Absence Management Procedures

Approved by the Headteacher and Governing Body on 21.09.26
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Introduction

These procedures are intended to establish a framework which can deal with matters of capability associated with ill health and absence for other reasons, and apply to all staff. These procedures are designed to ensure that the handling of these issues is undertaken in a fair and reasonable manner and one that meets with the following legislative requirements:

- Health and Safety at Work Act 1974
- Data Protection Act
- Access to Medical Records Act 1988
- Access to Health Records Act 1990
- Teacher Regulations 1993
- Disability Discrimination Act 1995
- School Standards and Framework Act 1998
- Employment Relations Act 2004

Short Term Absence

Triggers

When a review of an employee's sickness record reveals a level of absence or a pattern of absence (e.g. regular days of the week or particular times of the year) it is cause for concern; this can be used as a trigger point for discussion with the employee concerned. This discussion could be used

to facilitate the offer of support such as occupational health assessment, counselling or other welfare services. An investigative role should be adopted if help and advice offered to the employee has had no effect.

Formal Procedure - First Stage

If, following the review by the Headteacher, an employee has been identified as having a level, frequency or pattern of absence which gives cause for concern s/he should be invited to a counselling interview with the Headteacher (or other designated manager). The employee may be accompanied at this counselling interview, by their association/trade union representative or a colleague. The purpose of the meeting will be to:

- explain concern at the current absence level.
- explore the reasons for it.
- find ways to resolve any problems that might improve attendance and to identify potential areas of support and assistance.

At this stage emphasis should be on counselling and support. At the end of the interview the Headteacher should summarise the main points discussed including:

- concern about the unsatisfactory level of absence and the need for improvement;
- the action points that have been agreed including areas of assistance and support;
- the need for the employee's attendance to be monitored and for any further meetings to be scheduled.

A record of the interview and agreed outcome will be kept, indicating the employee's responses and any agreed areas of action. A copy of the record of the meeting should be given to the employee. The employee may record his or her disagreement with it, in whole or in part, and any such note of dissent may be taken into account at any subsequent stage.

Second Stage

An employee who has not shown sufficient improvement in attendance following the preliminary interview, or whose attendance has deteriorated again following some initial improvement will be required to attend a formal interview.

Notification of the meeting should be given in writing detailing the date, time and place of the meeting, the reason for the meeting and a reminder of the employee's rights to be accompanied. The purpose of the meeting will be to:

- explore why the absence level continues to be unsatisfactory and the reasons for it;
- explain concern at the absence level;
- offer any further help or guidance;
- seek a commitment, where appropriate, to improve attendance by the employee.

Consideration may be given to referral for specialist advice from the School's Occupational Health Physician. This may help in determining whether there is an underlying medical condition which requires support and understanding from the school, and whether or not the attendance record is likely to improve if the employee continues in their present job.

A record of the interview should be kept, including the employee's responses and any agreed areas of support and assistance.

The Headteacher should once again stress the points as raised in the first stage interview i.e. that the level of absence remains unsatisfactory, the level of improvement required and the continued need for monitoring and review in a further 3 working months.

In addition, however, the Headteacher should inform the employee that:

- unless there is a significant improvement their job may be at risk;
- certification from the first day of absence will be required

A letter confirming the above points should be sent to the employee together with a record of the interview. If the employee's attendance record improves following this stage, the Headteacher will write to the employee and inform him/her that the improvement is noted, that the improvement should be maintained and that attendance will continue to be monitored. The consequences of deterioration in attendance levels should also be stated.

Third Stage

An employee who has not shown sufficient improvement in attendance following the second stage interview or whose attendance, following improvement, deteriorates again within two years of the second stage interview, will be required to attend a formal third stage interview.

Notification of the meeting should be in writing giving the date, time and place of the meeting, the reason for the meeting and a reminder of the employee's rights of accompaniment. The purpose of the meeting will be to:

- explore why the absence level continues to be unsatisfactory and the reasons for it;
- explain continued concern at that absence level;
- seek a final commitment, where appropriate, to improve attendance by the employee.

