



# Lydiate Learning Trust

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## 1 INTRODUCTION

This model procedure draws on guidance from the Department for Education and Employment and best practice within the Education sector on monitoring staff sickness absence.

This policy sets out the process that will be followed where a member of staff reports absence due to sickness.

And

In the event that an employee's health (and absence for other reasons) no longer enables him / her to undertake their employment to a required standard, arrangements must be put in place to ensure that the handling of the issue is undertaken in a fair and reasonable manner and meets with legislative requirements.

### 1.1. Scope of the Procedure

The procedure is applicable to all categories of staff where a re-organisation, closure or redundancy situation occurs. A modified version of this procedure may be followed in respect of fixed term temporary posts and those staff with less than one year's service.

### 1.2. Policy Statement

"Lydiate Learning Trust has a duty to deliver high quality and value for money education to its children; fundamental to such services are the School's employees and their attendance at work.

The Trust values the contribution made by its employees and believes that they should be treated fairly, and should be given reasonable support to enable them to achieve high levels of attendance.

Governors and the Head teacher are therefore committed to managing attendance by the application of the School's Attendance Support Policy and Procedure. This involves dialogue with employees, provision of reasonable support, active monitoring of attendance levels, recognition that the fullest possible attendance at work is expected from employees, and corrective action where attendance levels are unacceptably low and, therefore, hindering the effective delivery of education.

The Governing Body, therefore, seeks the full co-operation of its managers and its employees in striving for the achievement of high attendance levels, for the benefit of all concerned."

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### 1.3 The Approach

1.3.1 Consistency in absence management is very important, not only to reduce the cost of absence, but to demonstrate equity to colleagues who are at work.

1.3.2 The consistent message is that, although there will always be a 'considerate employer' aspect, absence will not be accepted without close scrutiny.

1.3.3 This Guide provides a clear and consistent approach to absence management, within the fundamental principles of:

- reasonableness in decision-making (Annex 1 gives guidance on this)
- being business like but having the 'human touch'
- accepting that absence management is as much about preventing absence as about dealing with its consequences

1.3.4 In all handling of sickness absence, managers are expected to:

- Be non-confrontational
- Introduce meetings as something that they are required to do, and without apology
- Treat everyone with equal respect and dignity

1.3.5 The basic standards expected of managers are that they:

- Act early. 'Too little too late' leads to knee jerk actions and creates a bigger problem
- Use their judgement. This does not mean 'do nothing' - it means taking appropriate action. At one extreme this might involve letting someone start late/leave early to overcome a short term health problem; at the other extreme it may be necessary to dismiss
- Keep in touch. Let the employee know that they are appreciated and that they are missed. Also let them know what is happening at work and how their absence is impacting on work colleagues. Ways of keeping in touch should be explored, however, a refusal on the employee's part to keep in touch is a disciplinary issue that can be dealt with by pay suspension (see Annex 2)

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- Don't drift. There should be no point at which the manager or the employee are not clear on the next step, and when it will take place.
- Keep an accurate record of all discussions and actions taken.
- Ensure a nominated manager is in control. It is bad for the employee to have to deal with different managers/supervisors. It leads to mixed messages, uncertainty and a lack of consistency. It also prevents an appropriate rapport being developed.
- Make sure that there is a clear understanding amongst staff of the importance of maintaining a good standard of attendance and what they can expect from you in terms of monitoring, support and control.
- If you are unsure how to proceed you can consult with the Trust Human Resources Team.
- Any such consultation should be carried out in the strictest confidence.
- Reference is made throughout this document to "Managers". Such references should be taken to include the Head teacher, the Deputy Head teacher, Assistant Head teacher, or any other member of the Senior Leadership Team as appropriate.
- Where the attendance of the Head teacher is the subject of these procedures, the term "Manager" will refer to the Chair of Governors.

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## 2 CORE ACTIONS

### 2.1 Reporting the Absence

2.1.1 Follow the reporting procedures. The detailed procedures are in Annex 3, but the following provides a quick checklist:

Day 1	<p>Employees must notify the school prior to their normal start time, stating:</p> <p>The specific reason for absence – ‘feeling unwell’ is not acceptable if possible, an indication of how long the absence is likely to last AND if the absence is due to injury at work.</p> <p>Whoever receives the notification must complete and sign the Absence Notification and Back to Work Form (BW1). A copy of this is attached for information at Annex 10(a)</p>
Day 4	<p>Employees must notify the school if they continue to be absent beyond three days. Weekends and non-working days count towards this total.</p>
Day 8	<p>Employees must forward a Statement of fitness to work (fit note) to cover them for the eighth and all subsequent days of continuous absence.</p>
Day of return to work	<p>Employees must attend a Back to Work Meeting with their manager/supervisor.</p>

2.1.2 In general, there is no requirement for a final ‘fit to return’ certificate from a GP. However, there is an overriding requirement under health & safety legislation to ensure no-one is put at undue risk because of a medical condition - whether the employee or anyone else.

2.1.3 Therefore, advice is available from Human Resources if staff wish to return before the expiry of a doctor’s fit notes (Med 3), or after longer absences without positive clearance from the Occupation Health or a GP.

2.1.4 Employees must continue to submit doctor’s fit notes to the school, even after entitlement to contractual sick pay has been exhausted.

2.1.5 Managers must bring any failure in the sick note procedure to the employee’s attention (in writing) as soon as possible, and give them the opportunity to explain.

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- 2.1.6 The Head teacher or the Chair of Governors (in the case of the Head teacher) decide whether the reason(s) given are valid, and whether payment should be withheld for the day(s) not covered by the correct procedure (see Annex 2 for guidance)
- 2.1.7 Persistent or extensive failure to comply should be treated as a matter of misconduct and the disciplinary procedure should be implemented.
- 2.1.8 Doctors fit notes do not necessarily mean the employee is unfit for any type of work. There may be alternative work an employee could carry out or further information you can gather to support the employee back into work.
- 2.1.9 Ensure that the information relating to sickness absence of your staff is provided to the appropriate channels within your school, in order that SIMS may be updated. This applies to all grades of staff.

## 2.2 Keeping a log

- 2.2.1 The first step is to keep a log in the employee's Personal File in school. This should hold contact dates (such as phone calls and correspondence); receipt of doctor's fit notes, dates of referral to the Health Unit, brief summaries of meetings etc.
- 2.2.2 At each point the decision made will be recorded. For example, the manager may decide that there should be no further action at this point, or that formal action is necessary.

## 2.3 Keeping in touch

- 2.3.1 Absence is not a reason for not managing the situation.
- 2.3.2 On the fourth day of absence, when an employee notifies continued absence, the member of staff should be asked:
  - about their well being
  - about the reason for absence
  - if anything can be done to help
  - when they are likely to return
  - Staff should be advised that if they are going to be off for any length of time that their line manager will have to keep in touch. Frequent contact is not harassment; the school needs a continuing update in order to plan.
- 2.3.4 Unless there is a pressing reason for doing otherwise, the basic rules for keeping in touch are:
  - Telephone conversations are an acceptable means of keeping in touch; however the manager should try to meet with the employee on a regular basis.

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- Meetings should preferably be at work
- Home or hospital visits are acceptable if the employee cannot travel and agree to them - a mutually convenient time is preferable, but you can specify a date and time. Be aware that there is no right of entry.
- Always confirm the discussions/actions in writing after the visit
- Keep the visits short
- The manager should be always be accompanied at home meetings and be mindful of the sensitivity required and the employee’s gender. The presumption is that at least one female should visit, if a female employee is involved. However, the gender balance is best addressed on a case-by-case basis.
- If employees wish to be accompanied at home visits (even though they may not be review or formal disciplinary meetings), then make reasonable efforts to accommodate their request. However, this should not prevent the home visit from taking place in a reasonable period of time.
- In general keep in touch at least every 2 weeks. The frequency and timings of contact should be discussed with the employee and altered if appropriate.
- Keep in touch before and after referrals to the Unit and clearly explain the reason for referral.
- Use written correspondence only if you are unable to contact the employee by telephone (and to confirm discussions or actions as described above)

2.3.5 If employees refuse to co-operate either in responding to letters or phone calls, after reasonable attempts, then a formal letter should be sent explaining that occupational sick pay will be suspended for failure to comply with the requirements of the Policy. The letter should also state that pension will not be accrued during the period of pay suspension.

2.3.6 ‘Reasonable attempts’ have to pay due regard to the nature of the illness, and whether the employee is known to be at home, but 2 or 3 phone calls on different days, backed up with a letter (without response), would be reasonable.

2.3.7 Annex 2 shows the protocol for suspending occupational or statutory sick pay, or both.

## 2.4 The Back to Work Meeting

2.4.1 Back to Work Meetings and Keeping in Touch meetings are key to absence control. Full guidance on how to conduct a Back to Work meeting can be found in Annex 4 and the following section must be read in conjunction with this guidance.

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- 2.4.2 A Back to Work Meeting should be conducted after each and every episode of absence, no matter what the length of absence.
- 2.4.3 The nature of this meeting will depend on the nature of the absence and the employees overall attendance record; managers will need to use their judgement.
- 2.4.4 For example, if an employee has a couple of days absence in a twelve months period then the Back to Work Meeting should be little more than the courtesy of enquiring what was wrong/glad that you are feeling better/good to see you back etc.
- 2.4.5 Notwithstanding this 'low key' approach the meeting must properly take place - it cannot simply take the form of, say, a greeting in a corridor. The meeting must be recorded on Form BW1 (shown in Annex 10a).

Where there is a history of frequent intermittent absence, or following a long term absence the Back to Work Meeting should be more searching and should include the following:

- Discover the reason for the absence and whether or not it genuinely prevented attendance
- Discuss reasonable workplace adjustments, if work was a contributory factor
- Explain the impact of the absence in terms of cover, cost, work left undone, slippage
- Assess whether the absence is a 'one-off' or likely to recur
- Clearly explain any review period you may set, and what is expected. Record the outcome of the meeting on Form BW1

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### 3 OPTIONS AVAILABLE

#### 3.1 Referrals to Occupational Health

3.1.1 Unless there are good and obvious reasons for not doing so, referrals to the Health Unit must be made in the fourth week of continuous absence. In stress cases, a referral must be made in the second week of absence.

3.1.2 When in long term absence, there is little point in making a referral if someone is absent with, for example, a broken leg. Through regular contact with the person and common knowledge, you will be able to make a reasonable prognosis.

