

Managing Sickness Absence Policy and Procedure

Policy Date: 2 December 2013

Version Date: 27 June 2016

For further advice and guidance in relation to this policy, please contact HR Direct at hrdirect-mailbox@devon.gov.uk or on 01392 385555.

This policy is subject to copyright and must not be published on any school/academy website that can be accessed by the public.

CONTENTS

| | |
|---|----------|
| PROCEDURE FLOW CHART | 4 |
| POLICY AND PRINCIPLES | |
| 1. Purpose | 5 |
| 2. Application and Exclusions | 5 |
| 3. Determining Who will Hear the Matter | 5 |
| 3.1 Absence Meetings | 5 |
| 3.2 Formal Absence Hearings | 5 |
| 4. Time Limits | 6 |
| 5. Being Accompanied | 6 |
| 6. Non Attendance | 6 |
| 7. Sick Pay Scheme – NJC (DCC employees and support staff in schools) | 6 |
| 8. Sick Pay Scheme – Teachers | 7 |
| 8.1 Absences arising from accidents, injury or assault at work - Teachers | 7 |
| 9. Trigger Points – Sickness Absence | 8 |
| 10. Employees with a Disability | 8 |
| 11. Absences that should be recorded separately | 9 |
| 12. Specific long term illness | 9 |
| PROCEDURE | |
| 13. Reporting Sickness Absence | 9 |
| 13.1 Absences for more than seven days | 10 |
| 13.2 Fit Notes/Occupational Health Advice | 11 |
| 14. First Absence Meeting | 11 |
| 15. Second Absence Meeting | 12 |
| 16. Formal Absence Hearing | 12 |
| 17. Appeal | 14 |
| ADDITIONAL INFORMATION | |
| 18. HR Advice | 15 |
| 19. Employee Responsibilities | 15 |
| 20. Management Responsibilities | 15 |
| 21. Medical Suspension | 15 |
| 22. Accident, Injury or Incident at Work | 16 |
| 23. Recording of Information | 16 |
| 24. Raising a Grievance during the Application of this Policy | 16 |
| 25. Professional Standards/Statutory/Registration Requirements | 16 |
| 26. Employees Attending Work but Unable to Carry Out Aspects of their Job | 16 |
| 27. Confidentiality | 17 |
| 28. Pensions | 17 |
| 29. Redeployment | 17 |
| 30. Support for Employees | 17 |
| INFORMATION FOR SCHOOLS ONLY | |
| 31. Adopting the Policy | 17 |
| 32. Consultation | 17 |

Managing Sickness Absence Policy Version date: 27 June 2016

If this document has been printed please note that it may not be the most up-to-date version.

For the current version please refer to [The Source](#)

© Devon County Council 2014. All rights reserved. No part of this publication may be reproduced, stored in a retrieval system or transmitted in any form or by any means, electronic, mechanical, photocopying, recording or otherwise without the prior written permission of the copyright owner

| | |
|---|-----------|
| 33. Delegated Responsibilities | 18 |
| 34. Issuing/Retracting Notice of Dismissal | 18 |
| 35. Costs | 18 |
| 36. Devon County Council Representation where Dismissal may be Considered | 18 |
| POLICY HISTORY | 19 |