During the interview consideration should again be given to a possible referral to the School's Occupational Health Physician. A detailed record of the interview should be kept including the employee's responses and any agreed action plans.

The Headteacher should re-confirm the points raised at the second stage i.e. that the level of absence remains unsatisfactory, that a significant level of improvement is required and that the absence will continue to be monitored and a further review will take place every 3 working months over a maximum period of twelve months.

In addition, however, the Headteacher should inform the employee that:

- a failure to make a significant improvement may result in the termination of his/her employment;
- certification from the first day of absence will still be required.

A letter confirming the above should be sent to the employee with a record of the interview. If an employee's record improves following this stage, a letter should be sent to confirm this. The letter should remind the employee that his/her attendance will continue to be monitored and failure to maintain the improvement may result in the termination of his/her employment.

Fourth Stage

An employee who has not shown sufficient improvement in attendance following the third stage interview or whose attendance, following improvement, deteriorates again within two years of the third stage interview, will be required to attend a formal fourth stage interview.

Notification of the meeting should be in writing giving the date, time and place of the meeting, the reason for the meeting and a reminder of the employee's rights of representation. The purpose of the interview will be:

- to inform the employee of his/her attendance record and that it shows insufficient improvement;
- to explore the reasons for lack of improvement;
- if no acceptable reason is given, to recommend termination of employment to the Governors' F&GP Committee

During the interview a full discussion of the situation should be held. If no satisfactory reason can be determined, the employee should be advised that the attendance level remains unsatisfactory and that a recommendation will be put to the F & GP Committee to terminate his/her employment subject to appropriate notice.

If the reasons given are acceptable the employee must be advised that their attendance will continue to be monitored, and should be improved over the next 3 working months.

Long Term Sickness

Under The Education (Teachers' Qualifications and Health Standards) (England) Regulations 1999 (Statutory Instrument 1999 No. 2166).

A person in relevant employment shall not continue in that employment if, having regard to any duty of the employer under Part II of the Disability Discrimination Act 1995, he/she does not have the health and mental and physical capacity for that employment.

For the purposes of this regulation, where it appears to his/her employers that a person may no longer have the health or mental or physical capacity for his employment -

- they shall afford him/her an opportunity to submit medical evidence and make representations to them;
- they shall consider such evidence and representations and any other medical evidence available to them, including such evidence which has been furnished in confidence on the grounds that it would not be in the best interests of the person concerned to see it;
- they may require him/her, or at his request shall arrange for him/her, to submit him/herself for examination by a duly qualified medical practitioner appointed by them and, if without good cause he/she fails to submit him/herself for such examination or refuses to make available medical evidence or information sought by the medical practitioner, they may reach a conclusion in the matter, including a conclusion that he/she no longer has the health or mental or physical capacity for his/her employment, on such evidence and information as is available to them, notwithstanding that further medical evidence may be desirable.

At any time before such medical examination as is referred to above, the employers or the person him/herself may submit to the appointed medical practitioner a statement containing evidence or other matter relevant to the examination: and the examination may be attended by any duly qualified medical practitioner appointed for the purpose by the person being examined.

The employee will be given the opportunity under the Access to Medical Reports Act 1988 and the Access to Health Records Act 1990 to see any report to be submitted by their medical adviser to the Occupational Health physician. (However, the employee's medical adviser is not obliged to let them see those parts of the medical report that s/he believes would be likely to cause serious harm to their physical or mental health).

Where ill health is the reason for absences, employers must bear in mind the provisions of the Disability Discrimination Act 1995. The employee's illness may fall within the definition of a disability under the Act and advice should be sought in such cases.

For the purposes of the Act a person has a disability if he or she has a 'physical or mental impairment which has a substantial and long term adverse effect on her/his ability to carry out

normal day to day activities.' The effect of impairment is long term if it has lasted, or is likely to last, at least twelve months.

