



**THE BUCKINGHAMSHIRE COUNCIL**

**HEALTH AND ATTENDANCE POLICY AND PROCEDURE FOR SCHOOLS**

**September 2020**

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### **HEALTH AND ATTENDANCE POLICY & PROCEDURE FOR SCHOOLS**

#### **1. Introduction**

- 1.1 This document sets out the School's policy on health and attendance and the procedure to be applied when an employee's attendance falls below acceptable standards. Its aim is to promote the health and well-being of employees in schools through the early identification of problems which the head teacher/line manager and individual can address.

#### **2. Scope**

- 2.1 The Policy and Procedure set out in this document applies to all Schools based staff under Teachers Pay & Pension Conditions and those staff under the terms of Bucks Pay Employment Conditions.

#### **3. Roles and Responsibilities**

- 3.1. The head teacher/line manager, or Chair of Governors in the case of the head teacher/line manager, is responsible for the overall management of standards of health & attendance within their School. The authority to take action under this Procedure rests with the head teacher/line manager or Chair of Governors. The head teacher/line manager will nominate those senior employees in the School who have the authority to give formal warnings.
- 3.2 Employees also have a responsibility within this procedure.
- 3.3 There are a number of people who can support the implementation of this policy and procedure, including Occupational Health, Health and Safety Team and Human Resources. Guidance on roles and responsibilities can be found in the Toolkit for Schools.

#### **4. Principles**

- 4.1 The policy and procedure contained within this document is founded on the following principles:
- Employees are paid on the basis of fulfilling their contractual obligations.

- Head teacher/line managers are encouraged to take positive action in supporting individual well-being as well as taking a consistent, sensitive and supportive approach towards employees who are absent from work due to ill-health.
- Early intervention is key in managing absence. In all cases of ill health it is the school's intention to encourage and support individuals to return to work as soon as they feel well enough to do so.
- The advice of Occupational Health will be sought where necessary. Where counselling is recommended, support will be provided where reasonably possible.
- In cases of partial recovery when the full range of previous duties can no longer be undertaken, the head teacher/line manager will seek to make appropriate reasonable adjustments such as a revision of hours or duties or redeployment to alternative work, in accordance with the redeployment procedures and any Equality Act requirements.
- Sickness absence may be indicative of problems within the work environment. All reasonable steps will be taken to ensure that employees' health issues, and any associated factors in the work environment, are identified at an early stage, and that appropriate action is taken to address these.
- Buckinghamshire Council aims to be a reasonable employer in the treatment of those people absent from work due to ill health.
- Absence of employees due to sickness has a direct impact upon the school including loss of output; disruption to work in the school; replacement costs; and an increased workload for colleagues that can lead to increased tensions, anxieties, stress, low morale, and further sickness absence.
- There may be situations where an individual's level of attendance remains unsatisfactory. Where there is no improvement to the attendance record, dismissal could be the outcome.
- Not to discriminate against any individual in the application of this policy and procedure on prohibited grounds i.e. on grounds of sex, race, trade union activities, disability, age, sexual orientation, trans-gender status, part-time work status, religion or belief .

- Not to discriminate against any individual in the application of this policy and procedure on the protected characteristics of age, disability, gender reassignment, marriage and civil partnership, maternity and pregnancy, race, religion or belief, sex, sexual orientation, or other grounds protected in law (e.g. part-time worker status, trade union membership or HIV positive status).
- If employees have any misgivings about either the process or the managers leading it, they should tell us openly so that we can address their concerns. Any meeting recorded without the consent of all those present (covert recordings) will be treated as a conduct matter.

4.2. There may be occasions where an employee's actions in relation to absence warrant investigations under the Conduct & Discipline Policy.

These include:

- Failure to follow the sick absence reporting procedures;
- Falsification of medical or self-certificates (potentially regarded as serious misconduct);
- Abuse of the sickness scheme; this includes engaging in activities which may delay recovery.

## **5. Trigger Points**

5.1 Absence trigger points assist the head teacher/line manager to focus on dealing with both short term absence, through the initiation of formal action, and early intervention in situations of possible long term sickness absence. It is recognised that if management can give support at an early stage, a speedier return to work can be facilitated. The trigger points at which the head teacher/line manager is required to review the employee's absence are:

- three periods of absence within a six-month rolling period; or
- absences appearing to have a recurring recognisable pattern, for example frequent absenteeism around a weekend or particular special events; or
- continuous absence for a period of at least 28 consecutive calendar days.

## **6. Reporting Sickness Absence**

### **6.1 Notifying absence**

6.1.1 The entitlement to sick pay is dependent on the employee ensuring that their head teacher/line manager/Cover Supervisor or appropriate person is informed that they are unable to attend for work as soon as possible on the first day of absence. Depending on the circumstances of each individual case, if an employee fails to inform their head teacher/line manager of their absence, this may be considered as unauthorised absence, resulting in loss of pay and possibly disciplinary action.