3.1.3 With intermittent absences, you need to consider a referral if there is a pattern, or an excessive number. Judging what is excessive and what is a reasonable time period is considered in Annex 1.

In both long term and intermittent cases, if you have any doubts about a referral, contact the Human Resources Team OH Adviser. These Advisers will also be able to help in the completion of the referral form.

3.1.5 All medical referral forms (MR1s, a copy is available at the end of this policy) should be discussed with the employee; MR1s are discussed at the referral, and a copy will be given to employees if they request it.

3.1.6 Referrals however can also be made before any absence if, for example, performance drops or there has been a change in behaviour. Such a referral should be made after discussing your concerns with the employee on an informal basis. The Health Unit can offer rehabilitation services (counselling, psychotherapy and physiotherapy) that can help prevent absence.

3.1.7 All incoming MR1s go through a screening process, and managers are advised where the referral may be inappropriate. These are cases where a medical opinion would not help manage the absence; examples are cases of a repeat referral where nothing has changed, or where it is clearly a management problem with no occupational health issues.

3.1.8 There may be cases where the Occupational Health Advisor advises that an employee is unfit to undertake their current job, but that alternative employment is an option. In these circumstances the manager should consider whether adjustments can be made to the job.

3.1.9 If you need guidance on the alternative employment, whether permanent or temporary, contact the Occupational Health Physician (OHP) or Occupational Health Advisor (OHA) who made the report and speak to the Human Resources Team.

3.1.10 In making a referral to the Occupational Health, it must be understood that, apart from cases where the Physician certifies an employee as permanently unfit, what the school will

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receive is advice. The OHP and OHAs will not resolve the issue for the school. Advice is available from the HR Team. Unless the Health Unit asks for GP or specialist reports on an employee, the OHP and OHAs have to interpret what is told to them. Medical examinations are not carried out.

If it appears that the OHP or OHAs have been misled, then it is important to inform Human Resources who will speak directly to them.

Normally, the MR1 will be submitted by the manager after discussion with the employee. Occasionally, there may be very sensitive cases where referral via the manager may cause some personal difficulty.

In these cases, the HR Manager should be approached for advice on the way forward.

### **3.2 Case management meetings**

3.2.1 Case management meetings are organised by Human Resources - either following a recommendation on the medical report, or at a manager's or Trade Union request.

3.2.2 The aim is to explore possible ways forward by bringing together, the manager, the employee (if they wish), to discuss options and investigate the way forward. Decisions remain of course with the manager.

3.2.3 If the employee so wishes he/she may be represented at the case management meeting to assist in identifying an appropriate course of action.

### **3.3 Review Meetings**

3.3.1 A Review Meeting should be held:

- At the end of any review period which is established by the BTW interview
- Where an employee has had 3 absences in a rolling 12 month period
- Where there is any recurring recognisable pattern of absence.

3.3.2 This latter point is important. Managers should not leave Review Meetings to the end of the review period if unacceptable attendance continues through that period. Employees must be kept aware of likely future actions and be in no doubt about what is expected of them.

3.3.3 Review meetings can also be established where, irrespective of the standard of attendance, there are concerns about an employee's health or wellbeing. Review meetings in these types of circumstances will be particularly relevant when it is felt that someone may be showing signs of stress at work.

3.3.4 A review meeting is about doing something and, as with Back to Work Meetings, not an end in itself.

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- 3.3.5 However, in cases of unacceptable attendance, the semi-formal stage represents the last stage before the commencement of formal action.
- 3.3.6 In simple terms the manager will, for example, have conducted Back to Work Meetings, monitored, possibly taken advice from the Occupational Health and the HR Team, examined, and if necessary, implemented changes to the workplace/working patterns but there is no acceptable improvement. At this stage the manager should consider if there is anything more that could reasonably be done.
- 3.3.7 The conduct of a Review Meeting is shown in Annex 5.

### 3.4 Formal Support Action Plan

When the employee’s attendance does not improve at the review stage they will be invited to a meeting with a member of the Human Resources team.

- 3.4.1 A further absence whilst at the review stage will generally trigger the semi-formal stage of managing the employee’s attendance
- 3.4.2 A semi-formal meeting is about doing something and, as with both the Back to Work Meetings and review meetings, not an end in itself
- 3.4.3 In simple terms the manager will generally feel like they are unable to improve the employee’s attendance without progressing to the next stage of the managing attendance policy
- 3.4.4 The employee must be given at least 5 working days notice, in writing of the interview and, at the same time, be provided with a written record of their attendance over the previous two rolling years

The process for the holding of the semi-formal action meeting is included at annex 5a

### 3.5 Formal action

Where attendance is unsatisfactory, and there has been no improvement during any semi-formal period, a formal interview with the employee should be held.

In most cases the Head teacher will conduct the interview. (Chair of Governors in the case of Head teacher absence)

- 3.5.1 The employee must be given at least 5 working days notice and informed that he/she may be accompanied by a union representative or a work colleague, in writing of the interview and, at the same time, be provided with a written report and associated documentation

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setting out all the information that will be referred to at the interview. A model report can be found at Appendix 11.

- 3.5.2 The report should simply set out the facts in terms of the employee’s sickness absence record, the dates on which Back to Work Meetings took place, and the outcomes. You should already have this available in the Log (See section 2.2)
- 3.5.3 Importantly, it should indicate the impact that the absence has had on the school, in relation to work left undone, other staff having to cover, any slippage, the effect on service delivery and development, and any costs associated with providing cover.
- 3.5.4 The reasons why the poor level of attendance cannot be sustained must also be clearly stated; this must be a ‘business’ reason and will normally be based upon the adverse operational effect of the absence outweighing the ability to sustain the level of absence.
- 3.5.5 The relevant documents, such as Doctors’ notes, Occupational Health reports, ‘Back to Work’, Review Meeting and semi-formal meeting forms and any related correspondence must be attached to the report.

The procedure for holding the Formal Action meeting is in Annex 6.

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#### 4 POSSIBLE OUTCOMES

##### 4.1 Formal Caution

4.1.1 The purpose of formal advice is to ensure that employees are fully aware that their level of absence is unsatisfactory and cannot be sustained; it is not the purpose to call into question the genuineness of the employee's sickness, but to address attendance levels.

4.1.2 If there are reasonable grounds to believe that absence is not genuinely due to sickness, then the matter should be dealt with under the school's disciplinary procedure.

##### 4.2 Intermittent Absences

4.2.1 In the case of intermittent absences there are two levels of formal caution:

- (i) Level 1 - valid for 6 months for the purpose of further formal action
- (ii) Level 2 - valid for 12 months for the purpose of further formal action

4.2.2 The formal cautions should normally be issued in sequence; where a Level 1 caution has been issued but there has been no particular improvement, then a Level 2 caution must be issued.

4.2.3 A Level 2 caution may be issued, as the first step, where there is a history of previous Level 1 notifications which have lapsed or where, shortly after a Level 1 notification has lapsed, attendance levels reduce.

4.2.4 Formal cautions will be retained on an individual's record once they have lapsed. This allows an attendance record to be put into context (identifying patterns) so that informed decisions can be made.

4.2.5 During the period where a formal caution is 'live', it must be ensured that the employee's absence continues to be monitored, and the appropriate actions in respect of BTW Meetings and Review Meetings are undertaken.

4.2.6 It is not the case that the 6 month or 12 month terms are review dates; shorter review dates must still be set, and levels of attendance must be monitored, and action can be taken during the 'live' period.

4.2.7 Formal cautions must be confirmed in writing to the employee within 5 working days of the interview, explaining:

- that the absence level is not acceptable
- the level of improvement expected
- the duration of the notification
- the right of appeal

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- that attendance will continue to be monitored
- that continued failure to improve will lead to a Level 2 notification or dismissal.

4.2.8 Model letters are included at Annex 10.

In cases where dismissal is recommended (except in the event of ill-health retirement for non-teaching support staff), this must be confirmed in writing (Annex 10) to the employee, and arrangements should be made for a hearing before the Head teacher/Staffing Dismissal Committee of the Governing Body. The authority to dismiss must have been delegated to the Head teacher/Committee as set out in the Disciplinary Procedure

4.2.9 The employee does not have a right of appeal against the recommendation, but does have a right of appeal against the decision of the Head teacher/ Staffing Dismissal Committee to the Appeals Committee of the Governing Body.

**4.3 Continuous Sickness**

4.3.1 Employees on longer-term continuous sickness absence are equally subject to formal caution if their absence level cannot continue to be sustained.

4.3.2 However, where it is known that the employee will be off for a significant period, or where it is not possible to estimate a return date, formal caution needs to be handled sensitively.

4.3.3 It may not be reasonable to provide Formal Cautions Levels 1 and 2 to an employee when it is already known that their attendance will not improve within an acceptable period.

Equally, it is not reasonable to move straight to a recommendation for dismissal without giving the person concerned advance indication that this is a possible course of action.

4.3.4 Any formal caution should indicate that the position will be reconsidered towards the end of the predicted absence, but it should be made clear that any absence beyond this point may not be sustainable, and may lead to consideration of dismissal.

4.3.5 It is important, therefore, when keeping in touch, it is ensured that the effect of the absence on the workplace is explained and that, if it seems unlikely that this is sustainable, dismissal is a matter that may need to be considered. Explanations should be accurately recorded and confirmed to the employee in writing.

4.3.6 In continuous sickness cases, the manager should consider the same factors as for intermittent sickness - i.e. the person's sickness absence record, advice from the Health Unit, the impact of the absence on the workplace, and whether the absence can be sustained.

4.3.7 For both continuous and intermittent absence, the absence history will be an important factor - either in demonstrating that a long term pattern exists, or in demonstrating that the absence being considered is largely an isolated case. Either way, historical fact can not

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prejudice a case. There should be no constraint on the number of years of absence data that can be considered.

**4.4 Rehabilitation**

4.4.1 Phased Return to Work

4.4.2 In returning to work following long-term sickness, it is sometimes difficult to make the transition back to full-time work immediately, and a phased return may be recommended by the Occupational Health advisor as part of rehabilitation.

4.4.3 The purpose of phased returns is to allow the employee to re-adjust to the workplace, physically and/or mentally. The phasing is dictated by the medical purpose for this type of rehabilitation, and not related to length of absence but it is unusual for a phased return to be longer than 4 weeks.

They are not appropriate for short-term absence.

