of Appeal Meeting \[25kb\]](#)). The committee should comprise of three governors who are not members of the Staff Dismissal Committee or the Dismissal Appeal Committee and who have not previously been involved in the case. Where there are not three available the appeal can be heard by two governors.

This second notification of concern will remain in force for 12 months during which time the employee's attendance should be regularly reviewed. If the employee's sickness absence has reduced below the trigger level after 6 months, the second notification of concern should be regarded as having reduced to the status of a first notification of concern. If the employee's sickness absence remains below the trigger level after a further 6 months the notification of concern will be regarded as lapsed and it will be treated as spent. The documentation should be removed from the employee's personal file.

Stage 3

Consideration of Dismissal

The case should be reviewed regularly, around three monthly intervals and further action considered if the absence level remains above the trigger level and where there has been further absence after a second notification of concern has been given.

The employee should be re-referred to the Occupational Health Service to obtain a qualified medical opinion on the employee's health before any consideration to dismiss is taken.

Based on the information the member of the senior management team/head teacher may wish to refer the case to the head teacher/Staff Dismissal Committee to consider the employee's employment.

The date of the hearing should be given, in writing to the employee as soon as possible and at least 10 days before the due date. The letter should detail the reasons why formal action could be taken (see [📄 Model Letter 8: Invitation to Hearing with the Head Teacher Staff Dismissal Committee \[24kb\]](#)) along with any documentation that will be referred to during the hearing.

The hearing should take place on a mutually convenient day and time. This is to ensure that the hearing does not have to be delayed or postponed at the last minute. Where the trade union representative or work colleague cannot attend on the proposed date the hearing should be rearranged at a suitable time for all. Failure to arrange a mutually convenient date may result in the employee presenting a complaint to an employment tribunal.

The employee should be given the opportunity to send any written submission or evidence to the committee prior to the hearing. A copy of any submission should also be made available to the member of the senior management team/head teacher. The member of the senior management team/head teacher should always submit the evidence in writing to the head teacher/Staff Dismissal Committee with a copy to the employee. It is not for the member of the senior management team/head teacher to make any recommendations for action, this is a decision for the head teacher/Staff Dismissal Committee. The evidence must be sent at least 10 days before the date of the hearing (with [📄 Model Letter 8: Invitation to Hearing with the Head Teacher Staff Dismissal Committee \[24kb\]](#)).

The date of the hearing should always be notified to the HR advisor who will advise the committee on any procedural aspects or matters of employment law.

The City's Council's HR advisory team must be kept informed if dismissal of any City Council employee is being considered, regardless of whether HR advice is purchased from City Council.

The Hearing

The hearing will be conducted according to [📄 Appendix 5: Procedure for Hearing Appeals \[24kb\]](#).

The head teacher/Staff Dismissal Committee should consider the following factors when reaching a decision as to dismissal:

- a) has the procedure been followed correctly?
- b) has the advice of Human Resources been taken account of?

- c) has there been any improvement in the level of absence following the warnings?
- d) would it be reasonable to wait before deciding to dismiss to see whether there has been an improvement?
- e) what is the employment history like? Is this only a recent problem?
- f) is there a pattern to the absences? If so, does it suggest an alternative to dismissal?
- g) how does the employee's attendance record compare to others?
- h) has any help or assistance been offered e.g. has consideration been given to reviewing the employees work load / timetable / working conditions?
- i) has a recent, clear medical opinion been obtained?
- j) are any of the absences attributed to a disability?
- k) have all alternatives been considered?
- l) what is the impact on those who work with the staff member and the overall effect on the school? and
- m) what is the impact on the education of pupils in the school?

Any decision of the head teacher/Staff Dismissal Committee must be confirmed to the employee in writing within 3 working days (see [📄 Model Letter 9: Result of Hearing with the Head Teacher Staff Dismissal Committee \[24kb\]](#)).

The head teacher must provide written confirmation of the decision to the LA (if appropriate [📄 Model Letter 10: Notification to the LA to Terminate Contract of Employment \[23kb\]](#)).