- The employee must telephone their head teacher/line manager/cover supervisor or appropriate person on the first day of absence, at the commencement of the working day. (If the head teacher/line manager/cover supervisor is not available, the employee must inform an alternative employee normally senior to themselves).
- The employee must provide their head teacher/line manager/cover supervisor or appropriate person with details of their illness or injury, their anticipated length of absence and any work commitments that may need rearranging.
- If the employee believes that their absence may have been caused by an incident at work, they should inform the head teacher/line manager/cover supervisor of this and arrange for the accident reporting procedure to be followed.
- Exceptionally, if the employee is unable to telephone in person, they must arrange for someone else to telephone on their behalf. The employee must make direct contact with the head teacher/line manager/cover supervisor/appropriate person as soon as possible thereafter.
- The head teacher/line manager/cover supervisor must complete an absence return. This is vital to ensure that the correct rate of sick pay is paid to the employee.
- If the absence continues, further notification as to the nature and probable duration of the illness should be provided to the head teacher/line manager.
- Employees should maintain weekly contact with their head teacher/line manager/cover supervisor, unless otherwise agreed, during ongoing periods of absence.

6.1.2 The head teacher/line manager must ensure that time off related to a person's disability, e.g. for repair of aids and adaptations **must not** be recorded as sickness absence. In all such cases, the school will have a duty to make reasonable adjustments, which could include the granting of time off for such purposes. It will always, however, be necessary to consider the reasonableness of the requirement/ request for time off.

## **6.2 'Stuck not Sick' (dependent on role in school)**

6.2.1 The school recognises that on occasions it may be difficult for people to come into work at short notice e.g. sickness of a child/dependent, domestic issues at home. To avoid people reporting sick to cover these absences, which may only need to be for an hour or two, while alternative arrangements are made, a facility to call in as 'stuck at home' has been introduced. The individual should telephone as outlined in para 6.1.1 to advise their head teacher/line manager of the circumstances. The individual will come into work as soon as possible and will agree with their head teacher/line manager how to make up the time. It is recognised that within the school environment this may not always be manageable as there is often a need to arrange supply teachers to cover classes even for an hour or two. However, there are staff in schools in different circumstances, and in instances where it is possible for time to be made up, this approach should be encouraged.

## **6.3 Part-day absence**

6.3.1 Where an individual attends for work but then subsequently feels unwell and goes home sick, this should still be reported as sickness. See the toolkit for further advice. The head teacher/line manager has a degree of discretion over whether or not to class this as a half day or full day absence, depending on how long the individual has been at work and their working pattern.

## **6.4 Conduct whilst on sick leave**

6.4.1 When an individual is absent from work on sick leave it is not always necessary for them to be confined to their home. However, they are not expected to carry out any activities which are likely to hinder their recovery and delay their return to work. It is appropriate for the head teacher/line manager to contact an absent individual to discuss their wellbeing as part of their responsibility to keep in touch. If there is a suspicion that an individual is abusing the sick scheme in any way the matter will be investigated through the Conduct & Discipline Policy.

## **6.5 Medical Appointments**

6.5.1 Where possible routine medical appointments e.g. doctors, dentists, should be made outside normal working time. Where this is not possible the school will allow a maximum of one hour's paid absence. However, the head teacher may agree to additional time off for appointments where considered appropriate.

## **6.6 Return to work**

6.6.1 On return to work the head teacher/line manager must update the employee's absence record to ensure that pay and attendance records are updated accordingly.

6.6.2 A return to work discussion after every absence is also to be undertaken by the head teacher/line manager as soon as possible after the employee has returned to work (further guidance can be found in the toolkit).

6.6.3 The return to work discussion is crucial to managing health and attendance and is likely to be the most effective single technique for identifying contributory factors and reducing absence. It enables the head teacher/line manager, in discussion with employees, to find out the likely cause of absence and, take action to reduce any contributory factors in the workplace.

6.6.4 A 'Return to Work discussion Form' should be used. This will include details of any action agreed. The meeting should be informal and informative, based on concern for the health of the individual and any underlying causes, which may affect health/performance.

## **6.7 Return after a prolonged absence**

6.7.1 On occasion, particularly after a prolonged period of absence, an employee may request, or be recommended to return to work on a part-time basis initially. Every effort should be made to accommodate such requests. The employee will be expected to build their hours back up to full-time/normal hours over an agreed period, normally up to a maximum of 4 weeks, depending on medical advice, and where appropriate because of any issues arising under the Equality Act. Any period of part-time working up to 4 weeks, will be paid at the contractual salary.

## **6.8 Absence Certification**

6.8.1 All sickness absences should be either self/medically certified to ensure prompt and correct payment of contractual and statutory sick pay and to ensure that accurate records are maintained. Failure to comply with the certification procedures may result in the loss of sick pay. This together with misleading or false statements of certification may be dealt with under the school's Conduct and Discipline Procedure.