4.4.4 Phased returns are subject to advice from the Occupational Health, and must be discussed. Medical report forms that do not recommend the duration and explain the purposes behind the phased return should not be accepted.

The manager should confirm in writing to the employee the:

- return date
- days and times the employee will attend work
- date full time working will resume
- type of work that will be expected
- work location<sup>1</sup>
- any distinction between the medical phased return, and optional short time working

4.4.5 During the phased return, provided this is for health rehabilitation purposes only, the employee will be regarded as ‘at work’ and given the normal rate of pay in respect for both the working and non-working days.

There may be occasions where the employee prefers a longer phased return period - beyond that needed for ‘fitness for work’. In these circumstances, the school can agree to part time working (at pro rata pay) if this can be accommodated for a limited period.

<sup>1</sup> In some jobs, it may be possible to agree working at home for limited periods as part of the rehabilitation process.

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#### 4.5 Physiotherapy, counselling and psychotherapy

All these services are available through the NHS, though often on long waiting lists.

- 4.5.1 Managers have the freedom to decide, on the basis of advice from Occupational Health and their own knowledge of the employee, whether or not to pay for these services either to speed the return to work, or reduce the risk of future absence.
- 4.5.2 Managers may also request a visit by the physiotherapist for on-site display screen equipment assessments, to support their own risk assessments, if the workplace is involved.
- 4.5.3 These are not mandatory services. The manager may also need to consider any advice received from occupational health and the effect on the school budget of the cost of these services in the context of reasonableness. Advice is available from the HR Team.

#### 4.6 Physical evaluation

Where an employee claims some form of musculoskeletal pain, and there is some evidence that the pain does not manifest itself outside of work, then a physical evaluation can be arranged. Technology now allows an assessment of the extent of any pain. (Any costs incurred will be covered by the Trust.)

#### 4.7 Pay suspension

- 4.7.1 Abuse of the sickness absence scheme is a disciplinary issue that could, ultimately, result in dismissal.
- 4.7.2 Examples of abuse are avoiding the ‘keeping in touch’ meetings, repeated non-attendance at appointments, without reasonable cause, at Occupational Health, refusal to return to work when assessed as fit by Occupational Health (irrespective of GP notes). One option open to managers in the first instance is to suspend pay – which can be either occupational sick pay, statutory sick pay or both.
- 4.7.3 Suspension of pay, however, cannot be seen as a long-term solution. The protocol for suspending pay is given in Annex 2.

#### 4.8 Ill-health retirement - Non-Teaching Support Staff

A referral to the Health Unit may result in a recommendation (only by an OHP accredited by the Merseyside Pension Fund) that the employee should be retired on the grounds of permanent ill-health. If the employee has already been seen at referrals by the Schools Occupational Health advisor, medical records will be forwarded for an initial assessment by an independent OHP.

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- 4.8.1 If the OHP accepts that there are grounds for ill-health retirement, then, for non-teaching staff, Certificate LGP 12 will be signed. This enables the pension (provided there is at least 2 years membership of the Merseyside Pension Fund) to be paid immediately. The equivalent forms for members of the Teachers Pension Fund are Form 18 and Form 20.
- 4.8.2 The School will terminate the individual’s employment using the appropriate procedure, and it is therefore a dismissal. The termination form must give ‘Ill Health Retirement’ as the reason for leaving.
- 4.8.3 The Head teacher must arrange to meet with the employee as soon as possible once the recommendation for ill-health retirement has been signed. A member of the Human Resources Team may accompany the Head teacher. An estimate of pension benefits will be provided. The purpose of the meeting is to consult with the employee about the recommendation, and to hear their views.
- 4.8.4 If the employee disagrees with the initial ill-health retirement decision, they can appeal against the decision by writing to the School within 3 weeks of receiving the notification. An independent medical review will be arranged for the employee, as part of the appeal process.
- 4.8.5 Appeals are dealt with in accordance within the Internal Dispute Resolution Procedure (IDRP) which forms part of the Local Government Pension Scheme (LGPS) regulations. Details of the IDRP are attached at Annex 8.
- 4.8.6 IDRP appeals relate to LGPS rules and their application, and are separate from appeals against dismissal (referred to below, and in Section 5). An employee may submit both appeals - exercising their right of appeal under IDRP does not prevent an employee from also submitting an appeal against dismissal.
- 4.8.7 An appeal against dismissal will be heard by the Appeals Committee of the Governing Body.
- 4.8.8 If retirement is accepted in the first instance by the employee, or is decided upon as a result of an appeal, then notice must be served on the employee.
- 4.8.9 Model notice letters in these circumstances is at Annex 10(g).
- 4.8.10 As this is a dismissal; employees with less than one year’s continuous service may also have a right to an appeal to an Employment Tribunal depending on the grounds for their appeal. The appeal process described in Section 5 of this Guide will apply.

Where retirement on permanent ill-health is recommended, it is not necessary to issue formal advice notifications to the individual concerned, although these may have already been issued if the sickness absence has been lengthy.

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#### 4.9 Life expectancy of less than one year

Cases may arise where an employee is not only declared permanently unfit for work by the OHP, but to have a life expectancy of less than one year.

- 4.9.1 Clearly such cases are extremely sensitive and must be handled carefully and with compassion. In addition, there are particular considerations in respect of the pension situation for the employee concerned; it is important that the employee (or their family, depending upon the circumstances of the case) is advised of the options available, so that they can make an informed decision.

If the School receives a report of this nature from the Health Unit, the HR Team should be contacted in the first instance. This enables a joint approach, to ensure that the employee receives prompt and appropriate advice.

#### 4.10 Ill- health Retirement -Teachers

A teacher who is under the age of 60 and has contributed to the Teachers Pension Scheme for 2 years can make an application for early retirement on the grounds of ill health by completing Form 18, available Human Resources. This is submitted together with Form 20 to Teachers Pensions. If ill-health retirement is approved the Head teacher will consult with the teacher to determine a termination date. Advice is available from the Human Resources Team.

The above arrangement can only apply if the teacher applies for an ill-health retirement benefit. Where a teacher appears to be unfit to carry out his/her duties but does not apply for ill-health retirement, the Governing Body would need to consider whether grounds exist for dismissal as detailed within the School's policy.

#### 4.11 Dismissal

- 4.11.1 Sickness absence procedures are about managing absence in an equitable manner, and not about achieving dismissal. Having said this, a school cannot operationally or financially sustain persistent failure to attend for work, and dismissal is therefore the ultimate outcome of an unacceptable level of attendance.

- 4.11.2 The decision to dismiss an employee may only be taken by the Staffing Dismissal Committee which authorised to dismiss by the Governing Body. The Head teacher may only make a recommendation to the Staffing Dismissal Committee.

- 4.11.3 Advice should be sought from the HR Team before a decision is made to dismiss an employee.

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- 4.11.4 The conduct of the dismissal hearing is shown in Annex 7. If the person concerned is not fit to attend, he/she may make representations in writing or arrange for a representative to act on his/her behalf at the interview.
- 4.11.5 The employee has the right of appeal.

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**5 APPEALS**

- 5.1 Employees have a right to appeal against formal advice and against dismissal, including dismissal on the grounds of permanent ill-health.
- 5.2 Employees must submit an appeal in writing, to the Clerk to Governors, within 10 working days of receipt of the letter confirming formal caution or dismissal, setting out in full their grounds of appeal.
- 5.3 Appeals against formal cautions issued by managers will be heard by the Appeals Committee of the Governing Body. The hearing should take place within 10 working days of receipt of the appeal from the employee. Human Resource advisors will provide appropriate support if requested.
- 5.5 Appeals against dismissal must be heard within 1 calendar month of receipt by a differently constituted appeals committee if any earlier appeals have already been considered.
- 5.6 The manager who issued the formal caution or the Head teacher/Chair of the Committee that dismissed the employee will present the management case.
- 5.7 The role of the presenting manager/governor will be to explain how they came to the decision, ensuring that the relevant documentation is available both to the appellant, and to the panel conducting the hearing.
- 5.8 The documentation should include a brief statement of case by the manager/governor who has made the decision, with any Back to Work forms, Occupational Health reports, Doctors' notices, attendance record etc. attached as appendices. This should be provided to the individual and to the panel 5 working days in advance of the hearing. The employee must be given at least 5 working days notice of the date of the appeal hearing.
- 5.10 In considering the appeal, the Appeals Committee may confirm, amend or reject the decision to issue formal advice or dismiss, but may not impose a higher formal advice notification/dismiss.
- 5.11 The outcome of the appeal will be confirmed in writing to the employee, by the Chair of the Appeals Committee, within 5 working days of the date of the hearing.

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**6 OTHER MATTERS RELATING TO SICKNESS ABSENCE**

**6.1 Situation with carers**

6.1.1 There are cases where employees take sick leave primarily to act as carers for dependants. These absences should be managed in the same way as any other.

6.1.2 As much support as possible should be provided to carers as should utilisation of flexible working arrangements, special leave and external support services. Further information on support available is given in Annex 10.

6.1.3 A referral to the Occupational Health advisor should be made in order to assess the mental health of the individual if appropriate.

**6.2 Disabled employees**

6.2.1 Special considerations apply for employees who are disabled.

These sickness absence procedures apply equally to disabled employees, with the added need to be:

- aware of the effect the person’s disability has on ability to attend work and on ability to perform their role
- willing to explore ways in which adjustments may need to be made to assist the individual in reaching satisfactory levels of attendance
- mindful of the legal requirements in relation to disabled employees and to record all actions and decisions

6.2.3 The Equality Act 2010 provides that people must not be discriminated against on the grounds of disability, and it places a duty on employers to make reasonable adjustments to physical features of the workplace, or to work arrangements, to prevent any disadvantages which a disabled employee may otherwise suffer.

6.2.4 The law defines disability as ‘a physical or mental impairment which has a substantial and long-term effect on the ability to carry out normal day-to-day activities’. The impairment must not be temporary in nature, and it must have a significant (not minor or trivial) effect on the ability to carry out normal activities.

6.2.5 Therefore special care should be taken in monitoring and reviewing the absence of disabled employees; managers should make sure that they have the opportunity to indicate what, if any, support the school may be able to offer them.

6.2.6 In making referrals to the Occupational Health advisor, managers must make sure that any known disability is mentioned on the referral form MR1.