If the decision is taken to terminate the employee's contract of employment the following action must be taken:

For community, voluntary controlled, community special and maintained nursery schools

As the member of staff is employed by the LA it must within a period of 10 working days either withdraw that person from the school or issue notification of termination of the employment contract. If a subsequent appeal reverses the dismissal decision the withdrawal or termination notice must be rescinded. In cases where the LA is entitled to terminate the contract without notice because of the conduct of the member of staff in question, any such termination may be rescinded if an appeal is upheld.

For foundation, voluntary aided and foundation special schools

In cases where the member of staff is employed by the governing body, notification of termination of the contract should be issued following the initial dismissal decision, and may be rescinded if a subsequent appeal is upheld. In cases where the governing body is entitled to terminate the contract without notice because of the conduct of the member of staff in question, any such termination may be rescinded if an appeal is upheld. In the case of staff employed by the LA the arrangements set out above should apply.

Stage 4 - Appeal Hearing

An employee has a right to appeal against any decision. The employee will be told that s/he has 10 working days from receipt of the letter confirming the decision. (see [📄 Model Letter 11: Invitation to Hearing with the Dismissal Appeals Committee \[23kb\]](#)).

An appeal will be heard by the Dismissal Appeals Committee. The panel of governors should not have played any part in the disciplinary hearing itself. The number of governors should not be less than those that took the original decision and this will normally be three.

The procedure for hearing an appeal will be the same as that for the hearing itself. There is no further right of appeal other than to an Employment Tribunal. The chair of the Dismissal Appeals Committee should write to the employee with the decision of the committee (see [📄 Model Letter 12: Result of Hearing with the Dismissal Appeals Committee \[24kb\]](#)).

The City's Council's HR advisory team must be kept informed, regardless of whether HR advice is purchased from City Council.

Long-Term Sickness Absence Procedure

Whilst each absence case must be viewed individually, a long-term absence may generally be considered to be a continuous absence of four weeks or more. It can usually be traced to an underlying condition or a specific reason. The member of the senior management team/head teacher will need to give consideration to:

- a) the nature of the illness and when a return to work is likely;
- b) the welfare of the individual;
- c) whether there are measures which could be undertaken within the school or from outside bodies, which may speed up a return to work;
- d) whether the employee has a disability;

- e) if ill health retirement is being considered by the employee; and
- f) whether the absence is due to an accident at work.

The objective in any long-term absence is to assist the employee to recover and return to work. Every case is individual but if an employee is unable to attend work for health reasons on a long-term basis the school's HR advisor should be contacted for further advice.

The procedure for managing a long-term absence case is summarised in the flowchart in [Appendix 6: Flowchart for Long Term Sickness Absence](#) [30kb].

Keeping In Touch

Throughout the absence it is important for the school to keep in touch with the employee in order to offer any support and assistance and also to facilitate a return to work. This may be through the member of the senior management team/head teacher although in some circumstances it may be more appropriate for it to be someone else, for example a work colleague or trade union representative. The frequency of contact will depend on the individual circumstances and it may be by phone, letter or personal visit. Some employees may request that the school does not contact them and further advice is available from the school's HR advisor in these circumstances.

Considerations

After the first month of the absence the member of the senior management team/head teacher should consider:

- a) contacting the employee again and making further enquiries regarding their health. Depending on the nature of their absence it may be appropriate to update them on work issues and happenings in school; and
- b) explore the likelihood of a return to work and the timescale.

As appropriate the member of the senior management team/head teacher may:

- a) leave the situation as it is for a period but maintaining regular contact and regularly reviewing the situation; and
- b) refer the employee to the Occupational Health Physician for a medical examination for those cases where the absence is likely to continue in the longer term. Advice and arrangements for this can be made by Human Resources ([Appendix 4: Occupational Health Referral Process](#) [27kb]).

The member of the senior management team/head teacher should continue to provide support and explore ways of facilitating a return to school when the employee is fit to do so. In some cases and particularly those where the

employee was referred to Occupational Health, a welfare visit should be arranged. It is advised that these meetings are attended by the school's HR advisor to offer advice. The employee should also be given the opportunity to have a partner, colleague or trade union representative attending as support.

Phased Return to School

In long-term absence cases a phased return may be beneficial. The employee and member of the senior management team/head teacher should meet with the HR advisor and the trade union representative, to devise a supportive return to work programme. This is normally for a limited period (up to 4 weeks) during which there will be regular reviews, the intention being that by the end the employee feels able to return to their substantive position. This period will be supported by any information given on the Fit Note.