- 6.8.2 For absences of up to 7 calendar days a Self-Certification form should be completed on return to work and given to the head teacher/line manager for their retention.
- 6.8.3 A doctor's medical certificate may, at the school's discretion, be requested to cover any period of absence. (Any cost incurred as a result of providing such certificates will be reimbursed by the school.)
- 6.8.4 For absences of more than 7 calendar days a doctor's/medical certificate is required. This should be obtained as soon as the absence exceeds 7 calendar days and sent as soon as reasonably practicable to the line manager/head teacher, who will update the HR record system. Further certificates should be submitted if the absence exceeds the expiry date of the original certificate. It may be beneficial to explore with the individual whether or not any temporary adjustments can be made to the job/workplace to assist the employee to return to work.
- 6.8.5 For absences relating to pregnancy prior to commencing maternity leave individuals are advised to refer to the Maternity guidelines.

## **7. Managing frequent, short-term & persistent absences**

- 7.1 Trigger points for this procedure are when an employee has accumulated either:
- three periods of absence within a six-month rolling period; **or**
  - absences appearing to have a recurring recognisable pattern, for example frequent absenteeism around a weekend or particular special events;
- 7.2 A four-stage approach for managing frequent, short-term and persistent absences is outlined below. An employee has the right to be accompanied by a Trade Union representative or a work colleague for support and advice at stages 3 and/or 4 of the following procedure if they so wish. The employee should be given a copy of the Policy at the outset.

### **7.3 Stage 1 – Giving Feedback**

- 7.3.1 After obtaining relevant monitoring information the head teacher/line manager should hold a review meeting (see toolkit for further guidance) with the individual to ascertain the cause(s) for the absence(s). The monitoring information should be shared with the individual indicating any patterns of absences. There may be a genuine non-health reason for absences, such as care responsibilities, and the head teacher/line manager should be familiar with the relevant policies for such situations (e.g. flexible working, compassionate leave; special leave; maternity,



paternity & adoption leave; parental leave; carers leave etc.) and be prepared to explore these with the individual.

- 7.3.2 As a result of the discussion the head teacher/line manager may indicate that an improvement in attendance is required, that monitoring will continue and that a follow-up meeting will take place. A written summary of the outcome of the meeting, including the date for the follow up meeting, should be prepared for the employee's personal file and a copy given to the individual to ensure a shared understanding of outcomes.

## **7.4 Stage 2 – Seeking More Information**

- 7.4.1 The head teacher/line manager should hold the follow up meeting as arranged, even if the employee absence level has improved sufficiently. This provides an opportunity to acknowledge the improvement and to indicate to the individual that monitoring has taken place. The individual should be advised that the improved attendance level needs to be sustained.

- 7.4.2 If the level or pattern of absence continues to give cause for concern, the head teacher/line manager should advise the individual that the level of attendance is unsatisfactory and that it may become necessary to issue a formal warning. The head teacher/line manager should seek assistance from the Occupational Health Service (OH) to help them understand any underlying health issues. This step should only be taken following discussion of the case with the relevant HR contact. All referrals to the OH will be made with the prior agreement/consent of the individual. The OH will discuss the reasons for absence with the individual and if appropriate request a medical report from their GP, with employees consent. They will take into account all the relevant information and provide a written report to the school. The report should be discussed with the individual and the appropriate action agreed, including review dates. A written account of the outcome will be kept on the personal file. If requested, a copy will be given to the individual in accordance with the requirements of the Data Protection Act 1998.

- 7.4.3 If the individual refuses to consent to attend Occupational Health appointments or to provide access to a GP report, the head teacher/line manager should advise the individual that any decisions on their employment can only be made on the information available. Consequently failure to attend OH appointments or management meetings could impact on decisions made with regard to future employment.

- 7.4.4 If an underlying health problem has been indicated, it may be necessary to look at the job description, to ascertain whether changes can be made to the job, method of working, hours of work etc. in order to facilitate an acceptable level of attendance and performance. The requirements of the Equality Act (in particular the making of reasonable adjustments), need

also to be considered and it may be appropriate to seek advice from HR/OH in this respect. In some cases it may be necessary to consider redeployment options. A further review should be agreed in order to monitor the situation.

## **7.5 Stage 3 – Failure to Improve**

7.5.1 If there is no improvement over agreed realistic timescales the head teacher/line manager should consult their HR contact after which a formal meeting should be held with the individual to discuss the issue. One of the following options will result:-

- Issue a formal warning outlining a further review period, where the situation will be monitored. Advise the individual that dismissal could result if sustained levels of attendance are not achieved.
- If it is considered that there is sufficient evidence to suggest that the employee's absences are not sickness related and they are using the scheme to take unauthorised absence from work, it is appropriate to deal with the case as a conduct issue under the Conduct & Discipline process.

## **7.6 Stage 4 – Final Options**

7.6.1 If there is still no improvement, the head teacher/line manager needs to seek further advice from HR, and consider appropriate options. Each case needs to be considered in the light of all the information available, as there may still be genuine reasons for absence. There are four routes that can be considered at this point:

- Review the arrangements set out in step 3
- Ill health retirement through the relevant pension scheme (see toolkit for further guidance)
- Consideration given to retirement on the grounds of efficiency (see toolkit for further guidance)
- If the head teacher/line manager feels that the level of sick absence can no longer be sustained he/she should consider termination on the grounds of capability due to ill health. Please refer to the school's Capability Policy.