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6.2.7 Examples of reasonable adjustments are:

- purchasing special equipment
- adjustment of working hours
- altering physical aspects of a building/workplace (e.g. to allow wheelchair access)
- amending duties or methods of working so that the employee concerned can fulfil his/her job purpose
- considering alternative employment
- providing additional training or supervision.

6.2.8 This is not to say that disabled employees who have poor attendance records must be retained at all costs. It is a question of taking reasonable steps to ensure that there are no work arrangements or physical features of the workplace which cause a substantial disadvantage to a disabled person compared with non-disabled people.

### 6.3 Work Related Injuries and Illness

6.3.1 An employee who has an accident at work must report it as soon as possible to his/her line manager, and the details must be reported to the Human Resource Team and Facilities Manager as soon as possible.

6.3.2 In these cases, or where there is some uncertainty whether work has caused or exacerbated a medical condition, consideration will be given to making a referral to the Occupational Health advisor, regardless of whether the individual is off sick or not.

6.3.3 Employees who are absent from work arising from injury/accident at work are required to follow the school's sickness absence reporting procedures in the normal way.

It is important that any sickness absence due to accident/injury at work is clearly recorded, as there are issues about liability which may arise, and also there are special provisions which apply to sick pay in such cases.<sup>1</sup>

### 6.4 Fitness for Meetings

6.4.1 Sickness absence does not, in the majority of cases, prevent hearings or meetings with the employee.

6.4.2 If an employee refuses to attend these meetings, a decision can still be on the basis of the known facts, provided that the invitation letter makes it clear that this will be the case. The outcome of the meeting can be confirmed in writing in the normal way.

6.4.3 There are cases where the nature of the illness makes a meeting unreasonable. Typically this will be

<sup>1</sup> See the Burgundy Book for teachers and the Green Book for NJC staff

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clinical mental illness.

## 6.5 Lifestyle elective treatment

- 6.5.1 Absence due to medical treatment which is the employee's choice, namely where there is neither a medical recommendation nor a medical imperative (for example, cosmetic surgery with no underlying psychological issues, eye laser surgery) should not be regarded as sick leave or paid special leave. The treatment, including any preliminary hospital or doctor's appointments, should be in the employee's own time.
- 6.5.2 Managers, however, should be supportive and consider the School's flexible working arrangements.
- 6.5.3 Should an employee become unfit to attend work as a result of the treatment (i.e. the treatment has resulted in a more serious medical problem), then the normal sickness absence rules should apply.
- 6.5.4 There is however a class of surgery or procedure that is still elective, in the sense of not addressing an acute or life threatening condition, but may justify paid special leave.
- 6.5.5 The Key Characteristic of this type of surgery or procedure is that it would have a substantial impact (not trivial) on improving the quality of life of the employee, to what can reasonably be expected. IVF is an example.
- 6.5.6 An application for paid Special Leave for IVF treatment should be discussed with the Line Manager before the leave is required. Applications for paid leave for this type of treatment "after the event" will not be considered, and annual leave must be taken or the absence treated as unauthorised. In the case of term time only staff absence this would lead to unpaid leave although the Governing Body have the right to allow for paid time off.
- 6.5.7 The planned nature of IVF treatment enables appropriate working arrangements and special leave applications to be made. The initial stage of the process (i.e. drug therapy injections) allows for some flexibility and should be undertaken in the employees own time. The stages involving procedures in hospital can be discussed as an application for paid special leave.

## 6.6 Self-certification

Though there is no written self-certification for the first 7 days absence, the telephone reports of absence from employee's are accepted for SSP and OSP purposes.

- 6.6.1 However, if there is clear evidence that the absence has been falsely reported, then the School will consider withholding both OSP and SSP for the days lost.

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**7 MONITORING**

7.1 Sickness absence levels are reported regularly to Governors.

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**Annex 1**

Reasonableness in the context of making decisions on absence

- A1.1 Reasonableness means showing sound judgement, and ‘judgement’ is used frequently throughout this Guide.
- A1.2 In the context of making decisions on absence the manager needs to examine each case on its merits and consider what is acceptable and what is not.
- A1.3 A one off lengthy absence by an employee who is a member of a team of a number of people all doing similar work may be sustainable, as there is capacity for work to be absorbed. In contrast, the lengthy absence of an employee who has a unique job or who works with only one or two colleagues will not be sustainable to the same extent.
- A1.4 In a school, where it is important that an employee is available at specific times/dates e.g. in the case of a teacher it would not be possible to sustain intermittent absences, as this would have an immediate and severe adverse effect on curriculum delivery. In such cases it would be reasonable to set a short review date, in order to limit any possible adverse effects on pupils/colleagues.
- A1.5 It would be unlikely in this example that intermittent absences could be sustained for a long period. In a situation where an employee is one of a number who undertake similar work which is not driven by specific delivery deadlines e.g. supervisory assistants, it may be possible to sustain intermittent absence over a longer period of time because whilst there is an impact on the workplace, it does not have severe immediate effect. This does not mean that such intermittent absence can be sustained indefinitely.
- A1.6 The reasons for absence also need to be considered in coming to a judgement on handling a particular case. For example, where an employee who has broken a leg and has a fit notes for a six week absence, it will be possible to plan cover, knowing that there will be a continuous absence with a known return date. A referral to the Health Unit would not be appropriate, nor would any formal action.
- A1.7 Conversely, if an employee has had a series of absences for various reasons, with apparently no link between them, then it would be appropriate to refer to Occupational health, to request a Fit notes for every absence, and to set a review date.
- A1.8 The effect of employee absence clearly varies from one school to another. It is not therefore possible to prescribe a definitive timescale for review periods, or other actions.
- A1.9 However, the general rules set out in paragraphs 3.1.1 and 3.3.1 of this document will be appropriate for most cases; unless there are particular circumstances which would make the application of these rules unreasonable, they must be observed. The key issue is to ensure that any decisions which are taken are reasonable in all the circumstances.

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A1.10 In arriving at a decision, at any stage of the procedure, it is important that you take into account all the information which is available to you at that time, such as:

- sickness absence record
- reason(s) for absence
- advice from Occupational Health
- advice from the HR Team
- impact of absence on the workplace
- any relevant personal circumstances of the individual
- any workplace issues which have a bearing on the absence
- the views/comments of the individual concerned
- and, what reasonable help, assistance, adaptations, 'light' duties etc. the school can provide/secure.

A1.11 A manager should bear in mind that, although any decisions taken relate to sickness absence, they are management decisions, based upon the circumstances of the case and the information available.

A1.12 In particular it is important to remember where Occupational Health come to the view that an individual is permanently unfit, and declare that the employee be retired on the grounds of ill-health.

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**Annex 2**

## Guidelines on the suspension of sick pay

**Introduction**

- A2.1 The National Agreement on Pay and Conditions of Service allows local government employers including schools to suspend occupational sick pay (OSP) if an employee is shown to be abusing<sup>2</sup> the sickness scheme.
- A2.2 This protocol deals with cases where an employee remains absent from work after they have been assessed as fit by Occupational health, even though there is still a current Fit to work note signed by a GP.
- A2.3 The (fit note) is for social security and statutory sick pay purposes, and an employer is entitled to ask for additional medical evidence of personal incapacity for work before paying occupational sick pay (OSP). The employer is thus entitled to 'look behind' the doctor's note<sup>3</sup>.
- A2.4 Doctors forms allow doctors to advise one of two options; not fit for work or may be fit for work taking account of the following advice, i.e. they could return to work but could benefit from reasonable adjustments such as amended working hours.
- A2.5 Decisions concerning the suspension of OSP and SDP should be made following discussions between the manager, HR Team, Occupational Health advisor, the employee and their representative.

**The decision to refer**

- A2.6 The Sickness Absence Policy has triggers at 2 weeks in cases of stress and 4 weeks absence for referring and other illnesses respectively - but with discretion not to refer cases where there are no doubts about fitness for work.
- A2.7 This opens up a possibility that someone who may be fit for work (though still submitting fit to work notes and remaining absent) is not referred for assessment, they will thus unjustifiably be receiving and thus (inconsistently) paid OSP and SSP, rather than be back at work. As mentioned in A2.3 above, the Med 3 is not a reliable indicator.

**Timeliness of referrals**

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A2.08 Late referrals (i.e. beyond the 2 and 4 week points) may have similar implications to no referral at all - i.e. inconsistent payments. No controls other than the existing Sickness Absence Policy are needed.

A2.09 The 2 and 4 week times will be the difference between the first absence date, and date on the MR1 referral form.

**OSP, SSP or both?**

A2.10 Because fitness for suitable work justifies suspension of SSP if absence continues, the default position will be that OSP and SSP are suspended at the same time. However, managers should first discuss the intention to suspend pay with the employee and, where relevant, their representative, to explore and explain.

**Robustness of the medical assessment**

A2.11 The medical authority of Occupational Health Physicians over GPs has been tested a number of times in ETs.

A2.12 However, the view of the Occupational Health Physician will not be binding until 2 checks have been made:

- one directly between OH Physician and the GP to ensure that there are no relevant 'hidden issues'
- one directly between OH Physician and line manager to ensure that the work environment is understood

**Who triggers the suspension?**

A2.13 The medical report from the Occupational Health advisor will identify an individual as fit for work, and any restrictions that may apply. These are sent to the manager, who will be aware of the currency of any sick note. Clearly, though, the medical report cannot make any recommendations about pay suspension.

A2.14 However, all managers are able to refer staff at any time to the Occupational Health, where there are grounds for suspecting staff are fit to work, but absent.

**Date of return to work**

A2.15 The date will depend on the circumstances. For employees who are fit for their normal duties, and have no restrictions placed on their activities Occupational Health, this will be the day immediately following the referral. The employee will be advised of fitness for work verbally at the referral, with confirmation sent to their manager within 24 hours.

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A2.16 For cases where there is a period of rehabilitation (phased return, restricted duties, reduced hours, or provision of reasonable adjustments under DDA); the manager will determine the return-to-work date based on OHP advice.

A2.17 Failure to return to work on that date will result in suspension of sick pay.

**‘Did not attend’ (DNA)**

A2.18 Non compliance with the Sickness Absence Policy is potentially a disciplinary issue. Managers have discretion to stop OSP only, after the second DNA, unless there is confidence that the DNAs were outside the employee’s control. SSP can be suspended only on medical opinion.

**Availability of other suitable work**

A2.19 There are two situations where other work may be considered: alternative employment when the employee is permanently unfit for their current role, or temporarily unfit for the current role, but fit for other duties.