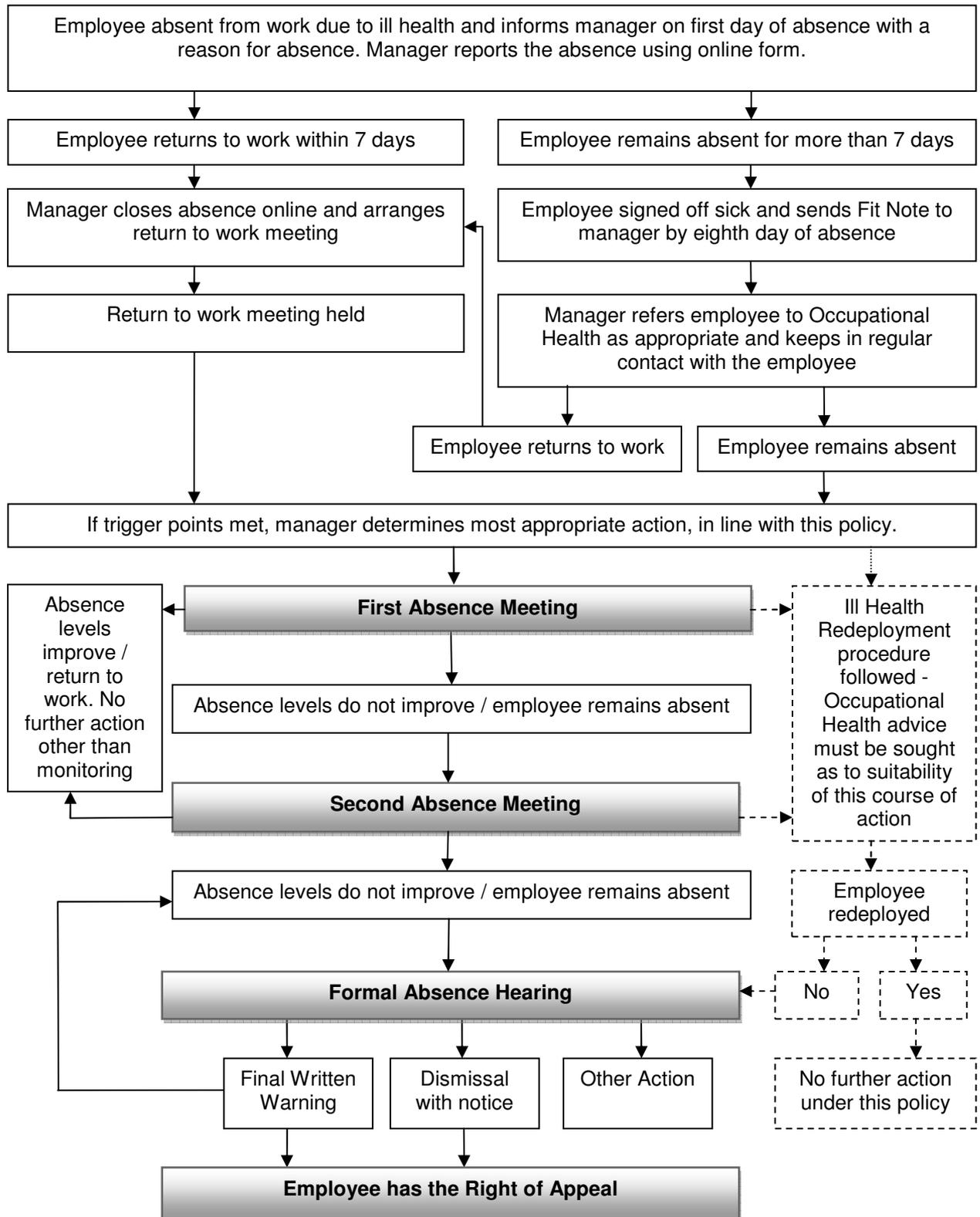
Managing Sickness Absence Policy Version date: 27 June 2016

If this document has been printed please note that it may not be the most up-to-date version.

For the current version please refer to [The Source](#)

© Devon County Council 2014. All rights reserved. No part of this publication may be reproduced, stored in a retrieval system or transmitted in any form or by any means, electronic, mechanical, photocopying, recording or otherwise without the prior written permission of the copyright owner

PROCEDURE FLOW CHART



Managing Sickness Absence Policy Version date: 27 June 2016

If this document has been printed please note that it may not be the most up-to-date version.

For the current version please refer to [The Source](#)

© Devon County Council 2014. All rights reserved. No part of this publication may be reproduced, stored in a retrieval system or transmitted in any form or by any means, electronic, mechanical, photocopying, recording or otherwise without the prior written permission of the copyright owner

POLICY AND PRINCIPLES

1. Purpose

This policy is for managing employees' absence from work due to ill health and/or where an employee does not attend work regularly and reliably due to ill health.

2. Application and Exclusions

This policy is based on good practice to ensure a consistent and effective approach. The application of this policy will be fair, equitable, objective and will not discriminate either directly or indirectly on the grounds of an employee's gender, age, disability, gender re-assignment, marital or civil partnership status, pregnancy, maternity status, race (including colour, nationality and ethnic or national origins), religion or belief, sex and sexual orientation.

This policy:

- applies to all employees engaged under Devon County Council (DCC) statement of particulars including those contracted to a school (where the policy has been adopted)
- can be adopted by Voluntary Aided/Foundation/Trust/Academy schools
- does not apply to those employed by other organisations, employed on other organisations' terms and conditions of employment which include a contractual absence policy, casual workers or volunteers
- This Policy Applies to Chief Officers and Heads of Service however any action that could lead to a formal warning or where there are circumstances which may result in a proposal for dismissal of a Chief Officer and Head of Service must be managed under the Disciplinary and Dismissal Policy for Chief Officers and Heads of Service. Therefore if a Formal Absence Hearing is being considered the matter must be referred to and dealt with under the Disciplinary and Dismissal Policy for Chief Officers and Heads of Service. Where any disparity exists between the two policies the Disciplinary and Dismissal Policy for Chief Officers and Heads of Service will take precedent.

3. Determining Who will Hear the Matter

3.1 Absence Meetings

Where there are concerns about an employee's absence(s) due to ill health and action is to be taken in accordance with this policy, the employee's manager should usually deal with the matter. In schools, it may be the Headteacher that carries out this role. Where the concerns relate to the Headteacher, the Chair of Governors will manage the matter.

The Manager/Headteacher (Chair of Governors) will be responsible for arranging the meetings, writing to the employee and arranging for a suitable person to attend to take notes.