Prior to a return to school the employee must be signed fit by their GP and a further referral to Occupational Health may be necessary. It is recommended that the employee receives full pay for the phased return although they are working less hours; this is because the phased return is a supportive measure to facilitate the return to normal duties. The Staff Absence Scheme offered by Human Resources seeks to support schools in the costs incurred and full details of the agreed phased return should be provided to the Staff Absence Support Officer. Clarification should be sought for the terms relating to the financial support under the Scheme.

Other considerations when planning the return may include reviewing responsibilities, duties, an agreed variation in contract or redeployment to another post within school.

Returning from Long Term Sickness Absence

On returning to work following long term sickness absence, the employee's level of sickness will have exceeded the trigger level, s/he should be formally interviewed. The same procedure for short-term persistent absence will be adopted.

Appendix 2 refers to dealing with absences that may be covered by the Equalities Act.

Other Opportunities

Other Opportunities with the City Council

For a number of reasons the employee may feel that they cannot return to school and the medical advice is the same. In these circumstances it may be possible for the HR advisor to help facilitate in the process of securing a further position with a Nottingham City Council school. There is **no guarantee of employment** and it is dependant on the employee being medically fit.

III Health Retirement

For Teachers

For applications for ill health retirement submitted after 1 January 2004 the LA is required to be actively involved in assessing the adequacy of the medical evidence supplied to Teachers' Pensions. This involves Occupational Health advice and schools being required to confirm the measures that have been taken to help the teacher to return to work, including consideration of redeployment within school, stepping down to a less demanding post or parttime working. Only where appropriate alternatives have been fully explored and exhausted can an application for ill health retirement be considered.

The HR advisor will provide advice and support and liaise with the school's Occupational Health advisor. The process is summarised in [Appendix 7: Ill Health Retirement Applications Summary of Arrangements \[41kb\]](#) If the teacher's application is not supported by Teachers' Pensions the school may wish to consider the teacher's continued employment on the grounds of capability.

For Support Staff

Support staff have similar access to ill health pensions through the Local Government Pension Scheme. The employee can be referred to the an Occupational Health advisor approved by the Pensions administrator to confirm whether they meet the criteria for ill health retirement.

Formal Procedures

If the employee remains unfit to return to work or any strategies to support a return have failed then the situation should be reviewed again taking into consideration:

- a) the medical advice from Occupational Health;
- b) the impact of the absence on the school; and
- c) any other influencing factors.

In cases where it is likely that formal procedures will be followed, the member of the senior management team/head teacher should:

- a) re-refer the employee to Occupational Health to ensure that there is up to date, relevant medical information; and
- b) arrange a welfare meeting with the employee to discuss the medical advice and warn them that due to the length of their absence the governors may wish to consider their capability to undertake their duties and as a result of this, their continued employment (see [Model Letter 13: Warning Letter in Cases of Long-Term Absence \[23kb\]](#)). These meetings should be attended

the HR advisor. The employee should be given the opportunity to have a colleague or trade union representative in attendance.

In carrying out any formal procedure the member of the senior management team/head teacher must be able to demonstrate the support given to the employee throughout the absence. They will need to be conscious of the potential need to demonstrate reasonableness to a governors hearing, appeal hearing and Employment Tribunal (if a claim for unfair dismissal is made).

The member of the senior management team/head teacher should have evidence that through the process they have

- a) maintained regular contact with the member of staff (as appropriate);
- b) sought advice from Human Resources;
- c) retained notes of all the discussions and meetings throughout the absence and provided copies of the outcomes of the meeting to the employee;
- d) referred the employee to Occupational Health; and
- e) discussed strategies to facilitate a return to work e.g. phased return, change in responsibility, redeployment within the school etc.