A2.20 This protocol applies only to the latter.

A2.21 Provided these other duties comply with any medical restrictions, any further absence will result in suspension of sick pay.

A2.22 If no suitable temporary work can be found, then neither SSP nor OSP can be stopped.

**Repeated patterns of short term absence**

A2.23 These would be identified in back-to-work interviews, and could result in referral to the Occupational Health advisor for advice.

A2.31 If there is no medical evidence to support the repeated absences, then these absences will be considered for sick pay suspension.

What happens if employee returns to work, but after a delay?

A2.32 The period of absence is still unauthorised, and will result in a pay suspension for that time and non-accrual of pension.

**Appeals**

A2.33 Appeals against suspension of sick pay must be presented under the Grievance Procedure and submitted on the Grievance Procedure Report form. The form must be sent to the Head teacher within one week of the employee being notified of the suspension and will be

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considered by the Governors Appeal Committee within 5 working days. Governors may request a second opinion by an independent OH Physician as part of this procedure.

- A2.34 The employee has also a statutory right to appeal, on issues of SSP only, to the National Insurance Contributions Office of Her Majesty's Revenue & Customs (HMRC).
- A2.35 If either appeal is upheld, then the relevant pay will be reinstated, backdated to the first assessment by the Trust's OH Physician. Pension contributions will also be reinstated from that date.

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**Annex 3**

Sickness Absence Reporting Procedure

A3.1 All employees have responsibilities in relation to attendance at work, including a requirement to follow the notification procedures when they are unable to attend work due to sickness. Their responsibilities may be summarised as follows:

- achieve the fullest attendance at work as far as possible
- follow the required notification procedure when absent due to sickness
- provide medical statements from their GP in accordance with the notification procedure and as may be required by management (subject to any cost being reimbursed by the School)
- attend medical appointments at the Occupational Health advisor

First Day	<p>Employees* must notify the school prior to their normal start time, stating the reason for absence and, if possible, an indication of how long the absence is likely to last. If the absence is as a result of an accident or injury at work, then this must be stated.</p> <p>A specific reason for absence is required. It is unacceptable to provide vague statements such as 'unwell'. The notification must be recorded on the BW1 form (Appendix 8a).</p>
Fourth Day	<p>Employees must notify the school if they continue to be absent beyond three days. Weekends count for the purpose of calculating the fourth day; where this coincides with a weekend and the school is not operational at weekends, contact must be made on the Monday. Part time employees' non-working days also count.</p>
Eighth Day	<p>Employees must forward a Statement of fitness to work (fit note) to their school to cover them for the eighth and all subsequent days of continuous absence.</p>
Day of Return to work	<p>Employees must complete a sickness declaration form in respect of their absence, and they must attend a Back to Work Meeting with their manager/supervisor. In cases where the Statement of fitness to work (fit note) covers a period of more than 14 days, or where more than one certificate is necessary, the employee must submit a final doctor's statement that he/she is fit to resume duties.</p>

\*Where it is not possible for the employee him/herself to contact the workplace, it is acceptable for a partner/family member/friend to make contact on his/her behalf. The person making contact should give his/her name and relationship to the employee.

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- A3.2 The person who receives the notification of sickness absence must inform the Human Resources team who will complete the Record of Notification of Sickness Absence Form. A copy of this is attached at Annex 10a.
- A3.3 On return to work, the employee must sign the same form to declare their absence and to confirm that the details on the form are correct.
- A3.4 Employees must continue to submit doctor's fit notes to the school, even after entitlement to contractual sick pay has been exhausted. The School will arrange for fit notes to be forwarded to the DSS for processing of any appropriate state benefits.
- A3.5 If you become aware of an employee failing to follow the required notification procedure, you must bring the failure to the employee's attention as soon as possible, and give them the opportunity to explain why. You will need to use common sense and judgement to decide whether the reason(s) given are valid, and, subsequently, to decide whether payment should be withheld for the day(s) not covered by the correct procedure.
- A3.6 Persistent or extensive failure to comply should be treated as a matter of misconduct and the disciplinary procedure should be implemented.
- A3.7 Managers are required to ensure that the information relating to sickness absence of school staff is provided to the appropriate channels within your school, in order that weekly absence returns may be accurately and promptly completed.
- A3.8 It is the school's responsibility to monitor and review the sickness absence records of your own staff on a regular basis.

Fit notes

- A3.9 There are two situations in which Fit notes are required:
  - (a) to cover absence after 7 continuous days of sickness, in accordance with the sickness absence reporting procedure;
  - (b) where the employee is asked to provide a note for every absence<sup>4</sup>, regardless of its length, as a result of a Back to Work or a Review Meeting. In this connection, the school will reimburse the employee with the cost of the Fit notes, if a cost is incurred.
- A3.10 The provision of a fit notes does not mean that a manager is prevented from exploring the reasons for absence, or making a referral to the Health Unit, or challenging a situation where you have reasonable grounds to believe than an absence is not for genuine reasons. As with

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any other documentation, a fit notes is only one factor which should take into account in considering the overall situation.

- A3.11 If an employee fails to provide fit notes, as required, then they have failed to comply with the sickness absence procedure and managers should consider whether to withhold pay and/or implement the disciplinary procedure.

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Annex 4

Conduct of a BTW meeting

A4.1 Managers must:

- meet with the employee on their first day back at work. If the manager is absent arrangements for another appropriate manager to carry out the meeting.
- make sure that the meeting is held in private and with no interruptions.
- the manager should have reasonable information available, e.g. sickness absence notification from Doctors notes/advice, details of cover costs, details of work slippages, details of absences over last twelve months and longer if available.
- clearly identify any further action you intend to take, indicating what and when. Any actions agreed must be implemented.
- let the employee have someone (TU rep, friend or colleague) with them if they request this, but only if they can attend on the first day. The BTW is not a formal meeting, and therefore representation is not necessary
- be conscious of gender issues and make every effort to accommodate a ‘same gender’ interview.
- be conscious of disability issues. These are dealt with in Section 6 – ‘Other Matters Relating to Sickness Absence’.

A4.2 At the end of the meeting, complete your record of it on form at annex 10a. The employee can be provided with a copy on request. All forms, correspondence, Fit notes etc. must be held securely and in confidence.

A4.3 There are various possible outcomes from any Back to Work Meeting. These are some examples. The list is not comprehensive or prescriptive and, again, you must judge what is appropriate:

- no further action other than normal monitoring
- setting a review date with attendance targets where there are concerns about the employee’s ability to maintain an acceptable standard of attendance.
- exploring adaptations to the workplace; lighter duties/more demanding duties; relocation; special leave; different working patterns; training; flexible attendance; exploring, with Occupational Health advice, the possibility of counselling.

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- Requiring the employee to produce medical fit notes for every absence at the schools expense where there is a charge (receipt required). You must tell the employee how long they must provide fit notes for (e.g. until the review date).
- Referring the employee to Occupational Health.
- Initiating disciplinary action, in accordance with the disciplinary procedure, where there is a reasonable belief that can be reasonably evidenced, that any absence is not genuine.

A4.4 You may need to use risk assessment documentation, to assist in any necessary adaptations to work.

A4.5 It is not an option to avoid Back to Work Meetings. Equally Back to Work Meetings are not an end in themselves where an attendance problem is evident. Where there is a problem which cannot be resolved by changes at work and/or by providing the employee with reasonable support, whether or not the issue is work related, it is necessary to move on to formal action.

A4.6 Also remember that there is strong evidence that the great majority of attendance issues can be fairly but firmly resolved by a discerning approach to Back to Work Meetings; Managers anticipating issues; a sympathetic, supportive and reasonable approach to health problems coupled with a willingness to make changes where they can help.

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**Annex 5**

Conduct of the Review Meeting

- A5.1 The manager will establish a review period, with a meeting at the end, where an employee has had 3 occasions of absence in a rolling 12 month period; or where there is any recurring recognisable pattern of absence.
- A5.2 However, managers should not wait until the end of a review period if there are still clear concerns during the review period. Review meetings can be held at any time.
- A5.3 You may also establish review meetings where, irrespective of the standard of attendance, you have concerns about an employee’s health or well-being – indeed this is a matter of good practice. Review meetings in these types of circumstances will be particularly relevant where you feel that someone may be showing signs of stress at work.
- A5.4 Whether a review meeting is held because of the person’s level of attendance, or for welfare reasons, it’s about doing something and, as in the case of Back to Work Meetings, a review meeting is not an end in itself.
- A5.5 The nature, content and possible outcomes of a review meeting are essentially the same as a Back to Work Meeting. However, in cases of unacceptable attendance, the review stage represents the last stage before the commencement of semi-formal action. In simple terms managers will, for example, have conducted Back to Work Meetings, monitored, possibly taken advice from the Human Resources, examined changes to the workplace but there is no acceptable improvement. At this stage the manager should consider if there is anything more that could reasonably be done.
- A5.6 More than one review meeting may be held, especially where actions have been identified at the first review meeting which you consider will make a real difference in obtaining a resolution or where the meeting is for welfare reasons. However, as a general guide, in cases of unacceptable attendance, no more than 3 review meetings should be held.
- A5.7 A record can be prepared of that meeting if either the employee or employer has requested any actions as a result of the meeting, in most cases the employee will not have been absent from work and as such the line manager only needs to record with HR that the meeting took place. (Amended Nov 2015)
- A5.8 At the review meeting, and recorded on the form, you must inform employees with an unacceptable level of attendance that unless there is an improvement within a specified period of time semi-formal action will be taken and, ultimately, they could be dismissed unless there is a significant and sustained improvement. ‘Improvement’ can be achieved even if there is not 100% attendance, but it has to be the fullest possible level.
- A5.9 At the review meeting stage the employee has the right to be represented.

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**Annex 5a**

Conduct of Formal Support Action Plan Meeting

The purpose of the meeting is to advise the employee that the next stage of the policy has a much more formal approach and can involve both the Head teacher and the Governing Body.

A5.1 In most cases a member of the Human Resources team or Senior Manager will conduct the interview

- advise the employee, in writing and with 5 working days notice, that he/she may be accompanied at the interview by a trade union representative or another person of his/her choice.
- advise the employee that the interview may result in formal action being taken against him/her. In the interests of natural justice, it is important that the employee understands the issues that are to be discussed, and that there is a possibility of formal action being taken against him/her.
- Any documents you intend to use during the Formal Action Meeting must be provided to the employee no later than 5 working days before the meeting

A5.2 At the interview the manager will present the cast and the employee supported by his/her representative must be given a full opportunity to respond

A5.3 Having heard the employee’s response, the manager must deliberate in private with the HR representative to arrive at a decision about what action, if any, should be taken. The decision on formal action though is the responsibility of the manager.