Managing Sickness Absence Policy Version date: 27 June 2016

If this document has been printed please note that it may not be the most up-to-date version.

For the current version please refer to [The Source](#)

© Devon County Council 2014. All rights reserved. No part of this publication may be reproduced, stored in a retrieval system or transmitted in any form or by any means, electronic, mechanical, photocopying, recording or otherwise without the prior written permission of the copyright owner

3.2 Formal Absence Hearing

Formal Absence Hearings must be conducted and chaired by those that have delegated authority to dismiss in DCC. In schools, this is likely to be the First Committee of Governors or the Headteacher, in accordance with their delegated responsibilities.

The Chair will be responsible for arranging the hearing, writing to the employee and arranging for a suitable person to attend to take notes. In schools, the Clerk to Governors or nominated representative will normally make these arrangements.

4. Time Limits

The time limits included in this policy may be varied by mutual agreement. The policy makes reference to a number of 'days' within which certain actions/events are to occur. A 'day' is defined as any Monday to Friday excluding public holidays as defined by ACAS.

5. Being Accompanied

The Employment Relations Act 1999 determines that an employee has a statutory right to request to be accompanied at any disciplinary or grievance hearing. To invoke that right an employee must make a reasonable request to the employer to be accompanied by either:

- a paid official from a recognised trade union/professional association
- an official of a trade union/professional association whom the union/professional association has reasonably certified in writing as having experience of, or as having received training in acting as an employee's companion at disciplinary or grievance hearings
- an appropriate work colleague.

Friends/family members are not permitted unless they fall under the above criteria and it is agreed as appropriate. It would not normally be reasonable for an employee to be accompanied by a work colleague or trade union/professional association representative whose presence would prejudice the hearing and/or was from a remote geographical location if someone suitable and willing was available more locally.

If an employee's chosen representative is not available on the day proposed for the hearing, the employee can propose an alternative date within the following five days of the original proposed date.

6. Non Attendance

If an employee fails to attend a meeting or hearing through circumstances beyond their control, an alternative time and date may be offered. Alternatively they may submit a written statement or nominate a representative to attend on their behalf.

Where an employee is persistently unable or unwilling to attend the meeting/hearing without good cause, it will proceed in their absence and a decision based on the evidence available will be made.

Managing Sickness Absence Policy Version date: 27 June 2016

If this document has been printed please note that it may not be the most up-to-date version.

For the current version please refer to [The Source](#)

© Devon County Council 2014. All rights reserved. No part of this publication may be reproduced, stored in a retrieval system or transmitted in any form or by any means, electronic, mechanical, photocopying, recording or otherwise without the prior written permission of the copyright owner

7. Sick Pay Scheme – NJC (DCC employees and support staff in schools)

Conditions for Local Government employees, including those in schools, are contained in the NJC for Local Government Services National Agreement on Pay and Conditions of Service (commonly known as the 'Green Book'). This sets out the eligibility for sick leave and conditions where sick pay is payable. To receive sick pay, an employee must meet the conditions and eligibility detailed in the Green Book and in addition must:

- notify their manager on the first day of absence
- provide a doctor's Statement of Fitness for Work (Fit Note) by the eighth day for absences over seven consecutive days
- provide consecutive Fit Notes to cover the whole period of absence prior to the previous Fit Note lapsing, where there is a continuing sickness absence
- undertake any examination that DCC and/or school may require by an approved medical practitioner nominated by DCC and/or school, where prolonged or frequent absences occur.

Sick pay may not be paid if the manager has reason to believe that the absence of the employee is due to:

- an abuse of the sickness scheme
- the employee's own misconduct or neglect
- active participation in professional sport
- working for another employer
- non-compliance with the conditions and eligibility details referred to above
- conduct that is prejudicial to an employee's recovery.

In these circumstances, sick pay will be suspended and the Disciplinary Policy and Procedure will be followed.

8. Sick Pay Scheme – Teachers

To receive sick pay, a teacher must meet the conditions and eligibility detailed in the Conditions of Service for School Teachers in England and Wales' (commonly known as the 'Burgundy Book') and in addition, must:

- notify the designated manager on the first day of absence
- provide a doctor's Fit Note by the eighth day for absences over seven consecutive days
- provide consecutive Fit Notes to cover the whole period of absence prior to the previous Fit Note lapsing, where there is a continuing sickness absence, even if this covers holidays or school closure
- undertake any examination that the manager may require by an approved medical practitioner nominated by the manager, where prolonged or frequent absences occur
- declare to the school or DCC for centrally employed teachers, any entitlement or alteration to any benefits received.

Sick pay may not be paid if the manager has reason to believe that the absence of the teacher is due to:

- misconduct
- non compliance with the conditions and eligibility details referred to above

Managing Sickness Absence Policy Version date: 27 June 2016

If this document has been printed please note that it may not be the most up-to-date version.