Where the member of the senior management team/head teacher wishes to pursue the formal procedures s/he should write to the employee inviting them to a hearing. This should be done as soon as possible and at least 10 days before the due date. The letter should also detail the reasons why formal action could be taken. (see  [Model Letter 8: Invitation to Hearing with the Head Teacher Staff Dismissal Committee \[24kb\]](#)). The hearing should take place on a mutually convenient day and time. This is to ensure that the hearing does not have to be delayed or postponed at the last minute. Where the trade union representative or work colleague cannot attend on the proposed date the hearing should be rearranged at a suitable time for all. Failure to arrange a mutually convenient date may result in the employee presenting a complaint to an employment tribunal.

The employee should be given the opportunity to send any written submission or evidence to the committee prior to the hearing. A copy of any submission should also be made available to the member of the senior management team/head teacher. The member of the senior management team/head teacher should always submit the evidence in writing to the head teacher/Staff Dismissal Committee with a copy to the employee. It is not for the member of the senior management team/head teacher to make any recommendations for action, this is a decision for the head teacher/Staff Dismissal Committee. The evidence must be sent at least 10 days before the date of the hearing (with  [Model Letter 8: Invitation to Hearing with the Head Teacher Staff Dismissal Committee \[24kb\]](#)) along with any documentation that will be referred to during the hearing.

The date of the hearing should always be notified to the HR advisor who will ensure that an appropriate officer is available to attend and advise the committee on any procedural aspects or matters of employment law.

The Hearing

The hearing will be conducted according to [Appendix 5: Procedure for Hearing Appeals](#) [24kb].

The head teacher should consider the following factors:

- a) has the procedure been followed correctly?
- b) has the advice of Human Resources been taken account of?
- c) has a recent, clear medical opinion been obtained?
- d) would it be reasonable to wait before deciding to dismiss to see whether there is improvement in the employee's health?
- e) what is the employment history like? Is this only a recent problem?
- f) has any help or assistance been offered?
- g) have all alternatives been considered e.g. phased return?;
- h) is the absence attributed to a disability?
- i) what is the impact on those who work with the staff member and the overall effect on the school?

Any decision of the head teacher/Staff Dismissal Committee must be confirmed to the employee in writing within 3 working days (see [Model Letter 9: Result of Hearing with the Head Teacher Staff Dismissal Committee](#) [24kb]).

The head teacher must provide written confirmation of the decision to the LA (if appropriate [Model Letter 10: Notification to the LA to Terminate Contract of Employment](#) [23kb]).

If the decision is taken to terminate the employee's contract of employment the following action must be taken:

For community, voluntary controlled, community special and maintained nursery schools

If the member of staff is employed by the LA, it must within a period of 10 working days either withdraw that person from the school or issue notification of termination of the employment contract. If a subsequent appeal reverses the dismissal decision the withdrawal or termination notice must be rescinded.

In cases where the LEA is entitled to terminate the contract without notice because of the conduct of the member of staff in question, any such termination may be rescinded if an appeal is upheld.

For foundation, voluntary aided and foundation special schools

In the case of the staff employed by the governing body, notification of termination of the contract should be issued following the initial dismissal decision, and may be rescinded if a subsequent appeal is upheld. In cases where the governing body is entitled to terminate the contract without notice because of the conduct of the member of staff in question, any such termination may be rescinded if an appeal is upheld. In the case of staff employed by the LA the arrangements set out above should apply.

The City's Council's HR advisory team must be kept informed if dismissal of any City Council employee is being considered, regardless of whether HR advice is purchased from City Council.

Appeal

An employee has a right to appeal against any decision. The employee will be told that she/he has 10 working days from receipt of the letter confirming the decision. (see [Model Letter 11: Invitation to Hearing with the Dismissal Appeals Committee \[23kb\]](#)).

An appeal will be heard by the Dismissal Appeals Committee - a panel of governors who have played no part in the disciplinary hearing itself. The number of governors should not be less than those that took the original decision and this will normally be three.

The procedure for hearing an appeal will be the same as that for the disciplinary hearing itself. There is no further right of appeal other than to an Employment Tribunal. The chair of the Dismissal Appeals Committee should write to the employee with the decision of the committee (see [Model Letter 12: Result of Hearing with the Dismissal Appeals Committee \[24kb\]](#)).

Physical and Mental Fitness to Teach of Teachers and of Entrants to Initial Teacher Training (DfES Circular 4/99).