A5.4 In arriving at a decision, the manager will need to consider all the evidence and ask the ‘balance of probability’ question as follows:

- is it more likely or less likely, on the basis of the evidence available, that the employee will be able to sustain a reasonable level of attendance within a reasonable timescale?

A5.5 It is not possible to define ‘reasonable’, as this will differ according to the circumstances of each case and is a matter of judgement on the manager’s part. Reasonable must, therefore, be determined by setting the individual’s sickness absence into the business context, and the impact which any lack of improvement will have on school.

A5.6 If the answer to the balance of probability question is that sufficient improvement is more likely, then a further review period to monitor whether improvement occurs and is sustained should be established, and the employee should be advised of this. It is appropriate to set targets at this point.

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- A5.7 If the answer is that sufficient improvement is less likely, then a movement to "formal action" should be issued to the employee concerned.
- A5.8 More information on decision-making is given in Annex 1.
- A5.9 Depending upon the circumstances of the case, any one of the following may be decided upon:
- formal action
  - back to review stage
  - setting of targets
- A5.10 Whatever decision is made, minutes should be sent for agreement to the employee
- A5.11 Finally, the manager must inform the employee that his/her sickness absence will continue to be monitored and, if necessary, formal action will be taken.

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Annex 6

Conduct of Formal Action Meeting

- A6.1 In most cases the Head teacher will conduct the interview. (The Chair of Governors in the case of the Head teacher)
- advise the employee, in writing and with 5 working days notice, that he/she may be accompanied at the interview by a trade union representative or another person of his/her choice.
  - advise the employee that the interview may result in formal action being taken against him/her. In the interests of natural justice, it is important that the employee understands the issues that are to be discussed, and that there is a possibility of formal action being taken against him/her.
  - Any documents you intend to use during the Formal Action Meeting must be provided to the employee no later than 5 working days before the meeting.
- A6.2 The manager should be accompanied by a representative of the HR Team.
- A6.3 At the interview the manager will present the case first and the employee, supported by his/her representative, must be given a full opportunity to respond.
- A6.4 Having heard the employee's response, the manager must deliberate in private with the HR representative to arrive at a decision about what action, if any, should be taken. The decision on formal action though is the responsibility of the manager.
- A6.5 In arriving at a decision, the manager will need to consider all the evidence and ask the 'balance of probability' question as follows:
- is it more likely or less likely, on the basis of the evidence available, that the employee will be able to sustain a reasonable level of attendance within a reasonable timescale?
- A6.6 It is not possible to define 'reasonable', as this will differ according to the circumstances of each case and is a matter of judgement on the manager's part. Reasonable must, therefore, be determined by setting the individual's sickness absence into the business context, and the impact which any lack of improvement will have on school.
- A6.7 If the answer to the balance of probability question is that sufficient improvement is more likely, then a further review period to monitor whether improvement occurs and is sustained should be established, and the employee should be advised of this. It is appropriate to set targets at this point.
- A6.8 If the answer is that sufficient improvement is less likely, then "formal caution" should be issued to the employee concerned.

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- A6.9 More information on decision-making is given in Annex 1.
- A6.10 Depending upon the circumstances of the case, any one of the following may be decided upon:
- formal caution - Level 1 (valid for 6 months)
  - formal caution - Level 2 (valid for 12 months)
  - recommendation for dismissal
- A6.11 Further details about formal caution and dismissal are provided in Sections 4.1 and 4.5 respectively of this Guide.
- A6.12 Whatever decision is made, it must be conveyed to the employee in writing within 5 working days of the interview date. Whenever possible, the employee should be informed verbally, on the same day, immediately following the deliberation process. 'Model' 'Formal Advice' and 'Dismissal' letters are included in Annex 10 (c), (d) and (e) of this Guide.
- A6.13 If the manager decides to recommend dismissal, the employee must be informed of the recommendation in writing (Annex 10) within 5 working days of the interview, and then make arrangements for a hearing to take place with the appropriate committee of the governing body that, in accordance with the schools disciplinary procedure, is authorised to dismiss.
- A6.14 When a formal caution is issued (Level 1 or Level 2), the employee must be informed that he/she has a right of appeal against the manager's decision, and that the appeal must be submitted within 10 working days of the letter confirming the formal advice.
- A6.15 Finally, the manager must inform the employee that his/her sickness absence will continue to be monitored and, if necessary, further formal action will be taken.

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Annex 7

Conduct of the Formal Hearing (recommending dismissal)

A7.1 The appropriate committee of the Governing Body conducting the formal interview must hear the case from the management side first (which the Head teacher will present or the Chair of Governors in the case of the Head teacher) and then the employee’s case.

A7.2 In coming to a decision about whether or not to dismiss an employee, the ‘balance of probability’ test must be applied and, where the outcome is that sufficient improvement is less likely, then the following points must be considered:

- has the employee been fully consulted about his/her absence, via Keeping in Touch, Back to Work Meetings, Review Meeting, formal interviews, and formal cautions, as appropriate?
- has he/she been advised, in advance, of the potential for dismissal if attendance fails?
- has up to date advice been obtained from Occupational Health about the employee’s condition and future prospects and has the employee had the opportunity to put forward his/her views on this information?
- has alternative employment been considered?
- has all reasonable help/support/workplace adjustments etc. been provided?
- has the sickness absence procedure been properly followed?
- is it reasonable to wait any longer for attendance to improve, bearing in mind the operational effect of the absence, and the need to be fair to the employee?
- at the formal interview has the employee been given a full opportunity to put his/her case forward?
- have you given due consideration the points he/she has raised, and to any response made to them by the manager?
- are the circumstances of the case sufficiently serious to justify the decision to dismiss?
- is the decision to dismiss within the band of reasonable responses of a reasonable employer in the circumstances?

A7.3 If these questions can be satisfactorily answered, then it is appropriate to decide upon dismissal of the employee.

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- A7.4 Where dismissal is because attendance levels are unsatisfactory due to intermittent sickness absence, the reason for dismissal is likely to be 'some other substantial reason' - the attendance at work is insufficient to properly fulfil the role of their post.
- A7.5 Where dismissal is because of continuous sickness absence, the reason for dismissal is likely to be 'capability' (where the employee's medical condition renders him/her unable to undertake the duties of his/her post).
- A7.6 Where dismissal is approved, the employee must be given notice of the termination of employment, in accordance with their terms and conditions.
- A7.7 Employees on long-term sickness, who are signed off sick by their GP, and assessed as unfit for any work by the Occupational Health advisor, will not be expected to attend for work during the period of notice, but must continue to submit fit notes.
- A7.8 Employees who are being dismissed because sickness absence is intermittent, but currently fit, are expected to attend for work during the period of notice.
- A7.9 The dismissal must be confirmed in writing to the employee, normally within 5 working days of the interview, clearly stating the reason for dismissal, and stating the right of appeal. A model letter is included in Annex 10(e).
- A7.10 An appeal against a decision to dismiss must be put in writing to the Clerk to Governors within 10 days of receipt of the dismissal letter. The Clerk to Governors will then make arrangements for the appeal to be heard by the Appeals Committee of the Governing Body within 1 calendar month of receipt and by a differently constituted committee if any earlier appeals have already been considered.
- A7.11 Employees may also have the right to complain to an Employment Tribunal, depending on the grounds for their complaint and the length of the continuous local government service. Any such complaint should be submitted within 3 months of the date of their dismissal.

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Annex 8

Appeals in relation to ill-health retirement decisions (Internal Dispute Resolution Procedure - IDRP)

- A8.1 Under LGPS regulations, employees have the right to complain if they are dissatisfied with a decision made by their employer, or by the Pension Fund, which affects their pension position.
- A8.2 The complaint may be about any pension matter, including decisions relating to ill-health retirement, which is the reason for including this information in the Sickness Absence Policy. An employee may, for example, wish to appeal against a decision to retire him/her on the grounds of ill-health; equally, he/she may appeal against a decision not to retire him/her on the grounds of ill-health.
- A8.3 The process which should be followed to make a complaint is known as the “Internal Disputes Resolution Procedure”, and is described below.
- A8.4 The Procedure itself consists of two stages; thereafter, should the employee remain dissatisfied, he/she may go to the Pensions Advisory Service (OPAS), and, finally, to the Pensions Ombudsman, whose decision is final and binding.

Making a complaint about ill-health retirement

Stage One

- A8.5 Responsibility for considering complaints/appeals at Stage One lies with the Trust.
- A8.6 For complaints about ill-health retirement, the employee must write to the clerk to the governing body:
- A8.7 An independent medical review will be arranged for the employee as part of the appeal process, as soon as practicably possible after the complaint is received. The actual timing of the review will depend upon the availability of the independent medical practitioner, and of medical documentation, which may need to be obtained (e.g. GP or specialists’ reports).
- A8.8 Once the independent medical report is available, the Appeals Panel will consider the employee’s appeal within 2 months; the Panel will be provided with all relevant documentation, including medical reports (where accessible in accordance with the Access to Medical Reports Act 1988). The decision of the Panel will be confirmed in writing to the employee within 5 days of their consideration of the case.
- A8.9 For administrative purposes, in cases where an employee is appealing against a decision to retire him/her on ill-health grounds, the dismissal appeal will be heard in conjunction with the IDRP appeal. The conduct of the appeal will follow the format of the dismissal appeal as set out in Section 5. The appeal will be heard by the Governors Appeal Panel.

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## Stage Two

- A8.10 If the employee is dissatisfied with the outcome of the first stage, he/she has the right to move onto Stage 2 of the IDRP; this involves the Merseyside Pension Fund's administering authority (i.e. Wirral MBC) considering their complaint. To exercise this right the employee must do so in writing to the Merseyside Pension Fund within 6 months of the date of the first stage decision. Details of how to proceed to Stage Two are set out in the letter confirming the Stage One decision. Details of how to contact OPAS are also provided.
- A8.11 If an employee still remains dissatisfied after Stage 2, they can contact OPAS which helps members and beneficiaries of pension schemes with disputes that cannot be sorted out. OPAS is contactable by phone on 0845 601 2923; by e-mail at [enquiries@opas.org.uk](mailto:enquiries@opas.org.uk) or via the local Citizens' Advice Bureau.
- A8.12 It should be noted that an employee can contact OPAS for information and advice at any stage during the formal complaint procedure.