For the current version please refer to [The Source](#)

© Devon County Council 2014. All rights reserved. No part of this publication may be reproduced, stored in a retrieval system or transmitted in any form or by any means, electronic, mechanical, photocopying, recording or otherwise without the prior written permission of the copyright owner

- conduct that is prejudicial to recovery
- active participation in sport as a professional, unless the school decides otherwise.

In these circumstances, sick pay will be suspended and the Disciplinary Policy will be followed.

8.1 Absences arising from accidents, injury or assault at work – Teachers

In the case of absence due to an accident, injury or assault which is attested by an approved medical practitioner to have arisen out of and in the course of the teacher’s employment, further provisions may apply which are detailed in clause 9 of the Burgundy Book.

9. Trigger Points – Sickness Absence

Managers should ensure an accurate record is kept of absence from work due to ill health and the trigger points below should be used to determine when absence from work is beginning to have an impact either on the service/school and/or colleagues. All absences due to ill health (including pre-arranged absences for planned procedures) are counted towards trigger points.

| | |
|------------------------|--|
| Trigger Point 1 | 3 or more single days of absence and/or 3 periods of absence in any rolling 3 month period |
| Trigger Point 2 | 6 or more single days of absence and/or 6 periods of absence in any rolling 12 month period |
| Trigger Point 3 | 8 or more days of absence in any rolling 12 month period |
| Trigger Point 4 | A discernible pattern e.g. regular absence on a particular day or certain weeks during the year (School holidays/term time, Easter break, Christmas) |

10. Employees with a Disability

The Equality Act 2010 (‘The Act’) gives employees with a disability certain legal rights. The onus of proof is on the employee to show that they meet the requirements of section 6 of the Act which looks at whether an employee has a physical or mental impairment that affects the employee’s ability to carry out normal day-to-day activities and whether the adverse effect is substantial and long term. It should be noted however, that some employees are covered by the provisions of the Act from the point of diagnosis when they have a progressive condition such as HIV, cancer or multiple sclerosis.

Employees are not covered by the Act if any impairment is as a result of an addiction e.g. alcohol, nicotine or any other substance (unless originally prescribed). However, there may be underlying health issues resulting from addiction that may lead to the employee being covered by the Act e.g. liver disease, lung cancer.

Managing Sickness Absence Policy Version date: 27 June 2016

If this document has been printed please note that it may not be the most up-to-date version.

For the current version please refer to [The Source](#)

© Devon County Council 2014. All rights reserved. No part of this publication may be reproduced, stored in a retrieval system or transmitted in any form or by any means, electronic, mechanical, photocopying, recording or otherwise without the prior written permission of the copyright owner

Where an employee is covered by the Act, managers have a legal responsibility to consider making 'reasonable adjustments' that will assist the employee to reduce and minimise absence and remain at work carrying out the job they were appointed to. It is important to emphasise that adjustments need to be *reasonable* given the circumstances. This does not mean that the manager needs to find completely different work for the employee unless it is reasonable to do so in the circumstances.

Managers need to manage the absences of employees covered by the Act appropriately and can seek guidance from their Occupational Health provider as to what adjustments to the work/workplace could be considered. Managers will determine whether suggested adjustments are reasonable given the circumstances and may seek advice from HR Direct.

Any absence from work by an employee with a disability which is not connected to the disability should be dealt with in accordance with this policy in the usual way. There will be some cases where the employee's disability prevents them from regularly attending work even though all reasonable adjustments have been put in place. Certain conditions apply if the employee is not attending work due to the disability, covered by the Act, of someone the employee cares for. Further advice should be sought from HR Direct.

11. Absences that Should be Recorded Separately

In the following circumstances, the manager should determine whether it can be justified that these absences should be included in assessing the meeting of trigger points e.g. where reasonable adjustments have been made but absence levels are still unsatisfactory:

- any pregnancy related absence (note: if pregnancy related absence occurs during the four weeks prior to the expected week of childbirth [EWC] maternity leave is automatically triggered)
- absence that arises as a consequence of the employee's disability covered by the Act
- absences resulting from an accepted accident at work unless resulting from the employee's negligence or carelessness at work.

12. Specific Long Term, Serious or Life Threatening Illness

At the Head of Service's/Headteacher's (Chair of Governors') discretion, the stages and outcomes of this policy may be modified for employees who have a specific long-term illness. Discretion may also be used to allow the employee to be accompanied by their partner or support worker in a supportive role if it aids the managing absence process.

PROCEDURE

13. Reporting Sickness Absence

On the first day of absence, the employee must contact their manager no later than thirty minutes after the normal start time (unless it is extremely extraordinary circumstances) to:

- confirm the reason for not attending work

Managing Sickness Absence Policy Version date: 27 June 2016

If this document has been printed please note that it may not be the most up-to-date version.

