

EMPLOYMENT MATTERS COMMITTEE

3 NOVEMBER 2011

REVIEW OF MANAGING SICKNESS ABSENCE POLICY FOR SCHOOLS

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Summary

The report seeks agreement to implement a new Managing Sickness Absence Policy within Community and Voluntary Controlled Schools. The policy is also commended to Voluntary Aided, Foundation Schools and Academies where Medway Council is not the employer.

1. Budget and Policy Framework

1.1 The policy lies within the Council's policy and budget framework and the Committee's terms of reference. Therefore, this is a matter for the Employment Matters Committee.

2. Background

2.1 The current schools policy has been in existence since 2004 and since that time, only had minor amendments to reflect legislative changes.

2.2 This policy mirrors as far as possible the non schools policy, agreed by this committee on 29 June 2011. The proposed policy for Schools is attached at Appendix A.

3. Advice and analysis

3.1 The main change is the introduction of the short-term and long-term sickness absence triggers. It also states that in most cases of psychological illness such as stress or depression an immediate referral to occupational health should be undertaken.

- 3.2 The sickness rates in schools have remained consistent over the years:

Year	Average number of sickness days lost
2008/9	7.10 days
2009/10	6.40 days
2010/11	6.57 days

- 3.3 HR Services (Schools) also intend to adopt a more flexible approach to its policy development by removing the detailed process from the policy document resulting in a more succinct document outlining the main principles, responsibilities and legal obligations. This will enable headteachers to people manage within less rigid parameters whilst at the same time remaining within the law.
- 3.4 A practical tool kit for headteachers will be provided to all schools via the schools forum and also the council's intranet site. This will provide headteachers with operational guidance, letters and standard documentation.
- 3.5 HR Schools Services will also provide training to headteachers and line managers in schools on the application of this new policy, by attending consortia meetings and arranging late afternoon training sessions.
- 3.6 Changes to current policy and rationale

The main changes to the Schools current policy are:

(i) Introduction of absence triggers

The introduction of short term absence triggers, a more formal process for Headteachers to review absence levels. This is supported by a process of formal meetings which both supports the employee and encourages improvement of absence, with 3 stages. The long term sickness trigger has been reduced to four weeks, with the referral in the case of stress, depression and other similar conditions now being in the second week of absence.

(ii) Defines pay for phased returns

A phased return to work enables an employee who is returning from a long term period of sickness absence to gradually build up their working hours and/or days and settle back into their normal working pattern.

The schools current Managing Sickness Absence Policy allows for phased returns to work, with full pay being received for 6 weeks. Extensions beyond that period were, in our experience very limited, but at the discretion of the governing body.

The revised policy mirrors the corporate policy, in that it defines the amount of pay an employee will receive in these circumstances and

restricts full contractual pay to a four week period. If a phased return extends beyond the four working weeks then the employee will be paid on the basis of hours actually worked.

(iii) Earlier intervention of occupational health

The new policy highlights benefits and triggers the involvement of the council's occupational health services at an earlier stage.

(iv) Equality Act 2010

The new policy incorporates the requirements of the Equality Act 2010; and increases the awareness of reasonable adjustments that could be made when an employee becomes disabled.

3.7 Developments to improve sickness absence

(i) Occupational health support

Community, VA and Foundation Schools have full access to the Council's on site qualified Occupational Health Adviser.

This provision allows schools to obtain specialist advice and support in managing sickness absence, with a good turn around time for medical referrals and advice. As a consequence this enables headteachers to deal with sickness issues more quickly and thus enable an employee's speedier return to work.

(ii) Selfserve4you

The Selfserve4you software which is currently being introduced on a phased basis will enable headteachers to keep up-to-date sickness records and monitor their own staff sickness absence.

This is currently being rolled out to schools, but at the moment they can use data for monitoring purposes from the SIMS system.

The self serve system will enable headteachers to deal with absence issues much quicker and identify and deal with any absence trends that may be developing. The headteacher will also be able to record the outcomes of formal review meetings on this system.

4. Consultation

4.1 Consultation was undertaken widely when the non schools procedure was adopted, and subsequently amended, earlier this year. As such, specific consultation took place with schools Trade Unions on the school policy and agreement has now been reached.

4.2 Comments received included:

4.2.1 NUT, NASUWT, Voice, GMB submitted a minimal number of comments relating to their concerns and these have all been

responded to. Some of their more significant concerns related to the following issues.