Employing Disabled People - A Good Practice Guide for Managers and Employers (DfES Guide)

Both documents can be found at <http://www.dcsf.gov.uk/>

Private and Confidential

[Name]

[Address]

Invitation to Meeting after Reaching Trigger Level

[Date]

Dear

Re: Sickness Absence Interview

I am writing to inform you that as your sickness absence has exceeded the trigger level of **XXXX** or **XXXX** occasions in a twelve-month period, you must be formally interviewed as part of the school's Attendance Management Procedure. You should be aware that this meeting could result in formal action being taken in the form of a notification of concern.

The purpose of the interview is to discuss your level of sickness absence, the causes of it, identify any support and seek to resolve any issues where possible. I have attached a copy of your absence record for your reference.

The interview will be held on **[insert date]** at **[insert time]** at **[insert venue]**. You may wish to be accompanied by your trade union representative or work colleague. You must inform your representative of the time and date for the meeting.

A copy of the School's Attendance Management procedure is attached **OR** available from **[insert details]**.

Yours sincerely

Senior Management Team/Head Teacher (*delete as appropriate*)

MODEL LETTER 2

Private and Confidential

[Name]

[Address]

No Further Action

[Date]

Dear

Re: Sickness Absence Interview

Following your sickness absence interview on **[insert date]** in the presence of **[insert names of attendees]** I am writing to confirm that no further action will be taken at this time.

We discussed the support available **[insert details of Employee Assistance Line/referral to Occupational Health etc]**.

We agreed that you will try and keep your sickness absences under the trigger level and we will meet on **[insert date]** to review the situation.

Yours sincerely

Senior Management Team/Head Teacher (*delete as appropriate*)

Issue of First Notification of Concern

MODEL LETTER 3

Private and Confidential

[Name]

[Address]

[Date]

Dear

Re: Sickness Absence Interview

Following your sickness absence interview on **[insert date]** in the presence of **[insert attendees]** I am writing to confirm that you were issued with a first notification of concern under the school's Attendance Management Procedure.

[Insert details of discussion and any points put forward by the employee or his/her representative.]

As discussed, particular effort is required from you to reduce your level of absence and failure to do so may ultimately lead to your dismissal for capability due to poor attendance.

As advised, this first notification of concern will remain on file for six months and if your absence has reduced below the trigger level after six months the notification of concern will be regarded as having lapsed.

You may appeal against this notification of concern. If you wish to exercise that right you must notify me, in writing, within ten working days of the date of this letter stating briefly the grounds of your appeal. I will arrange for your appeal to be heard by a committee from the governing body. You may be represented by your trade union or a work colleague.

Yours sincerely

Senior Management Team/Head Teacher (*delete as appropriate*)

Invitation to Appeal Meeting

MODEL LETTER 4

Private and Confidential

[Name]

[Address]

[Date]

Dear

Re: Sickness Absence Appeal

Further to our meeting on **[insert date]** and to my letter dated **[insert date]** informing you of my decision, I understand from your letter dated **[insert date]** that you wish to appeal against the decision to issue you with a first/second **(delete as appropriate)** notification of concern under the school's Attendance Management Procedure.

The appeal will be heard by a committee of the governing body and will take place on **[insert date]** at **[insert time]** at **[insert location]**. You may be represented by your trade union or a colleague.

Yours sincerely

Senior Management Team/Head Teacher **(delete as appropriate)**
Confirmation of Result of Appeal Meeting

[Date]

Dear

Re: Sickness Absence Appeal

MODEL LETTER 5

Private and Confidential

[Name]

[Address]

I refer to your meeting with the governors of the Staff Dismissal Committee on **[insert date]** in the presence of **[insert attendees]**. The meeting was arranged under the school's Attendance Management Procedure.

At this meeting reference was made to your appeal against the first/second **(delete as appropriate)** notification of concern issued by the member of senior management/head teacher **(delete as appropriate)** under the above procedures. Having considered the information the committee decided **(delete as appropriate)**:

i) not to uphold your appeal and therefore the notification of concern will remain on file.

OR

ii) to uphold your appeal and remove the notification of concern from your file.

Our reasons are **[insert reasons]**.