For the current version please refer to [The Source](#)

© Devon County Council 2014. All rights reserved. No part of this publication may be reproduced, stored in a retrieval system or transmitted in any form or by any means, electronic, mechanical, photocopying, recording or otherwise without the prior written permission of the copyright owner

- advise what date they were unable to attend work (even if it was not a normal working day)
- advise the likely return date, where possible.

In situations where the employee's manager is unavailable, the employee must contact another suitable person in the workplace to confirm the points listed above.

The employee should attempt to personally telephone their manager. In exceptional circumstances and only if the employee is unable to telephone personally, they should arrange for someone else to telephone their manager on their behalf to explain why they cannot attend work as well as why they could not speak directly to their manager. Text messages, emails or messages left with colleagues will only be accepted where local agreements to do so allow.

Where an employee fails to report for work and/or maintain appropriate contact during a period of sick leave this may be considered as the employee being absent without leave. In these circumstances, action under the Disciplinary Policy and Procedure may be considered once efforts to contact the employee have been exhausted.

Where the manager has concerns about the regularity of an employee's absence or the reasons for the absence given, the employee may be instructed to submit a Fit Note from the first day of any absence. The cost of the Fit Note will be met by the school (for school employees) or DCC (other DCC employees).

The manager is required to:

- record the first day of absence even if that was not a working day for the employee, ensuring that disability and maternity related absences are recorded appropriately (see Section 11)
- review the employee's absence against the trigger points and determine whether any action should be taken
- consider any health, safety or wellbeing issues associated with the absence
- where the absence is due to an accident or injury that occurred at work, record and investigate the incident as required in line with the Injury Allowance Scheme
- ensure that an appropriate risk assessment is completed for any absence where the work environment may impact on the employee's well-being and consider what action may be taken.

Timely and accurate recording of absence is essential to ensure correct payment of contractual and/or statutory sick pay where applicable.

13.1. Absences for More than Seven Days

The employee is required to:

- provide their manager with a Fit Note from their doctor covering all of the days from the eighth day of the absence through to the last

Managing Sickness Absence Policy Version date: 27 June 2016

If this document has been printed please note that it may not be the most up-to-date version.

For the current version please refer to [The Source](#)

© Devon County Council 2014. All rights reserved. No part of this publication may be reproduced, stored in a retrieval system or transmitted in any form or by any means, electronic, mechanical, photocopying, recording or otherwise without the prior written permission of the copyright owner

working day before they return to work, regardless of whether these are their working days or not.

- discuss with the manager any recommendations in the Fit Note that would enable them to return to work.
- attend any appointments made as a result of a referral to Occupational Health.
- maintain contact with and keep their manager informed about their progress and the likely return to work date; and attend any meetings if required to do so.

The manager is required to:

- consider any recommendations in the Fit Note and establish whether these are reasonable, taking advice where necessary
- maintain an appropriate level of contact with the employee, meeting as necessary to ensure that the employee's absence is managed and that appropriate support to help them return to work is available.
- refer the employee to Occupational Health as appropriate
- refer to the trigger points and determine appropriate course of action in accordance with this policy
- keep a written record of all actions taken

13.2. Fit Notes/Occupational Health Advice

Some Fit notes and/or Occupational Health reports may suggest adjustments that could be introduced to assist the employee to return to work. The manager will need to determine if the suggested adjustments are 'reasonable' and can be accommodated in the workplace given the nature of the work carried out by the employee. If the suggested adjustments cannot be accommodated, the employee remains unfit for work and should continue to provide Fit notes during the absence.

14. First Absence Meeting

When a trigger point has been reached, the manager/Headteacher (Chair of Governors) will convene a First Absence Meeting with the employee. The employee may be back at work or still absent at this time. The purpose of the meeting is for the manager to:

- clarify the reason(s) the employee was absent from work or is still absent from work
- ensure the criteria under the relevant sick pay scheme have been met, where the employee is eligible
- ensure that the employee and manager have been keeping in contact
- if the employee is still absent, determine the likely date for a return to work
- discuss what steps the employee has taken to reduce their level of absence
- discuss the impact the employee's absence has on the service / colleagues and what arrangements might be put in place to cover work etc
- consider a referral to Occupational Health. This may include a referral to seek advice on the suitability of ill health redeployment

Managing Sickness Absence Policy Version date: 27 June 2016

If this document has been printed please note that it may not be the most up-to-date version.

For the current version please refer to [The Source](#)

© Devon County Council 2014. All rights reserved. No part of this publication may be reproduced, stored in a retrieval system or transmitted in any form or by any means, electronic, mechanical, photocopying, recording or otherwise without the prior written permission of the copyright owner

- set targets for reducing absence levels
- if it is determined that the employee has a disability covered by the Act (see Section 10 and 11), agree whether any reasonable adjustments could be considered or reviewed to reduce absence
- discuss whether the employee could access any support through specialist groups e.g. counselling
- at the discretion of the manager (after review of the employee's normal attendance pattern) arrange a date within the following 6-12 weeks for a Second Absence Meeting.