## NOTE:

Under the IDRP, an employee must put his/her complaint in writing within 6 months of receiving the decision. However, in order to ensure that the appropriate arrangements are put into place for an independent medical review, and so that a quick decision can be made, employees complaining about ill-health retirement decisions are asked to observe the 3 weeks deadline. Complaints received after this deadline will be processed, but employees should be aware that this will delay the process.

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## Annex 9

### Support for Employees with Caring Responsibilities

#### Introduction

- A9.1 There are a significant number of cases of employees taking sick leave (with stress given as the reason on the medical certificate) to care for dependants. Unless the employee has an over-riding medical condition, these absences should be treated as unauthorised.
- A9.2 However, the employee should be given all reasonable assistance and advice on the support available.
- A9.3 This Annex describes the approach where staff are absent to care for dependants.

#### Flexible Working

- A9.4 Full use should be made of the existing Work Life Balance Policy, which includes:
- (i) Term time only working – is an alternative working arrangement for employees with children at school age. Working hours are based on school terms enabling parents to have time off when their children are on school holidays. Staff receive their salary in 12 equal monthly instalments but at a reduced rate proportionate to the weeks worked. Although most school staff already work a term time only pattern, some staff may be employed on a 52 week basis.
  - (ii) Compressed working week – is a development whereby standard hours are fixed but where the employee alters their working pattern i.e. a four day week or a nine day fortnight. Such working arrangements are particularly helpful in situations such as employees experiencing childcare difficulties on a particular day of the week. Revised start and finish times are agreed together with the designated “day off”.
  - (iii) ‘V’ Time or Voluntary Reduced working Week – this arrangement allows for a voluntary reduction in the working hours per week and correspondingly a reduction in pay for an agreed period of time i.e. 3 or 6 months. This is generally implemented to overcome a domestic crisis and is implemented for a specified timescale.
  - (iv) Job-Share scheme – This scheme has been in operation since 1990 and provides for two people to share one job with each employee receiving a proportional part of the salary on a pro-rata basis. The job can be split in a variety of ways e.g. split days –mornings or afternoons, split weeks – 2 ½ days each week or alternate weeks/days. The majority of posts are open to job sharing; however, some restrictions do apply.
  - (v) Annualised hours – Working an agreed number of hours over a 12 month period which are varied from week to week in accordance with business requirements.

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A9.5 In addition to the arrangements mentioned above there are a number of other work-life balance policies available to employees:

Special Leave – This is available to employees who are required to care for a seriously or terminally ill partner/dependant, family/domestic crisis etc. The granting of Special Leave is at the discretion of the Service Director, and may be with or without pay, in accordance with the guidelines.

Career Break Scheme – The scheme is designed to enable employees to take a period away from employment whilst retaining and updating their skills in the knowledge that they may return to work at the same status and under the same conditions of service previously enjoyed, subject to there being an appropriate vacancy.

Other sources of support

Health & Social Care

A9.6 Social Services provide a range of help to carers and disabled people and should be one of the first contacts. They will advise on practical services in the home, aids and equipment, short-term breaks, adaptations to the home and other issues affecting carers.

A9.7 Carers should first call their local social services department and ask for a Carers Assessment. They are available to carers and those being cared for. Carers can speak to their GP for a referral or contact them directly:

Other Organisations

A9.12 As well as the Trust, there are various other organisations that can provide specialist help and support to assist carers. An outline of their services and contact numbers is provided below:

Carers UK

A9.14 Carers UK is the leading provider of information on all matters relating to caring and are a campaigning charity which supports carers. They have the information and contacts that carers are likely to need. These include: benefits, practical help, financial help and much more. Their website is full of information for carers. Website: [www.carersuk.org](http://www.carersuk.org)

A9.15 CarersLine is open on Wednesday and Thursday from 10am-12pm and 2pm-4pm. Call on 0800 808 7777

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A9.16 Further information about carers' benefits can be found on the following websites:

[www.direct.gov.uk](http://www.direct.gov.uk)

[www.dwp.gov.uk](http://www.dwp.gov.uk)

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Managing staff attendance-Guidance & Policy

Appendix 10a

<b>Employee Name</b>			
<b>Line Manager</b>			
<b>Date of Discussion</b>			
<b>First date of absence</b>		<b>Date of return</b>	
<b>Reason for absence</b>			
<b>Injury at work</b>	Yes/No		

<b>Welcome employee back to work</b>		
<b>Confirm employee is fit to return to work</b>		
<b>Check whether employee has any concerns about their work or home life that you could advise on or help with</b>		
<b>Number of days absence in the last year</b>		
<b>Sickness</b>	<b>Other unplanned absence</b>	
<b>Occurrences of absences in the last year</b>		
<b>Sickness</b>	<b>Other unplanned absence</b>	
<p>If appropriate advise employee that they are approaching the maximum level of absence (<b>3 in the past twelve months</b>). An informal discussion will take place at 3 absences and absence management procedures start at 4 absences.</p>		
<b>Additional Comments/Agreed Actions</b>		
<p>Signed (employee).....</p> <p>Signed (line manager).....</p> <p>Signed (Director of Finance and Operations or representative) .....</p>		

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Annex 10 (b)

Sickness absence – Formal Caution – Level 1

I refer to your formal interview with \_\_\_\_\_ on \_\_\_\_\_, concerning your sickness absence record. You were accompanied at the interview by \_\_\_\_\_ (insert Trade union and name of rep/person supporting)

I have decided to issue you with a Formal Caution – Level 1, which is valid for 6 months, from the date of the interview.

I concluded at the interview that your level of attendance is unacceptable; it is not possible for the School to sustain this level of attendance because of the adverse operational and financial effects of your absence on the workplace (provide details).

You are now required to achieve and acceptable level of attendance. On (xx/xx/xxx), the changes in your attendance will be reviewed, and consideration will be given to any further action which may be necessary.

Your attendance will continue to be monitored, in accordance with the sickness absence procedure, and, in the event of any sickness absence during the review period, Back to Work Meetings will be undertaken in the normal way.

You should be aware that failure to improve your attendance levels will lead to further formal action, in accordance with the School's Attendance and Support Procedure.

\*I have also decided that you (e.g. will be referred to the Health Unit/must supply Doctors' notes for every absence until \_\_\_\_\_ /your start/finish times will be amended on a temporary basis etc.).

You have a right of appeal against this formal advice notification. Should you wish to exercise this right, you must do so in writing to the Clerk to Governors, clearly stating your grounds of appeal within 10 days of receipt of this letter.

Finally, I hope that you will be able to achieve the level of improvement required, and that further action in this respect will not be necessary. If you have any queries or consider that there is any help or assistance that you require to improve your attendance you must not hesitate to contact me.

Yours sincerely,

Responsible Manager

\* Delete as appropriate

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Annex 10 (c)

Sickness absence – Formal Caution – Level 2

I refer to your formal interview with \_\_\_\_\_ on \_\_\_\_\_, concerning your sickness absence record. You were accompanied at the interview by (insert Trade Union and name of rep/person supporting)

You were issued with a Formal Caution – Level 2, which is valid for 12 months, from the date of the interview.

I concluded at the interview that your level of attendance is unacceptable; it is not possible for the School to sustain this level of attendance because of the adverse operational and financial effects of your absence on the workplace (provide details).

You are required, therefore, to achieve an acceptable level of attendance. On (xx/xx/xxxx), the changes in your attendance will be reviewed, and consideration will be given to any further action which may be necessary.

Your attendance will continue to be monitored, in accordance with the sickness absence procedure, and, in the event of any sickness absence during the review period, Back to Work Meetings will be undertaken in the normal way.

You should be aware that failure to improve your attendance levels will lead to further formal action, in accordance with the sickness absence procedure, the next stage of which is dismissal.

\*I have also decided that you (will be referred to the Health Unit/must supply Doctors' notes for every absence until \_\_\_\_\_ /your start/finish times will be amended on a temporary basis etc.).

You have a right of appeal against this formal advice notification. Should you wish to exercise this right, you must do so in writing to the Clerk to Governors, clearly stating your grounds of appeal within 10 days of receipt of this letter.

Finally, I hope that you will be able to achieve the level of improvement required, and that further action in this respect will not be necessary. If you have any queries or consider that there is any help or assistance that you require to improve your attendance, you must not hesitate to contact me.

Yours sincerely,

Responsible Manager

\* Delete as appropriate

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Annex 10 (d)  
Dismissal letter

I refer to your formal hearing with the Staffing Dismissal Committee on \_\_\_\_\_ concerning your sickness absence record.

You were accompanied at the interview by \_\_\_\_\_ (Insert Trade Union and name of rep/ colleague/friend; the management case was presented by \_\_\_\_\_ (Manager) was advised by \_\_\_\_\_ (Human Resources Officer).

The purpose of the interview was to consider your sickness absence record and its effect on your attendance level.

The details of your sickness absence record were fully considered, as were your comments and those of the manager presenting the case. It was evident from the information provided that you had failed to improve your level of attendance as required, i.e. by \_\_\_\_\_. Your actual attendance was \_\_\_\_\_.

The effect of your absence on the School was considered and it was evident that it is causing adverse operational and financial problems in that \_\_\_\_\_ (explanation/details of effects)

The Committee considered, on the balance of probability, that it was unlikely that you would achieve the required level of attendance within a reasonable period of time, and that the school could no longer sustain your absence.

You currently have a valid Level 2 formal advice notification on your record, (if appropriate) and, given your failure to improve attendance and the absence of any prospect of you achieving the required level, the Committee decided to dismiss you from employment EITHER for some other substantial reason (i.e. on the grounds of poor attendance) OR, on the grounds of capability (i.e. ill-health).

In accordance with your contract of employment you are entitled to \_\_\_\_\_ weeks'/ months' notice; your last day of employment will therefore be \_\_\_\_\_.

EITHER:

You are expected to attend for work during your period of notice. Should you be absent due to sickness during this time, you must follow the Trust's sickness reporting procedures.

OR:

During the course of your notice period you must continue to comply with the Trust's sickness absence procedure by providing Fit notes, as appropriate.

You have a right of appeal against your dismissal. Should you wish to exercise this right, you must do so in writing, clearly stating your grounds of appeal, within 10 days of receipt of this letter.