Capability Review Meeting

In the event of a medical report indicating that medical factors will inhibit the effective performance of the duties required of the post, the Headteacher (or his nominee) should, as soon as is practicable, meet with the employee. The employee may be accompanied by their association/trade union representative or a colleague. The purpose of the meeting will be to:

- discuss alternative employment within the school. It should be made clear to the employee that there may be implications for salary/ hours of employment/ conditions of service/ pension benefits. If suitable alternative employment is identified, the Occupational Health Physician will be asked to indicate whether the employee is fit to carry out the duties of the post.
- consult with the employee about the medical advice, length of time covered by the prognosis and, where appropriate, to investigate the feasibility of any reasonable adjustments being made to the duties of the post as required by the Disability Discrimination Act to enable a return to work or to a suitable alternative position.
- if there is a need, in the light of the employee's comments, for a further medical referral, for example from the employee's own GP or independent medical specialist, or for some alternative course of action.
- consider the options and opinions of the employee and the employment implications of the medical report in the context of its effects on the operation of the school e.g. can the school reasonably be expected to leave the employee's post open indefinitely and what are the operational difficulties/ implications.

Only when all other alternatives have been considered, and on medical advice offered, should consideration be given to termination of the employee's contract of employment. The requirement is for a reasonable review of the circumstances and the Headteacher will need to establish that the employee's absence is having an unsatisfactory effect on the operation of the school, and that this cannot be allowed to continue. The governors would be responsible for ensuring that the decision is one taken on reasonable grounds and is fair.

A decision taken to dismiss in these circumstances is taken in the light of all the available medical evidence and is by no means an automatic decision. Consultation and discussion are of vital importance.

The purpose of the capability review meeting is to consider the continued employment of the member of staff concerned and should not be treated as a disciplinary hearing.

In accordance with the School Standards and Framework Act 1998 the employee should be advised of his/her right to be present at any meeting of governors convened to consider the future of his/her employment, his/her right to make representations at that meeting and his / her right of appeal against any decision taken regarding his/her employment.

The employee has the right to attend and/or be accompanied by their association/trade union representative or a colleague at any meeting convened under these procedures.

Where a matter is to be referred to the F&GP Sub Committee and the governing body is unable to meet the requirement for three governors to be present, the Staff Dismissal Committee may comprise two governors.

An appeal against a decision by the F&GP Sub Committee to dismiss shall be referred to the Dismissal Appeals Committee, comprising no fewer than three governors who had not taken part in the earlier decision, unless the governing body have determined that the Staff Dismissal Committee will comprise two governors, in which case the Dismissal Appeal Committee will have to be at least two governors.

Dismissal Based on Permanent ill Health

If the Occupational Health physician considers the employee permanently unfit for employment, and the employee's own medical advisers agree with this opinion, the Principal or his/her nominee, may initiate procedures to terminate the contract of employment, without seeking further medical advice.

If the Occupational Health physician considers the employee permanently unfit for employment, but this opinion is not shared by the employee and his/her medical advisers, then the employee

will have the right of appeal against the medical decision by obtaining an opinion from an independent medical consultant.

If the original decision is upheld, then the employee will be advised that a recommendation will be made to his/her governing body to consider a dismissal of the contract. The employee will further be advised to apply for pension benefits.

Dismissal based on Capability

Procedure at the Hearing of the Committee of the Governing Body

The Headteacher shall prepare a written statement giving full details of the reason for the proposed termination of the contract, including any witness statements that will be relied upon to support the recommendations and shall provide a copy of the written statement(s) to the employee.

- The Headteacher shall give written notification of the date, time and place of the hearing to the employee at least 5 working days before the meeting and shall include with that notification any documentation referred to above. At the same time the Headteacher will identify any witnesses who may appear and give evidence orally.
- The employee shall be granted the opportunity to make representation, including oral representations, before any decision is taken to terminate their contract of employment.
- The employee may submit any documents concerning the matter. These should be made available to the Clerk to the Governors before the date of the meeting so that they may be circulated with the documents referred to above.

The Headteacher/other appropriate person shall present the report to the Committee of the governing body and shall be entitled to call witnesses as necessary.

Appeals Procedure

Notice of any appeal against a dismissal under this procedure must be given to the Clerk of the Governors by the employee within five working days of the receipt by the employee of written confirmation of the governors' decision.