15. Second Absence Meeting

The Second Absence Meeting will be convened by the manager on the date agreed at the First Absence Meeting. If the employee's absence(s) has reduced, there may be no need for the Second Absence Meeting to go ahead if it was pre-arranged. The agenda followed at the Second Absence Meeting will be similar to that followed at the First Absence Meeting but in addition may also include the following points:

- seek further advice from Occupational Health. This may include a referral to seek advice on the suitability of ill health redeployment
- seek advice on whether Ill Health Retirement should be considered
- determine what has prevented the employee from reducing absence levels and if possible, determine likely future absence
- if the level of absence has not improved between First and Second Absence meeting, advise that the circumstances concerning absence will be referred to a Formal Absence Hearing at which time the appropriateness of continuing with the employee's contract of employment will be considered
- where it is determined the employee has a disability covered by the Act, consider whether any suggested adjustments are reasonable or review any already in place
- discuss any support through specialist groups e.g. counselling, that may be of benefit
- if the level of absence has reduced, advise the employee that if they exceed any of the trigger points again within the following 12 months from the last day of absence, the process will recommence at the Second Absence Meeting stage.

16. Formal Absence Hearing

The purpose of the Formal Absence Hearing is to consider whether an employee is able to fulfil their contractual obligation to carry out the job for which they are employed and whether continued employment is appropriate.

The manager/Headteacher (Chair of Governors) will prepare a summary report which should include the reasons for the absence(s), an up to date medical opinion from Occupational Health, what adjustments have been looked at and/or introduced, the impact of the absence on the school/service and/or colleagues and what support measures have been considered.

Managing Sickness Absence Policy Version date: 27 June 2016

If this document has been printed please note that it may not be the most up-to-date version.

For the current version please refer to [The Source](#)

© Devon County Council 2014. All rights reserved. No part of this publication may be reproduced, stored in a retrieval system or transmitted in any form or by any means, electronic, mechanical, photocopying, recording or otherwise without the prior written permission of the copyright owner

A Formal Absence Hearing will be convened in any of the following circumstances:

- where there is evidence that an employee, due to illness, cannot carry out the duties for which they are employed
- following unsatisfactory conclusion of a monitoring period
- where the employee's pattern of absence illustrates an inability to attend work regularly and reliably
- where an assessment of an employee who contributes to the Local Government Pension Scheme (LGPS) has been made that meets the criteria for Ill Health Retirement
- where the employee is assessed by a Physician/Occupational Health Adviser as not fit for work in the foreseeable future and/or no indication of when the employee is likely to return to work and where no reasonable adjustments can be put in place to facilitate a return to work
- where there is sufficient concern for the employee's welfare and/or for the welfare of others with whom the employee may come into contact with, that the continuation of the contract of employment should be considered.

Where it is determined that a Formal Absence Hearing is to be convened, the senior manager, or the Clerk to Governors where appropriate, will notify the employee in writing giving at least 5 days notice, stating the details of the Formal Absence Hearing, the possible outcomes of the hearing, the employee's right to request to be accompanied and that the hearing may take place in the employee's absence if they fail to attend without providing a satisfactory explanation. A template letter is available from HR Direct. A copy of the summary report and a copy of this policy must be included with the letter.

The manager is responsible for presenting the summary report at the hearing and they may be accompanied by an HR Adviser.

At least five days prior to the hearing, the employee will provide any relevant information that they wish to be considered at the hearing to either the Clerk to Governors or the senior manager conducting the hearing. This information will be passed to the manager and First Committee/Headteacher. The employee will be given an opportunity to address the hearing whether or not they wish to submit any relevant information.

At the hearing, the employee will be given the opportunity to address the hearing, question any witnesses and present their case to the senior manager / Headteacher / First Committee.

The Chair of the hearing will ensure that all relevant information presented at the hearing by the manager and the employee will be considered. There will be an adjournment to enable consideration of the information by the Chair or First Committee. The outcomes may include:

Managing Sickness Absence Policy Version date: 27 June 2016

If this document has been printed please note that it may not be the most up-to-date version.

For the current version please refer to [The Source](#)

© Devon County Council 2014. All rights reserved. No part of this publication may be reproduced, stored in a retrieval system or transmitted in any form or by any means, electronic, mechanical, photocopying, recording or otherwise without the prior written permission of the copyright owner

- to issue a final written warning with a review period of up to 12 months
- adjournment while further medical information/reasonable adjustments are looked into with a date set to reconvene.
- dismissal with notice on full contractual pay, pro rata to the hours worked, with adjustments as necessary for any national benefits received such as Statutory Sick Pay. During the notice period, employees will be expected to engage in any redeployment process.

The senior manager/Headteacher/First Committee will reconvene the hearing and confirm their decision verbally, unless valid reasons exist not to do so, and will write to the employee within five days to confirm their decision.