## **8 Managing long-term absences due to ill health**

8.1 The following procedure provides guidance on managing long term absences due to ill health, which the head teacher/line manager will have been alerted to at an appropriate trigger point, i.e. when the employee has been continuously absent for 28 consecutive calendar days.

8.2 A four-stage approach for managing long term absence due to ill health is outlined below. An employee has the right to be accompanied by a Trade Union representative or a work colleague for support and advice at any formal stage of the following procedure (stages 3 and/or 4) if they so wish. The employee should be given a copy of the Policy at the outset.

### **8.3 Stage 1 – Seeking Information**

8.3.1 The head teacher/line manager should fully investigate the situation and arrange a suitable time and place for an informal meeting with the employee as soon as possible.

8.3.2 The principle of maintaining contact with the employee regularly and sensitively is crucial in such cases.

### **8.4 Stage 2 – Initial Meeting**

8.4.1 The meeting should normally cover the following points:

- The head teacher/line manager should outline his/her initial concerns with the situation
- The employee should be asked for their assessment of the situation
- The head teacher/line manager should ask for the employee's permission to seek medical advice from the OH, in accordance with current legislation, The Access to Medical Reports Act 1988. The employee will be asked to give their consent to their GP being contacted. They may of course refuse to give this consent but should understand that in these circumstances any employment decisions will be based on the available information.
- The head teacher/line manager and employee should agree to meet again to discuss alternative options once the medical report has been obtained.

8.4.2 The head teacher/line manager should keep a note of the meeting in the employee's personal file. This should also be copied to the employee.

8.4.3 Having obtained all the available information concerning the employee's condition (most importantly the medical advice) the head teacher/line manager should discuss possible options with HR.

### **8.5 Stage 3 – Further Interview**

8.5.1 A further meeting should be convened with the individual. At this stage the following points would normally be covered:

- The head teacher/line manager's assessment of the situation

- The employee's assessment of the situation
- A discussion of the likely outcome e.g. return to full duties, reasonable adjustment to job role or responsibilities, re-deployment, early retirement or dismissal
- Consider any requirements of the Equality Act (DDA) and seek advice from HR
- Determine an appropriate course of action, which may result in further meetings

8.5.2 Formal contact with the individual will be documented by a follow-up letter on each occasion. It is important that the individual is informed clearly of the situation particularly if dismissal is being considered. The employee should be given the opportunity to come up with any further proposals or suggestions to resolve the absence.

## 8.6 Possible Outcomes

8.6.1 In the light of all the evidence and in consultation with the appropriate HR contact, the head teacher/line manager may follow one or more of the following options:

- If the employee is likely to return to work within a couple of months, use this time to consider any reasonable adjustments to enable his/her return. Where an individual does not return to work by the date advised, the OH should be asked for a written update on the employee's illness, and a further interview be arranged, i.e. Stage 3 should be repeated.
- Consider the employee's return to work for a limited period under medical advice on restricted duties and/or reduced working hours. Before this is agreed, a risk assessment should be carried out by the head teacher/line manager.
- If there are aspects of the current role that the employee is unlikely to be able to carry out in future, consider the possibility of adjusting the employee's current role or alternative employment, e.g. to working in a different post/working different hours. Any adjustments or transfer should be carried out with the employee's knowledge and consent.
- If medical opinion is that the employee is unlikely to be fit to return to undertake the full range of duties within an appropriate timescale, and suitable alternative employment has not been forthcoming, then the head teacher/line manager may consider dismissal on the grounds of incapability due to continuing ill-health. Each case will be different depending on the nature of the illness and advice should be sought from HR on an appropriate timescale for individual cases.
- Issue a formal warning outlining a further review period, where the situation will be monitored. Advise the individual that dismissal could result if sustained levels of attendance are not achieved.

## **8.7 Stage 4 – Termination of Employment**

8.7.1 Where termination of employment is considered, the head teacher/line manager should ensure that the following points have been adequately covered:

- The employee has been regularly consulted and at each stage the employee has been informed of the likely outcome including the possibility of dismissal.
- An up to date medical opinion has been obtained from a medical adviser and the employee has been given the opportunity to comment on this opinion.
- The employee has been given the opportunity of discussing the situation and has been made aware of the right of representation.
- Consideration has been given to reasonable adjustments under the Equality Act (DDA) and alternative employment.
- If the employee has more than three months pensionable service, consideration has been given to ill health retirement (see toolkit for further guidance).
- If ill health retirement is not applicable and the individual is aged 55+ (50 for those protected members), consideration can be given to retirement on the grounds of efficiency (see toolkit for further guidance).
- If the school can no longer sustain the level of sick absence, termination on the grounds of capability due to ill health should be considered. Please refer to the school's Capability Policy. The requirements of the statutory dismissal procedure will apply and HR advice should be sought in relation to this.

## **9. Right of Appeal**

9.1 Employees may appeal at any of the formal stages within this procedure i.e Stages 3 and or 4. Appeals may be raised on one or more of the following grounds:

- procedure - a failure to follow procedure had a material effect on the decision;
- decision - the evidence did not support the conclusion of the individual hearing the case (the hearing officer);
- warning/dismissal - too severe given the circumstances of the case;
- alternative action - should (or should not) have been considered.