4.2.2 The Trade Unions:

- (i) Paragraph 4.4.0 and reference throughout the document to carefirst. Medway schools have access to this package, but the unions are aware that Academies need to purchase carefirst individually, source an alternative provider, or choose to have no provider at all.
Although Academies are not required to retain the same policy as local authority maintained schools, HR agreed to add a footnote, to reflect that not all Academies have access to carefirst.
- (ii) Paragraph 7.2. Requested clarification on the short term absence triggers.
HR agreed to amend the paragraph to clarify the triggers.
- (iii) Paragraph 7.4. Suggested that the trigger of 2 weeks for contact by the Headteacher and referral to occupational health for stress, depression or another psychological illness was better at 3 weeks.
HR believe this is an effective trigger, and it mirrors the non schools policy.
- (iv) Paragraph 8.2.2. Clarification sought on the whether sickness absence relating to a disability would be included in the triggers and clarification on the 'separate recording ' aspects.
HR amended the paragraph to clarify that this would be recorded separately, as this could be regarded as a reasonable adjustment, when referring to the sickness absence triggers.
- (v) Paragraph 8.4.4. Reference to the teachers' terms with regards to absences due to accident, injury or assault at work was not clear.
HR agreed to extend this paragraph and add clarification from the teachers' conditions of service (burgundy book).
- (vi) Paragraph 8.5.1 – clarity on what is classed as an infectious disease sought.
HR agreed to amend paragraph to add – please refer the Schools Health and Safety team for clarification.
- (vii) Paragraph 8.10.1 – unhappy with the statement that the opinion of the occupational health physician took precedence over a GP fit note.
HR clarified that this is a rare occurrence. Unions stated in the event of this happening, they will be asking for a second occupational health opinion, with the expectation that the employer will fund this.

- (viii) Paragraph 9.4.1 Unhappy with the ability to suspend sick pay, 'for some other substantial reason'. Sought clarity and examples.
HR could not be more explicit, this is a catch all, to allow flexibility and will not be applied without re-course for advice to HR Services (Schools).
- (ix) Paragraph 13.0 Unions suggested that, in long term sickness cases, it is not always appropriate for it to be the Headteacher being the 'regular contact'. Regular contact should also not be daily, or putting inappropriate demands on staff.
HR are not aware of such circumstances, and agreed to change the paragraph to read 'headteacher or nominated person'.

5. Risk Management

- 5.1 It is important that all schools staff are made aware of this policy and their responsibilities within it.
- 5.2 Failing to implement the policy in a fair and consistent manner may result in successful legal challenges.
- 5.3 Failing to adhere to the schools' responsibilities under the Equality Act 2010 could pose a legal challenge at employment tribunal.
- 5.4 It is therefore necessary for the new policy to be promoted throughout Community, VA and Foundation Schools and training provided to headteachers and line managers.

6. Diversity Impact Assessment (DIA)

- 6.1 A Diversity Impact screening has been undertaken and it is considered that a full DIA is not required.
- 6.2 There are minimal concerns that the implementation of this policy will marginalise any particular minority group. There are two issues to note arising from the DIA screening:
 - (i) Disability -the policy highlights the organisation's responsibilities in relation to making reasonable adjustments for those employees who have declared a disability or become disabled during their working life and also provides guidance on finding further support.
 - (ii) Age - with the removal of the default retirement age there is potential for the schools to be employing older workers who may develop ill-health or disability as they get older. Data captured for the 2009/10 Workforce profile shows that older employees took more sickness absence than their younger colleagues. The schools will monitor any trends relating to age and sickness and put into place mechanisms for appropriate management and support.

7. Financial and legal implications

- 7.1 It is not envisaged that there will be any additional financial implications with the implementation of this policy. The new contract relating to the implementation of the on-site Occupational Health Adviser has significantly reduced the cost of management referrals as the service is no longer a physician led service.
- 7.2 Implementation of this policy enables schools to comply with their various statutory obligations. Implementation of the policy is within the Council's powers for Community or VA schools. It is commended to governing bodies of Foundation Schools and Academies. In the application of this policy it is essential that a fair and consistent approach is to be applied to all staff in order to minimise successful legal challenges. The school must ensure that in the application of the policy due regard must be given to all relevant legislation and in particular the Equality Act 2010 and The Employment Rights Act 1996.