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Finally, Governors would like to thank you for your service to the School and to Sefton and hope that your health improves in the future.

Yours sincerely,

Chair  
Staffing Dismissal Committee

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Annex 10 (e)

Recommendation for non-continuation of employment

I refer to your formal interview with me on \_\_\_\_\_ concerning your sickness absence record. I was advised by (..... Human Resources Officer). You were accompanied at the interview by \_\_\_\_\_ (Insert Trade Union and name of rep/ colleague/friend)

Having considered all the information available, including your comments and those of your representative, I came to the conclusion that your level of attendance can no longer be sustained and that in my view your employment with the School can no longer continue.

I will now refer this matter on to the Clerk to Governors who will arrange a formal hearing with the Staffing Dismissal Committee at which you will be given the opportunity to present your case in full. I will attend to present the management case and in this connection will provide a statement of case to the Committee and to you, in advance of the hearing.

I should advise you that you do not have a right to appeal against my conclusion, but you will have a right of appeal against the outcome of the formal hearing with the Staffing Dismissal Committee.

You will be contacted again in the near future with regard to the date of the formal hearing.

If you have any queries about the content of this letter, please do not hesitate to contact me.

Yours sincerely,

Responsible Manager

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Annex 10 (f)

Retirement on ill-health grounds letter – Tier 1

I refer to your appointment with Occupational Health on \_\_\_\_\_ and your subsequent meeting with myself (and a representative from Human Resources), when you were represented by \_\_\_\_\_.

I am writing to confirm that the Occupational Health Physician has, as you are aware, indicated that you are unfit for employment and has, therefore, recommended that you retire from employment on the grounds of ill health.

Having considered this recommendation, and having discussed the matter with you, I have decided to give you notice of the termination of your employment on the grounds of ill health.

The Occupational Health Physician has indicated that you fall within the scope of tier 1 which means that you are not considered capable of undertaking gainful employment before age 65. As you are a member of the Local Government Pension Scheme, you are therefore entitled to receive payment of your pension enhanced by 100% of the service that would have accrued to age 65 from your termination date. The Pension Fund will contact you directly in due course with regard to the arrangements for payment of your pension.

In accordance with your contract of employment you are entitled to \*\* weeks' notice; your last day of employment will therefore be \_\_\_\_\_.

During the course of your notice period you must continue to comply with the School's sickness absence procedure by providing Fit notes as appropriate.

You have the right to appeal against my decision to terminate your employment. Should you wish to exercise this right, you must do so in writing to the Clerk to Governors within 10 days of receipt of this letter.

You also have the right to appeal against the Trust's decision to retire you on grounds of ill-health and/or against the tier in which you have been placed. Appeals of this nature fall under the Internal Disputes Resolution Procedure (IDRP), which is a part of the Local Government Pension Scheme Regulations. Should you wish to exercise this right you must do so in writing within 3 weeks of the receipt of this letter.

I should like to thank you for your service to the School and to Sefton and I hope that your health shows some improvement in the future.

Finally, if you have any queries about the content of this letter, please do not hesitate to contact me.

Yours sincerely,

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## Appendix 10 (g)

## Retirement on ill-health grounds letter – Tier 2

I refer to your appointment with Occupational Health on \_\_\_\_\_ and your subsequent meeting with myself (and a representative from Human Resources), when you were represented by \_\_\_\_\_.

I am writing to confirm that the Occupational Health Physician has, as you are aware, indicated that you are unfit for employment and has, therefore, recommended that you retire from employment on the grounds of ill health.

Having considered this recommendation, and having discussed the matter with you, I have decided to give you notice of the termination of your employment on the grounds of ill health.

The Occupational Health Physician has indicated that you fall within the scope of tier 2, which means that you are considered capable of gainful employment after 3 years and before age 65. As you are a member of the Local Government Pension Scheme, you are therefore entitled to receive payment of your pension enhanced by 25% of the service that would have accrued to age 65 (subject to additional protection for qualifying employees born before ¼/63 which will have been discussed with you already) from your termination date. The Pension Fund will contact you directly in due course with regard to the arrangements for payment of your pension.

If you were born before ¼/63 and are ill health retired before 01/10/08, you will be awarded added years of no less that you would have received under the old scheme rules. If you are served notice before October which results in your leaving date being after the 01/10/08, you have the option to issue counter notice to bring your leaving date forwards. However you must be aware that, if you bring your leaving date forward, you will forfeit any notice pay that falls after this date.

In accordance with your contract of employment you are entitled to **\*\* weeks'** notice; your last day of employment will therefore be \_\_\_\_\_.

During the course of your notice period you must continue to comply with the Trust's sickness absence procedure by providing Fit notes as appropriate.

You have the right to appeal against my decision to terminate your employment. Should you wish to exercise this right, you must do so in writing to the Clerk to Governors within 10 days of receipt of this letter.

You also have the right to appeal against the Trust's decision to retire you on grounds of ill-health and/or against the tier in which you have been placed. Appeals of this nature fall under the Internal Disputes Resolution Procedure (IDRP), which is a part of the Local Government Pension Scheme Regulations. Should you wish to exercise this right you must do so in writing within 3 weeks of the receipt of this letter.

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I should like to thank you for your service to the School and to Sefton and I hope that your health shows some improvement in the future.

Finally, if you have any queries about the content of this letter, please do not hesitate to contact me.

Yours sincerely,

Responsible Manager (authorised to dismiss)

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Appendix 10 (h)

Retirement on ill-health grounds letter – Tier 3

I refer to your appointment with Occupational Health on \_\_\_\_\_ and your subsequent meeting with myself (and a representative from Human Resources), when you were represented by \_\_\_\_\_.

I am writing to confirm that the Occupational Health Physician has, as you are aware, indicated that you are unfit for employment and has, therefore, recommended that you retire from employment on the grounds of ill health.

Having considered this recommendation, and having discussed the matter with you, I have decided to give you notice of the termination of your employment on the grounds of ill health.

The Occupational Health Physician has indicated that you fall within the scope of tier 3 which means that you are considered capable of gainful employment within 3 years of your termination date. As you are a member of the Local Government Pension Scheme, you are therefore entitled to receive payment of your pension from your termination date. The Pension Fund will contact you directly in due course with regard to the arrangements for payment of your pension.

Your pension will be payable subject to the following conditions:

You are required to inform the Trust if you obtain employment and answer any inquiries made by it as to your current employment status including your pay and working hours.

“Gainful employment” means paid employment for not less than 30 hours in each week for a period of not less than 12 months.

The Trust will stop the payment of benefits if they consider that you are in gainful employment and may recover any overpayment made to you during any period which they consider you to have been in gainful employment.

Once benefits have been in payment to you for 18 months, the employing authority shall contact you to make inquiries as to your current employment position.

If at that time you are not in “gainful employment” the Trust will refer you for a further medical opinion to consider whether you are suffering from a condition that renders you permanently incapable of your previous employment because of ill health and if so, whether as a result of that condition you have a reduced likelihood of obtaining any gainful employment before age 65.

Subject to the result of the medical opinion the Trust may either:

- (a) Decide to stop the payment of your benefits until your normal retirement age, from the date of

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the review, or

(b) Determine that your benefits should be recalculated from the date of the medical review in accordance with the Tier 2 ill health provisions and that the membership used to calculate the benefits to be enhanced by 25% of the original period between your leaving and reaching age 65, or

(c) Defer making a decision to stop payment of your benefits pending a further medical opinion at a later date.

No later than three years after your date of leaving payment of benefits will be stopped, unless by then your medical condition has been reclassified in accordance with Tier 2.

If you become an active member of the Scheme again after your benefits have been stopped your two periods of active membership cannot be combined.

If you were born before ¼/63 and are ill health retired before 01/10/08, you will be awarded added years of no less that you would have received under the old scheme rules. If you are served notice before October which results in your leaving date being after the 01/10/08, you have the option to issue counter notice to bring your leaving date forwards. However you must be aware that, if you bring your leaving date forward, you will forfeit any notice pay that falls after this date.

In accordance with your contract of employment you are entitled to \*\* weeks' notice; your last day of employment will therefore be

During the course of your notice period you must continue to comply with the Trust's sickness absence procedure by providing Fit notes as appropriate.

You have the right to appeal against my decision to terminate your employment. Should you wish to exercise this right, you must do so in writing to the Clerk to Governors within 10 days of receipt of this letter.

You also have the right to appeal against the Trust's decision to retire you on grounds of ill-health and/or against the tier in which you have been placed. Appeals of this nature fall under the Internal Disputes Resolution Procedure (IDRP), which is a part of the Local Government Pension Scheme Regulations. Should you wish to exercise this right you must do so in writing within 3 weeks of the receipt of this letter.

I should like to thank you for your service to the school and to Sefton and I hope that your health shows some improvement in the future.

Finally, if you have any queries about the content of this letter, please do not hesitate to contact me.

Yours sincerely,

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Appendix 11

Report title: Employee: Department:  Date of Meeting: Time: Location:  Report prepared by: Position: Date:	Absence Monitoring Report – Formal Interview
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1. Purpose.

1.1. The purpose of this report is to set out all of the facts of xxxxxx sickness absence over the past 24 months and to highlight the effects that the absence has had operationally on the school and why it can no longer be sustained.

1.2. The detail of this report will be discussed at the formal interview to be held on (date and time).

1.3. XXXX role has evolved overtime and now includes the following responsibilities/activities: List main responsibilities and activities

2. Facts.

Detail the absence history, actions taken, any adjustments made

3. Details of Absence Record.

Insert absence details

4. Dates of Back to Work Meeting and Outcomes.

Insert list of all back to work meetings

5. Occupational Health Referrals over the last 2 years

List all Occupational Health Referrals

6. Review Meeting over last 2 years

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Detail all Review meetings, actions and recommendations, support provided

#### 7. Impact of Absence.

7.1. The impact that the absences have had operationally, include XXXXXX duties having to be carried out by other members of the team. This not only adds to teams the day to day pressures, but also reduces the level of Service that it provides. Many duties are not carried out either on time, at the standard required or at all, the latter resulting in a backlog which has to be completed at a later date again effecting operational performance.

#### 8. Conclusion

7.2. In conclusion, in line with the absence monitoring policy and operational requirements XXXXXXXX attendance at work in not acceptable and cannot be sustained.

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Appendix 12

Human Resources Team –  
Contact Details

Anna Jones	Deyes High School	
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