If the decision is to dismiss the employee, the appropriate period of notice should be issued in accordance with the employee's contract of employment. Where a final written warning or dismissal with notice is the outcome, the employee must be informed of their right of appeal and where to send the appeal.

Where dismissal with notice is the outcome, consideration should be given to assisting the employee in seeking suitable alternative employment within the boundaries of their capabilities during their notice period (see Redeployment Policy, where adopted).

17. Appeal

If an employee wishes to appeal against the decision from the Formal Absence Hearing, they must do so in writing, stating the grounds for their appeal, within five days of receiving the written outcome.

An employee may appeal on the following grounds:

- the sanction given was too harsh given the circumstances
- the procedure was not fairly or correctly applied
- new information has come to light that would directly affect the decision made at the hearing.

The appeal should be sent to the Head of Human Resources (DCC employees) or to the Clerk to Governors (school employees). The Head of Human Resources or Clerk to Governors will then arrange for the appeal to take place.

In schools, a Governors' Appeal Committee will be convened to hear the appeal. In DCC, the right of appeal against final written warning will be to a Chief Officer (which is a Head of Service or their nominated representative). The employee has the right to choose who hears their appeal against dismissal with notice, either a Chief Officer or Members.

The appeal should be heard without unreasonable delay. A minimum of five days notice will be given to the employee to allow for preparation.

The outcome of the appeal hearing may be to:

- adjourn and refer the matter back to the senior manager / Headteacher / First Committee if significant new information/evidence is provided, which was not available previously, and may change the original decision
- conclude a procedural irregularity occurred. Determine whether this had an impact on the decision-making process and outcome. If so, determine an appropriate sanction and make a recommendation to rectify the situation
- uphold the appeal and determine an alternative sanction/appropriate course of action
- reject the appeal and confirm that the original decision stands.

The decision will be given verbally to all parties at the end of the appeal hearing unless valid reasons exist not to do so. The decision will be confirmed in writing to the employee within five days. An appeal is not a re-hearing of all of the facts but to determine if the original decision was reasonable given the circumstances. The process ends with the decision of the Chief Officer, Members or the Appeal Committee.

ADDITIONAL INFORMATION

18. HR Advice

HR Direct can provide advice and support to any manager or governor involved in the application of this policy at any stage. This includes attendance at meetings/hearings where required. A representative of DCC should be present to give advice at any hearing where dismissal may be considered at any Community or Voluntary Controlled school.

19. Employee Responsibilities

Employees have a contractual responsibility to attend work to carry out the requirements of their job. Employees have a responsibility, where necessary, to take any steps required to minimise their absence. Employees must take all reasonable steps to attend meetings as required and adhere to this policy. It will be the responsibility of the employee or their line manager to contact Payroll if they require a hard copy of their Payslip to be sent to their home address while absent from work. The employee or the line manager can email payroll-mailbox@devon.gov.uk. (please include the employee number in the email) or telephone 01392 383000 and ask for Payroll, and they will arrange for the employee to receive a paper copy during their absence.

20. Management Responsibilities

Managers are required to ensure that each employee is aware of this policy, understands the attendance standards required of them and the consequences of not attaining and meeting these standards. Action should be taken consistently to identify concerns and reinforce attendance standards before it becomes necessary to take formal action. Managers are required to manage the process effectively, fairly and reasonably. In addition, managers should create a healthy and supportive work environment where employees feel valued, want to come to work and have a good work/life balance; and follow up

Managing Sickness Absence Policy Version date: 27 June 2016

If this document has been printed please note that it may not be the most up-to-date version.

For the current version please refer to [The Source](#)

© Devon County Council 2014. All rights reserved. No part of this publication may be reproduced, stored in a retrieval system or transmitted in any form or by any means, electronic, mechanical, photocopying, recording or otherwise without the prior written permission of the copyright owner

all absences with a return to work meeting when the employee resumes work, regardless of the length of absence.

21. Medical Suspension/Fitness to Work

In some circumstances, it may be necessary to suspend an employee on medical grounds in order to ensure they do not stay at work or resume their duties if there is a risk to the employee or any other person the employee may come into contact with. There may also be occasions where an employee's doctor has certified the employee as fit to return to work but given the nature of the work undertaken by the employee, the manager has concerns about the employee's fitness to return to/remain at work. In these circumstances, further advice should be sought on fitness to work from Occupational Health and HR Direct for any HR process being considered.

22. Accident, Incident or Injury at Work

Any accident, incident or injury arising out of a work activity should be reported to the line manager and the manager should ensure the Oshens Accident Reporting System is completed (please contact Devon Health, Safety and Wellbeing Service for further information). Absences occurring as a result of an accident, incident or injury at work should be monitored separately from trigger points but should be managed in accordance with this policy. The Injury Allowance scheme may be applicable in these circumstances. In some cases a RIDDOR referral may be necessary.

23. Recording of Information

A written record must be made of all meetings held during the application of this policy. Those involved in each meeting will be provided with a copy of any records made.