8. Recommendations

- 8.1 That the Employment Matters Committee approves the Schools Managing Sickness Absence Policy as set out in Appendix one to the report.
- 8.2 That officers review the Schools Managing Sickness Absence Policy bi-annually and report to Members when necessary with any proposed changes.

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Background Papers

Medway Council Workforce Monitoring Report 2009/10
Equality Act 2010

Schools
Managing Sickness Absence Policy

September 2011
Final

Managing Sickness Absence Policy

1.0 Introduction

- 1.1 The school believes that employee well being at work is fundamental to the delivery of quality services to the public.
- 1.2 Both the school and Trade Unions recognise that prevention is better than cure and that employee well being at work is a shared priority for all involved.

2.0 Equalities Statement

- 2.1 The school is committed to providing equal opportunities and access to all. This policy embraces the spirit of managing a diverse workforce and those managing and dealing with sickness matters must ensure that no employee is discriminated against either directly or indirectly, harassed or victimised on the grounds of their race, disability, sex, sexual orientation, religion or belief, age, marital or civil partnership status or any stage of gender reassignment or any prohibited ground.

3.0 Scope

- 3.1 This policy applies to all schools based staff employed at any level in LA and voluntary controlled schools. The policy also applies to all teachers employed centrally by the Local Authority. In this instance the relevant Assistant Director (or their representative) assumes the role of Headteacher in the policy. The LA recommends the policy to voluntary aided schools and foundation schools. Academies may also wish to adopt the policy.
- 3.2 Where there is ill health related to a Headteacher, the provisions of this policy will be initiated and progressed by the Chair of the Governing Body (or other governor nominated by the governing body) in consultation with the Director of Children & Adults, learning & caring.

4.0 Roles and Responsibilities

- 4.1 Managing sickness absence is one of a line managers key roles. Every 'manager in a school' has a responsibility to manage sickness absence in a way that safeguards the interests of the school's resources, service provision and employees. However, in primary schools it may well be that this responsibility lies solely with the Headteacher. For ease of reference, the title 'headteacher' will be therefore be used for the responsible manager throughout this document.
- 4.2 This procedure aims to ensure that all employees are treated consistently and fairly. By giving headteachers the tools and the opportunity to deal with potential absence problems at an early stage longer-terms problems may be prevented.

4.3.0 Employee responsibilities:

- familiarise themselves with this policy,
- ensure they comply with the reporting absence procedures as set out in the schools procedures; and
- understand that failure to adhere to the procedures or following their headteachers instructions in relation to their absence may result in disciplinary action and/or suspension of sick pay.

4.4.0 Headteacher (or delegated manager) responsibilities:

- monitor and timely report all sickness absence to enable payroll to be correct;
- ensure that return to work interviews and subsequent formal meetings are undertaken;
- ensure that these procedures are applied consistently and fairly taking into account individual circumstances;
- ensure that all staff are made aware of this policy and that they follow the requirements of sickness absence notification procedures;
- encourage and support employees to maintain good attendance, through good management practice and use of other appropriate services;
- ensure that all employees are aware of the school's confidential employee assistance provider Care first* and
- undertake stress risk assessments for their team at least once a year or when required (advice on how to undertake a stress risk assessment is available from the schools forum or Medway intranet site).

4.5.0 HR Services (Schools) responsibilities:

- HR Services will provide headteachers with the tools to be able to manage sickness absence effectively including training and template documentation;
- provide headteachers with specialist advice on implementing this policy and procedures;
- support line managers when referring employees to the Occupational Health Adviser;

4.6.0 Governing Bodies responsibilities:

- ensure the school adopts a sickness management policy and regularly reviews this;
- ensure the headteacher carries out his/her responsibilities as outlined in the policy;
- ensure the absence of the headteacher is monitored and the appropriate procedures are applied;
- determine an appropriate course of action when a headteacher refers a case to the governing body;
- consider the advice of the local authority.

** NB – carefirst is provided to all Medway Schools. In the instance of an Academy adopting this policy, they need substitute their own arrangements where 'carefirst' is mentioned in this document.*

5.0 Care first – Support for employees and headteachers (*LA Schools only)

5.1 The school has a confidential employee assistance provider to support employees and managers. This is provided as part of the blanket contract to Medway Council and is available to all schools based staff, whether LA controlled, voluntary or foundation status.