Yours sincerely

Chair of the Staff Dismissal Committee

Invitation to a Second Meeting after Reaching Trigger Level

[Date]

Dear

Re: Sickness Absence Interview

MODEL LETTER 6

Private and Confidential

[Name]

[Address]

Following our meeting of **[insert date]** when I issued you with a notification of concern under the school's Attendance Management Procedure, I am writing to inform you that as your sickness absence has remained above the trigger level **or** you have had further sickness absence (*delete as appropriate*) you must be formally interviewed again. You should be aware that this meeting could result in formal action being taken in the form of a second notification of concern.

The purpose of the interview is to discuss your level of sickness absence, the causes of it, identify any support and seek to resolve any issues where possible. I have attached a copy of your absence record for your reference as well as a copy of the school's Attendance Management Procedure.

The interview will be held on **[insert date]** at **[insert time]** at **[insert venue]**. You may wish to be represented by your trade union or a work colleague.

Yours sincerely

Senior Management Team/Head Teacher (*delete as appropriate*)

Enc

Issue of Second Notification of Concern

[Date]

Dear

Re: Sickness Absence Interview

Private and Confidential

[Name]

[Address]

Following your sickness absence interview on **[insert date]** in the presence of **[insert attendees]** I am writing to confirm my decision.

[Insert details of discussion and any points put forward by the employee or his/her representative.]

I have carefully considered all the issues and decided to issue you with a second notification of concern that your sickness absence continues to be a source of concern and that, notwithstanding the reasons for your absence, particular effort is required to reduce your level of absence and failure to do so may lead to dismissal.

The second notification of concern will remain in force for 12 months from the date of the meeting. I will be reviewing your absence periodically and if your sickness absence has reduced below the trigger level after 6 months, the notification of concern will be regarded as having reduced to the status of a first level notification of concern. If your sickness absence remains below the trigger level after a further 6 months the notification of concern will be regarded as lapsed and it will be treated as spent.

You are able to appeal against this decision. If you wish to appeal, you should lodge your appeal in writing within 10 working days of this letter stating briefly the grounds of your appeal. I will arrange for your appeal to be heard by a committee of the governing body. You may be represented by your trade union or a work colleague.

[Insert, if appropriate, details of any other agreed action points/support mechanisms to assist employee improve overall attendance levels, e.g. referral to Occupational Health, any changes in hours/duties, agreed monitoring periods, etc.]

Yours sincerely

Senior Management Team/Head Teacher (*delete as appropriate*)

MODEL LETTER 8

Invitation to Hearing with the Head Teacher/Staff Dismissal Committee

Private and Confidential [Name] [Address]

[Date]

Dear

Re: Sickness Absence Hearing

For Short-term Sickness Absence

Following our meeting of **[insert date]** when I issued you with a second notification of concern under the school's Attendance Management Procedure I am writing to inform you that as your sickness absence has remained above the trigger level **or** you have had further sickness absence **(delete as appropriate)** you are required to attend a meeting with the head teacher/governors of the Staff Dismissal Committee **(delete as appropriate)**.

OR

For Long-term Sickness Absence

Following our meeting of **[insert date]** when we discussed your health. I warned you that in view of the length of time you have been absent and under the school's Attendance Management Procedure the head teacher/Staff Dismissal Committee **(delete as appropriate)** may wish to consider your capability to undertake your duties as a **[insert position]** in school.

This meeting has now been arranged and will be held on **[insert date]** at **[insert time]** at **[insert venue]**. Specifically the meeting will consider your sickness absence record and your future employment. I must warn you that the outcome of the meeting could result in your dismissal from your post as **[insert position]**.

Attached for your information are copies of the documentation that will be considered at the hearing. If there is any documentation that you would like to submit to the head teacher/Staff Dismissal Committee **(delete as appropriate)** will you please let me have this by **[insert date]** so that I can circulate copies.

You have the right to be represented at the meeting by your trade union representative or work colleague.

Yours sincerely

Senior Management Team/Head Teacher (***delete as appropriate***)

Result of Hearing with the Head Teacher/Staff Dismissal Committee

Private and Confidential [Name] [Address]

[Date]

Dear

Re Sickness Absence Hearing

I refer to the meeting with myself/the Staff Dismissal Committee (***delete as appropriate***) arranged under the school's Attendance Management Procedure on **[insert date]** in the presence of **[insert attendees]**. The meeting was to discuss your proposed capability dismissal.