The manager will ensure there is a record of the process which should include all statements, records and evidence. All records will be retained confidentially, securely and in accordance with the Data Protection Act (1998).

24. Raising a Grievance during the Application of this Policy

If an employee is currently being managed under this policy and has a complaint related to either the person applying it and/or its application, the employee will raise a complaint under this policy which will be investigated. It may be necessary to suspend the application of the policy while the complaint is being looked into. Any delay to the application of this policy to deal with an employee's complaint should not exceed 10 days.

If an employee has an unrelated complaint, then the employee should use the Grievance Policy and Procedure. As the matter is unrelated, there will be no need to put any absence process currently being applied on hold as the complaint can be dealt with in parallel.

25. Professional Standards/Statutory/Registration Requirements

Some professions have minimum standards of fitness to be able to carry out the role and all employees covered by these standards and managers of these staff should ensure they are familiar with the obligations e.g. Health Standards

Managing Sickness Absence Policy Version date: 27 June 2016

If this document has been printed please note that it may not be the most up-to-date version.

For the current version please refer to [The Source](#)

© Devon County Council 2014. All rights reserved. No part of this publication may be reproduced, stored in a retrieval system or transmitted in any form or by any means, electronic, mechanical, photocopying, recording or otherwise without the prior written permission of the copyright owner

(England) Regulations 2003 (for staff in schools), Health and Care Professions Council's guidance on health and character (for health and social care professionals).

26. Employees Attending Work but Unable to Carry out all Aspects of their Job

There may be situations where an employee attends work but is unable to carry out the full duties/requirements of their job, not as a consequence of a disability or ill-health but due to physical factors which are not related to their health. The physical factor may prevent the employee from undertaking duties such as responding quickly and effectively to children's needs in an emergency; caring for vulnerable adults appropriately; or inhibiting the employee from carrying out personal care to clients. In these circumstances, the Capability Policy should be used to manage the situation after determining that no underlying health issues exist.

27. Confidentiality

Any parties affected by, or involved in the application of this policy will be expected to maintain an appropriate level of confidentiality. Breaches of confidentiality will be taken seriously, especially if they hinder the application of the policy. Failure to maintain confidentiality may result in action being taken under the Disciplinary Policy.

Disclosure of information may also be a breach of the Data Protection Act (1998) and may lead to action being taken under the provisions of this legislation, in addition to actions being taken under the Disciplinary Policy and Procedure.

28. Pensions

Termination of employment under this policy does not mean that the employee's pension will be released automatically. The employee should seek further advice from their pension provider. Teachers should contact Teachers' Pensions at www.teacherspensions.co.uk. Members of the Local Government Pension Scheme can make contact at: www.lgps.org.uk or pensions@devon.gov.uk

29. Redeployment

If the employee is dismissed with notice under this policy, the manager should take all reasonable steps to assist employees to find a suitable alternative job within DCC or a school. Managers can refer to the Redeployment Policy, where adopted.

30. Support for Employees

Employees are encouraged to seek support from their trade union/professional association in the first instance. Procedural guidance relating to this policy is available from HR Direct at hrdirect-mailbox@devon.gov.uk or by telephoning 01392 385555.

35. Costs

The Financial Intervention Panel for Schools (FIPS) has determined the conditions and circumstances for meeting the costs of defending tribunal claims.

36. Devon County Council (DCC) Representation Where Dismissal is Being Considered

In maintained schools, DCC has the right to give advice at any meeting where the dismissal of an employee is being considered. This role is usually undertaken by a DCC HR Adviser and schools should ensure that HR Direct is notified of any impending hearings where dismissal is being considered. Any advice given must be considered by the Governing Body or any person or persons to whom such functions have been delegated when reaching any such decision.

POLICY HISTORY

| Policy Date | Summary of change | Contact | Version / Implementation Date | Review Date |
|------------------|---|-----------|-------------------------------|-------------|
| 27 November 2013 | New Policy Date of consultation with recognised Trade Unions – November 2012 and September 2013 | HR ONE | 27 November 2013 | |
| 25 April 2014 | Removed reference to counselling service and replaced with EAP contact details Section 19: added statement to the effect that it will be the responsibility of the employee (or their line manager) to request a hard copy of their Payslip from Payroll if they are unable to access it electronically. | HR ONE | 25.04.14 | |
| 22.02.16 | Review of document to update references to W@W due to new Occupational Health Provider | HR Direct | 01.04.16 | |
| 27.06.16 | Amendment to reference to Chief Officers and Heads of Service in section 2. | HR Direct | 27.06.16 | |

Managing Sickness Absence Policy Version date: 27 June 2016

If this document has been printed please note that it may not be the most up-to-date version.

For the current version please refer to [The Source](#)

© Devon County Council 2014. All rights reserved. No part of this publication may be reproduced, stored in a retrieval system or transmitted in any form or by any means, electronic, mechanical, photocopying, recording or otherwise without the prior written permission of the copyright owner