9.2 An employee seeking to appeal should do so within 10 working days of written notification of the decision. The employee should send their letter of appeal together with the grounds of appeal to the Warning Appeal Panel. If the employee, for whatever reason appeals outside of the specified time limit the letter of appeal should include an explanation for why the appeal is being presented late. In such circumstances the decision as to whether to hear the appeal or not shall rest with the Warning Appeal Panel.

- 9.3 Once an appeal has been received in writing, an appeal hearing will normally be convened promptly, allowing at least 10 working days' written notice of the hearing.
- 9.4 An appeal against a written warning will be considered by the Warning Appeal Panel. The Warning Appeal Panel will review all the papers that were presented to the Hearing Officer.
- 9.5 Where dismissal under the school's Capability procedure has been confirmed, the appropriate appeal process for the Capability policy will be followed.
- 9.6 In the case of an appeal against a written warning, where the grounds of appeal are based on the severity of the sanction alone, the role of the appeal panel shall be to conduct a review of the case.
- 9.7 Where the grounds of the appeal are broader than an appeal against the sanction, the role of the appeal panel shall be to conduct a re-hearing of the evidence and submissions made when the initial decision was taken, plus to consider all matters raised which are related to that decision whether or not they were known to the line manager/head teacher/Chair of Governors at the time the initial decision was made.
- 9.8 The Appellant shall be given notice in writing of the venue, date and time of the appeal hearing. Copies of any documents relevant to the case including documents which were not before the line manager/head teacher/Chair of Governors and which are intended for consideration at the appeal hearing will be exchanged at least 5 working days in advance of the hearing.
- 9.9 If a Local Government Pension Scheme Member has left The Buckinghamshire Council and they are unhappy with the decision not to be granted ill health retirement, they can appeal under the Internal Dispute Resolution Procedure. Details are available from the Pensions team. For teachers who have not been granted ill health retirement, details of the appeal process will be included with their notification letter.

## **10. Gender**

- 10.1 On occasions employees may not feel comfortable discussing a particular health problem with a manager of different gender. Whilst the nature of any discussion should concentrate on the effect of an individual's illness on their ability to work rather than the details of the condition itself, managers are asked to consider making an arrangement for a manager of the same gender to interview the employee in appropriate cases, so as to avoid any unnecessary embarrassment. Employees should be consulted as to whether this is an appropriate way forward and request such an arrangement if they wish to do so.

## **11. Exemptions to warnings/dismissals**

11.1 The advice in relation to warnings/dismissals will not apply to pregnancy related illnesses during pregnancy or maternity leave.

## **12. Sickness Scheme**

12.1 The sick pay scheme relating to teachers can be found at Appendix 1, and for those on Bucks Pay and Employment Conditions, Appendix 2.

12.2 Cosmetic Surgery

12.2.1 It is not normally the school's policy to allow sick pay for an employee to undergo cosmetic surgery. If the procedure cannot be arranged during school holidays, unpaid leave may be considered at head teacher/line manager's discretion. Any complications that arise as a result of cosmetic surgery will be treated as sick leave and sick pay will be granted provided the normal certification procedures are followed.

## **13. Holidays & Sickness**

13.1 If an employee falls sick during a school closure period, he/she should advise his/her head teacher/line manager as soon as reasonably practicable. The employee will then be regarded as being absent on sick leave for any period covered by a medical certificate issued by a GP or hospital.

13.2 The head teacher/line manager should ensure that individuals not on term time contracts are aware of the following if on long term sick leave:

- Statutory annual leave continues to be accrued whilst on long term sick leave.
- Any leave carried forward should normally be taken before 30<sup>th</sup> June in the next holiday year.
- For individuals to be entitled to request annual leave they have to be available for work and therefore individuals on sick absence have no entitlement to paid holidays whilst absent.

13.3 Where the employee's long-term absence spans 2 annual leave years and they have exhausted their entitlement to sick pay, they will be eligible for payment of statutory leave.

13.4 Although it is recognised that in some cases it will be beneficial for an individual to take a 'holiday' during a period of long-term sickness, this will not be recorded as such and the individual will continue to be classified as being on sick leave. The individual should advise the

head teacher/line manager that they are going to be away from home and if this is for a prolonged period of time they should provide a forwarding address for any correspondence.

- 13.5 As the employee will still be considered unfit for work during this period it is essential that a GP's certificate is provided to cover this period.
- 13.6 Failure to produce a sickness certificate will mean that the period of absence is recorded as absence without leave and will be classified as unpaid.