5.2.0 Care first support for employees

5.2.1 Employees and members of their immediate household can contact Care first 24/7, 365 days per year to discuss any issue that may be concerning them. Care first will advise whether counselling is required.

5.2.2 Headteachers can make a referral to Care first providing they have the employee's express permission to do so.

5.3.0 Care first support for managers

5.3.1 It is appreciated that dealing with sickness cases and managing sickness absence can sometimes be daunting for headteachers, in particular dealing with sensitive or embarrassing issues. This can lead to delays in dealing with the absence issue which may exacerbate any problems that could easily be "nipped in the bud". Guidance and support on how to approach employees and undertake meetings such as return to work interviews or formal review meetings is available from Care first who will talk managers through the best way to approach a difficult or sensitive subject.

5.3.2 Care first can be contacted on telephone number 0800 174319 or by emailing counsellingformedwaycouncil@care-first.co.uk

6.0 Sickness absence monitoring

6.1 Effective sickness absence monitoring is essential for the early detection of problems including welfare and work-related problems. Earlier identification of issues and intervention can lead to speedier management, medical or individual responses.

6.2 It is essential that accurate records are kept for each employee by their headteacher. If a particular individual needs to be approached in respect of their sickness absence, accurate records provide evidence for the manager to illustrate their attendance levels are causing concern.

6.3 Regular monitoring also enables managers to gain a picture of where there may be underlying areas of concern such as management, motivation or stress issues and assess the impact of sickness absence on service provision.

7.0 Absence triggers

7.1 Absence triggers aim to ensure a consistent approach to managing sickness absence is maintained throughout the school. The absence triggers are detailed below:

7.2 SHORT TERM sickness absence triggers

- three occasions of absence during a six month period (i.e. single days or multiple days)
- more than five days sickness, during a six-month period.
- patterns of short term absence which have been identified over the past 6 months e.g. particular days of the week

7.2.1 When any of these triggers are met the headteacher will normally follow the process for managing short term sickness absence as set out in section 11.

7.3 LONG TERM sickness absence triggers

- four continuous weeks sickness

7.4. Psychological illnesses such as stress and depression

- In cases of stress, depression or another psychological illness, headteachers should contact the employee in the second week of absence to arrange to meet to consider a referral to the Occupational Health Adviser straight away.
- In any cases of stress, depression or another psychological illness being given as the reason for absence headteachers must ensure a more in-depth return to work meeting is held, a stress risk assessment is undertaken and consider a referral to the Occupational Health Adviser.

7.4.1 When any of the triggers in paragraphs 7.3 and 7.4 are met the headteacher will normally follow the process for managing long term sickness absence as set out in section 13. Headteachers in any doubt should contact their Schools HR Consultant for further guidance.

8.0 Special considerations

8.1.0 Parents of young, or disabled, children have a statutory right to request flexible working. Eligible employees are parents of children aged under 16, or of disabled children aged under 18. In considering any request, the headteacher has to strike an objective balance between the business and operational needs and the preferences of the individual employee and his/her personal circumstances. Full details of this right and the procedure to be followed have been included in the Schools Guide to Flexible Working.

8.1.1 Headteachers should stress to their staff that medical information about them will be treated in confidence and that any breach of confidentiality will be regarded as serious and potentially as a disciplinary matter.

8.2.0 Disability related sickness absence

8.2.1 Where absence could be disability related, employees are appropriately treated within the context of the Equality Act 2010. This legislation provides legal protection against discrimination for disabled people. In dealing with disability related absences headteachers should seek advice from their Schools HR Consultant if they are in any doubt about managing disability related sickness.

8.2.2 Sickness absence relating to disability should be recorded separately as this could be regarded as a reasonable adjustment when referring to the sickness absence triggers.

8.3.0 **Maternity related sickness absence**

8.3.1 Employees should not be discriminated against as a result of maternity related sickness. Maternity related sickness absence during protected periods must not be taken into account as grounds for subsequent dismissal. The protected period is from notification of inception of pregnancy to the end of the woman's maternity leave.

8.3.2 Illnesses, which are related to pregnancy, should be dealt with through this procedure. Any pregnancy related sickness after the beginning of the 4th week before her Expected Week of Childbirth (EWC), will automatically start her maternity leave. Any sickness before the 4th week of the EWC will be treated as sickness absence.