[Insert details of discussion and any points put forward by the employee or his/her representative.]

I/The Staff Dismissal Committee (***delete as appropriate***) considered all the information presented at the meeting and the current medical advice from the school's Occupational Health advisor.

I am writing to confirm that it was my decision/the decision of the Staff Dismissal Committee (***delete as appropriate***) to terminate your contract of employment on the grounds of your capability to undertake your duties as a **[insert position]** at this school due to your absence(s).

My reasons are **[insert reasons for dismissal]**.

I will/I am asking the Head Teacher (***delete as appropriate***) to notify the LA to terminate your employment on the grounds of capability.

If you wish to appeal against this decision you may do so in writing to me at the above address within ten working days of receipt of this letter stating briefly the grounds of your appeal. The appeal will be heard by the Dismissal Appeals Committee and you may be represented, if you wish, by your trade union or a work colleague. If you are successful at appeal, the notice of dismissal will be withdrawn.

Yours sincerely

Head Teacher/Chair of the Dismissal Committee (*delete as appropriate*)

Notification to the LA to Terminate Contract of Employment

Dear Corporate Director - Children & Families

Termination of Employment

As required under the Staffing (England) Regulations 2003 I am writing to formally notify you of the termination of the contract of employment for:

Name:

Date of Birth:

NI Number:

Home Address:

Reason for termination:

Please take the necessary steps to terminate the contract of employment within 10 working days and inform me of the last day of employment taking account of the contractual and statutory notice required.

Yours sincerely

Head Teacher

Cc: Director of HR & T

School's HR advisor

EMSS or school's alternative HR Admin/Payroll provider

Invitation to Hearing with the Dismissal Appeals Committee

Private and Confidential [Name] [Address]

[Date]

Dear

Re: Sickness Absence Appeal

I refer to the meeting on **[insert date]** held under the school's Attendance Management Procedure and to the letter dated **[insert date]** from myself/the Chair of the Dismissal Committee (*delete as appropriate*). I understand from your letter of **[insert date]** that you wish to appeal against the decision to terminate your contract of employment on the grounds of your capability to undertake your duties as a **[insert position]** at this school due to your absence.

The appeal will be heard by governors from the Dismissal Appeals Committee and will take place on **[insert date]** at **[insert time]** at **[insert venue]**. You may be represented by your trade union or a work colleague.

Yours sincerely

Head Teacher

Result of Hearing with the Dismissal Appeals Committee

Private and Confidential [Name] [Address]

[Date]

Dear

Re: Sickness Absence Appeal

I refer to your meeting with the governors of the Dismissal Appeals Committee on **[insert date]** in the presence of **[insert attendees]**. The meeting was arranged under the school's Attendance Management Procedure.

At this meeting reference was made to your appeal against the decision of the Staff Dismissal Committee to terminate your contract of employment on the

MODEL LETTER 12

grounds of your capability to undertake your duties as a **[insert position]** at this school due to your absence(s).

In reaching our decision, we have taken into account the information provided by you **and your representative** (*delete as appropriate*) in support of your appeal.

[Insert details of any points put forward by the employee/employee's representative in support of the appeal, etc].

The committee have decided that the decision to dismiss you on capability grounds **stands/be revoked** (*delete as appropriate*). **[Specify if no further action is being taken or what the new management action is].**

The reasons are **[insert reasons]**.

You have now exercised your right of appeal and this decision is final.

Yours sincerely

Chair of Dismissal Appeals Committee

Warning Letter in Cases of Long-Term Absence

Private and Confidential [Name] [Address]

[Date]

Dear

I refer to our meeting on **[insert date]** in the presence of **[insert attendees]**.

At the meeting we discussed your current health and I warned you that in view of the length of time you have been absent and under the school's Attendance Management Procedure the governors of **[insert name of school]** may wish to consider your capability to undertake your duties as a **[insert position]** in school and therefore as a result of this, your continued employment.

MODEL LETTER 13

I realise this is a difficult period of time for you and I would like to reassure you that the school and the Schools HR Adviser will continue to be in contact with you and offer support.

Yours sincerely

Senior Management Team/Head Teacher (*delete as appropriate*)