## **14. Confidentiality & Record Keeping**

- 14.1 Information about an employee's medical condition is highly sensitive and whilst it is recognised that other colleagues will be required to be made aware of an individual's absence from work, due care should be taken to ensure that information about the reason for sickness and any other medical information is not inappropriately shared.
- 14.2 Monitoring of attendance is important in ensuring all employees are treated consistently and that accurate information on sickness levels is collected.
- 14.3 Monitoring also allows for potential problems relating to individual sickness to be identified and addressed at an early stage. Such problems can usually be dealt with informally, with assistance being given to the employee where necessary (e.g. equipment to alleviate symptoms of illness such as a special chair for back problems, or agreement on different working hours for a temporary period).
- 14.4 The head teacher/line manager is required to collect information for discussions with the employee and, if appropriate, their representative, as well as HR and Occupational Health. Although adequate record keeping is absolutely essential, it is not intended as a substitute for face-to-face discussions, but rather must be kept in addition to these meetings. All discussions and meetings should be noted and be made available to the employee and their representative.

## **15. Storage of Ill-Health Records**

- 15.1 Sickness absence records will be held confidentially at all times in accordance with the requirements of the Data Protection Act 1998. The head teacher/line manager will keep all documentation in the individual's personal file.



## **16 Employee Access to Information**

- 16.1 The Access to Medical Reports Act 1988 gives employees the right to see any report made by their GP/ Consultant to their employer. The Data Protection Act (DPA) 2018 gives employees the right to see any report made by the Occupational Health Advisor. Please note that this includes information sent via e-mail, held electronically or held in a manual filing system.
- 16.2 The Data Protection Act requires the school to follow best practice rules, which include:
- Providing access to information within one month.
  - Ensuring that such information is held securely.
  - Ensuring the information held is relevant, accurate, fit for the purpose it is to be used for and held for no longer than necessary.

If the school fails to meet any of these best practice rules, we can be prosecuted. The head teacher/line manager must also ensure that information written or emailed about an employee is factual and not libelous or defamatory in nature. For more information on this, refer to your HR contact.

## Sick Pay Scheme for Teachers

### 1. Leave of absence

This section covers entitlement to sick pay and sick leave and the conditions to be fulfilled for those entitlements.

### 2. Sick leave and pay

2.1 Provided the appropriate conditions are met, a teacher absent from duty because of illness (which includes injury or other disability) shall be entitled to receive in any one year sick pay as follows:-

During the first year of service	full pay for 25 working days and after completing four calendar months' service, half pay for 50 working days
During the second full year of service	pay for 50 working days and then half pay for 50 working days
During the third full year of service	pay for 75 working days and half pay for 75 working days
During fourth and subsequent years	full pay for 100 working days and half pay for 100 working days

For the purpose of the sick pay scheme, "service" includes all aggregated teaching service with one or more local education authorities.

2.2 Each employer has discretion to exceed the minimum entitlement for sick leave and should review the position of teachers at an early opportunity and before their entitlements to paid sick leave expire.

2.3 For the purpose of this scheme, "working days" means teaching and non-teaching days within "directed time", as specified under paragraph 40 of the School Teachers' Pay and Conditions Document.

### **3. Sick pay**

- 3.1 Sick pay shall include, where appropriate, Statutory Sick Pay and shall not exceed the full (ordinary) pay of the teacher under the contract of employment.

### **4. Sick Leave year**

- 4.1 For the purpose of calculating a teacher's entitlement during a year under paragraph 2, a year is deemed to begin on 1st April and end on 31st March of the following year. Where a teacher starts service after 1st April in any year, the full entitlement for that year will be applicable. Where a teacher is on sick leave on 31st March in any year, no new entitlements shall begin until the teacher has resumed duty and the period from April 1st until the return to duty is regarded as part of the preceding year's entitlement for the purpose of this scheme. When a teacher moves to another employer, any sick pay paid during the current year by the previous employer shall be taken into account in calculating the amount and duration of sick pay payable by the new employer.

### **5. Deductions from sick pay**

#### **5.1 Full pay**

The following deductions, subject to paragraphs 6.1 and 7 below, shall be made from sick pay where it equals full pay.

- (a) the amount of sickness and incapacity benefit receivable under the Social Security Act 1975-1994;
- (b) compensation payments under the Workmen's Compensation Acts where the right to compensation arises in respect of an accident sustained before July 5, 1948;
- (c) the dependency element (but not disability element) of any treatment allowance received from the Department of Social Security

#### **Half pay**

- 5.2 Where sick pay is less than full pay, deductions shall be made only so far as is necessary to ensure that sick pay together with benefits receivable in respect of insurance under the Social Security Acts 1975-1994 does not exceed full (ordinary) pay.

5.3 Deductions equivalent to those in paragraphs 5.1 and 5.2 above shall be on the basis that the teacher is eligible to receive such benefits, payments or allowances whether or not he or she takes the necessary steps to obtain them.

5.4 Deductions equivalent to those set out in paragraph 5.1 above shall be made from the sick pay of a teacher who is a married woman or a widow and has elected to pay reduced contributions under the terms of the Social Security Act 1975 and Social Security Contribution Regulations 1979, provided that, where a widow is in receipt of a widow's or widowed mother's allowance or widow's pension, regard should be paid in calculating the amount of sick pay only to such part of the national insurance benefit receivable as is in excess of the amount received by the teacher from the Department of Social Security in weeks of full normal employment.

## **6. Termination of employment during a period of sick leave**

6.1 In the event of a teacher exhausting in part or full his/her entitlements under paragraph 2.1 above and being given notice of the termination of his/her contract without returning to work on the ground of permanent incapacity or for some other reason related to the sickness absence, he/she shall be paid full salary for the notice period with normal deductions only.

## **7. School closure periods**

7.1 For the purpose of 2.1 above, two half school days shall be deemed to be equivalent to one working day. Whilst sickness during closure periods will not affect the period of a teacher's entitlements to sick leave under 2.1 above, it will be relevant so far as deduction of benefit is concerned. Thus the same deductions applicable to a teacher in respect of sickness on working days will be applicable in respect of sickness during a closure period.

7.2 The rate of sick pay applicable to a teacher in respect of sickness during the closure of a school is the rate applicable to him/her on the last day before the closure. Where a teacher, therefore, is ill immediately preceding a closure period and:

- he/she is on full sick pay
  - he/she shall continue on full sick pay, but the closure period is not counted against his/her entitlement under 2.1 above;
- he/she is on half sick pay
  - he/she shall continue on half sick pay, but the closure period is not counted against his/her entitlement
- he/she has exhausted his/her sick pay entitlement and is not receiving any pay
  - he/she shall continue to receive no pay.

- 7.3 Where a teacher is either on half pay or is not receiving pay he/she may be put back on full (ordinary) pay by the procedure in 7.4 below.
- 7.4 When a teacher is ill immediately preceding a closure of the school, and has exhausted his/her sick leave entitlement, or is on less than full pay, and recovers during the period of closure, such teacher shall be deemed, for the purpose of calculating the amount of salary due, to have returned to duty on the day he/she is authorised medically fit to do so by means of a doctor's statement obtained for that purpose, provided he/she actually returns to duty on the first day after the period of closure. Where a teacher in these circumstances does not return to duty on the first day after the period of closure he/she shall refund such sum as the employer at their discretion may decide.
- 7.5 If, during the period of closure of a school a teacher falls ill and becomes entitled to Statutory Sick Pay or becomes or would become (but for election to be excepted from liability to pay contributions) entitled to claim any of the benefits referred to in sub-paragraph 5.1 above, it shall be his/her duty to notify the employer thereof (in accordance with sub-paragraph 8.1 below as if the days of closure were working days) so that the employer may either pay Statutory Sick Pay (where appropriate) or make the appropriate deductions.

## **8. Conditions**

- 8.1 A teacher shall not be entitled to sick pay unless:
- (i) Notification is made to the employer as may be required, not later than the fourth working day of absence.
  - (ii) A doctor's statement is supplied not later than the eighth day of Absence.
  - (iii) Subsequent doctor's statements are submitted at the same intervals as they are required for D.S.S. (N.I.) purposes and on return to duty in those cases where the absence extends beyond the period covered by the initial statement and at similar intervals during a period of entitlement to Statutory Sick Pay.
  - (iv) In the case of prolonged or frequent absence, the teacher undertakes any examination that the employer may require by an approved medical practitioner nominated by them, subject to the provisions of the Access to Medical Reports Act 1988 where applicable. The cost of the examination shall not be borne by the teacher. The teacher's own doctor may be present at the examination at the teacher's request.

- (v) The teacher declares to the satisfaction of the employer his or her entitlement to benefits under the relevant Acts as well as any alteration in the entitlement to such benefits.

8.2 When a teacher enters hospital or similar institution a doctor's statement on entry or discharge shall be submitted in the place of periodic statements.

## **9. Absences arising from accidents, injury or assault at work**

9.1 In the case of absence due to accident, injury or assault, attested by an approved medical practitioner to have arisen out of and in the course of the teacher's employment, including attendance for instruction at physical training or other classes organised or approved by the employer or participation in any extra curricular or voluntary activity connected with the school, full pay shall in all cases be allowed, such pay being treated as sick pay for the purposes of paragraphs 3 to 7.5 above, subject to the production of self certificates and/or doctor's statements from the day of the accident, injury or assault up to the date of recovery, but not exceeding six calendar months.

9.2 After that maximum period of six months' full pay, in the event of the teacher not returning to duty he/she shall be entitled to normal sick leave and pay under the terms of paragraph 2.1 according to his/her length of service as prescribed by that paragraph.

9.3 Absence resulting from accidents, injuries or assaults referred to in sub-paragraph 9.1 shall not be reckoned against the teacher's entitlements under paragraph 2 above, though such absences are reckonable for entitlement to Statutory Sick Pay.

9.4 For the purpose of sub-paragraph 9.1 "absence" shall include more than one period of absence arising out of a single accident, injury or assault.

## **10. Contact with infectious diseases**

10.1 When the approved medical practitioner attests that there is evidence to show a reasonable probability that an absence was due to an infectious or contagious illness contracted directly in the course of the teacher's employment, full pay shall be allowed for such period of absence as may be authorised by the approved medical practitioner as being due to the illness, and such absence shall not be reckoned against the teacher's entitlement to sick leave under paragraph 2 above, though such absences are reckonable for entitlement to Statutory Sick Pay.

- 10.2 Where the absence is attested by the approved medical practitioner to be due to pulmonary tuberculosis and the teacher carries out an approved course of treatment, full salary shall be paid in respect of the first twelve calendar months of the period of absence after attestation and further full or half-pay shall be allowed at the discretion of the employer.
- 10.3 A teacher residing in a house in which some other person is suffering from an infectious disease shall at once notify the employer and the teacher shall, if required, take such precautions as may be prescribed, provided that if in the opinion of the approved medical practitioner it is considered inadvisable, notwithstanding such precautions, for such teacher to attend duty, full pay shall be allowed during any enforced absence from duty, such pay being sick pay for the purpose of paragraphs 3 to 7.5 above. This provision will also apply where, in the opinion of an approved medical practitioner, it is inadvisable for a teacher to attend duty for precautionary reasons due to infectious disease in the workplace. The period of the absence under this paragraph shall not be reckoned against the teacher's entitlement to sick leave under paragraph 2 above, though such absences are reckonable for entitlements to Statutory Sick Pay.

## **11 Absences caused by negligence**

- 11.1 If the absence of the teacher is occasioned by the actionable negligence of a third party in respect of which damages are recoverable, he/she shall advise the employer forthwith and the employer may require the teacher to refund a sum equal to the aggregate of sick pay paid to him/her during the period of disability of such part thereof as is deemed appropriate, but not exceeding the amount of the damages recovered. In the event of the claim for damages being settled on a proportionate basis, the employer will require full details and will determine the actual proportion of sick pay to be refunded by the teacher.
- 11.2 If the employer, in consultation with the governing body as appropriate, are of the opinion that the disability which has occasioned the teacher's absence from work is due to his/her misconduct, or if the teacher has failed to observe the conditions of this scheme, or has been guilty of conduct prejudicial to his/her recovery, the payment of any sick pay under the scheme may be suspended by the employer. In any such case the employer shall inform the teacher of the grounds upon which the payment of sick pay has been suspended. He/she will then be given the opportunity to submit his/her observations and to appear (accompanied by a representative if he/she so wishes) before the employer, or governing body, as appropriate. The employer, in consultation with the governing body as appropriate, will thereupon decide whether the disability was due to the conduct of the teacher or whether he/she has failed without

reasonable cause to observe the conditions of the scheme, or has been guilty of conduct prejudicial to his/her recovery, in which case the teacher shall forfeit his/her right to any payment or further payment of sick pay in respect of that period of absence.

- 11.3 Sick pay shall not be paid in a case of accident due to active participation in sport as a profession unless the employer decides otherwise, though Statutory Sick Pay may be payable.



**APPENDIX 2**

**Sick Pay Scheme for Employees on Bucks Pay and Employment conditions**

1. Employees' entitlement to pay during periods of sickness absence is usually composed of two elements; Statutory Sick Pay (SSP) and Contractual Sick Pay (CSP). The amount of SSP included in an employee's gross pay will be 'topped up' by any sickness payment that an employee is entitled to under the Council's Contractual Sick Pay scheme. Both schemes are taxable and employees will have to pay National Insurance and Pension contributions on these.
2. The Sick Pay employees receive will be based on a combination of the individual's entitlement to Statutory Sick Pay and Contractual Sick Pay in accordance with the individual's Contract of Employment. The length of time an employee receives CSP is based on their length of service (see below), taking into account any sickness they have had in the 12 months prior to their first day of absence. An employee's entitlement to sick pay starts from the first day of absence; therefore if their service increases whilst they are absent, they are not entitled to further sick pay. For this purpose, length of service means continuous service in local government and related employment.

	Full Pay	Half Pay
During 1 <sup>st</sup> year of service	1 month	+ 2 months (after completing four months' service)
During 2 <sup>nd</sup> year of service	2 months	+ 2 months
During 3 <sup>rd</sup> year of service	4 months	+ 4 months
During 4 <sup>th</sup> year of service	5 months	+ 5 months
After 5 years of service	6 months	+ 6 months

3. When an employee is off sick they will receive their entitlements to SSP/ CSP combined in such a way that at no time will their total pay when off work exceed their normal pay when at work. In exceptional circumstances where an employee has exhausted their entitlement to sick leave on either full or half pay, an extension may be considered.

4. Head teacher/line managers should operate a bring forward system for the review of sick pay in all cases of long-term sickness absence so that they may advise the individual when a reduction in sick pay is to occur. This also allows early consideration to be given to the possibility of extension of sick pay (see the toolkit for further information).

## **5. Qualifying days – SSP**

- 5.1 SSP calculations operate over the full seven-calendar day week. It is therefore necessary for the head teacher/line manager to collect full details of any period of sickness from their employee. This includes weekends, public holidays, annual leave, or any other day that they would not be required to work, so that calculations of SSP can be properly made and the school has full and accurate records of employees' sickness absence.

## **6. Absence caused by Third Party negligence**

- 6.1 Where an absence is caused by third party negligence and the employee successfully recovers damages from the third party, the school reserves the right to recoup any contractual sick payments that have been made.