8.3.3 A risk assessment should be undertaken by the headteacher once they have been notified in writing that the employee is pregnant, has given birth in the previous six months or is breast-feeding. Further details can be found in the school's Maternity Policy.

8.4.0 **Industrial injury related sickness absence**

8.4.1 Where absence is as a result of an industrial injury the school's Accident and Incident Reporting and Investigation Policy must be followed.

8.4.2 Any employee who is absent due to an injury sustained in the performance of their contractual duties and without them being at fault, shall be paid in accordance with normal sickness absence.

8.4.3 An employee who is absent as a result of an accident where damages may be receivable from a third party, will be paid Occupational Sickness Pay subject to the employee undertaking to refund to the school the total amount of Occupational Sick Pay or a proportion of it from the damages received from a third party in respect of such an accident.

8.4.4. In the case of a teaching staff member absence due to accident, injury or assault attested by an approved practitioner to have arisen out of and in the course of a teacher's employment, including attendance for instruction, 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 in all cases will be allowed. Such pay being treated as sick pay, subject to the production of self certificates and/or fit note from the day of the accident, injury or assault up to the date of recovery, but not exceeding six months.

8.4.5 Absence resulting from accidents, injuries or assaults, as attested in para 8.4.4 will not count against the teacher's occupational sickness entitlements, but are reckonable for entitlement to statutory sick pay. (teachers pay and conditions of service).

8.5.0 Sickness caused by infectious disease

8.5.1 An employee who is prevented from attending work because of contact with infectious disease shall be entitled to receive normal pay. The period of absence on this account shall not be reckoned against the employee's entitlements under the occupational sick pay scheme. Please refer to Health & Safety Advisers for further clarification.

8.6.0 Absence for appointments at the GP, dentist, hospital etc

8.6.1 Employees should be encouraged to arrange for appointments to take place outside of normal working hours or failing that at the beginning or end of the day. Where this is not possible, employees should arrange appointments so that the time away from work is kept to a minimum. Headteachers need to ensure that this is not abused.

8.6.2 Absence for half or more than half of the employee's normal working day should be recorded as sickness absence.

8.6.3 Special consideration should be given to employees who attend appointments for reasons relating to a disability in which case paragraphs 8.61 and 8.62 may not apply as these appointments may be considered to be a reasonable adjustment. Contact your Schools HR Consultant for further advice.

8.7.0 Sickness absence whilst on leave and during school closure periods

8.7.1 Support staff - In the event of an all year round employee falling sick during the period of annual leave, they will be regarded as being sick from the date of their doctor's fit note (any costs to be met by the employee) and further annual leave shall be suspended from that date and for the duration of the fit note. If no fit note is produced annual leave will stand. Every reasonable effort should be made by the employee to report their sickness absence as soon as practicable to their headteacher.

8.7.2 Support staff (term time only & teaching staff– in the event of an employee falling sick during the school closure periods, they will be regarded as being sick from the date of their fit note and must send in any doctor's fit note to cover this period.

8.7.3 Teaching staff – whilst sickness during closure periods will not affect the period of a teachers entitlements to sick leave (see page 9), 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.

8.7.4 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 is on either full

pay or half pay, they will continue on this rate of pay but the closure period is not counted against the teachers' entitlements. If the teacher has exhausted their sick pay and is on no pay, they will continue to receive no pay. A teacher may in the above circumstance, be put back onto full (ordinary) pay if the teacher is ill immediately preceding a closure of the school and recovers during this period of closure. In this circumstance, the teacher shall be deemed, for the purpose of calculating salary due, to have returned to duty on the day he/she is authorised as medically fit by their GP via a fit note, provided the teacher returns to duty on the first day after the closure.

8.8.0 Sickness monitoring and statutory annual leave (all year round staff)

8.8.1 A break in long term sickness absence for taking statutory annual leave does not trigger a new period of sickness absence in terms of monitoring. Paid statutory holiday entitlement accrues during sickness absence regardless of how long an employee is off sick. Employees are therefore able to take paid statutory annual leave while on sick leave.

8.9.0 Medical Suspension

8.9.1 If an employee's condition is considered to be a health and safety risk either to themselves, other staff, and or pupils they should be suspended on medical grounds. The suspension will be on full pay. Headteachers in any doubt should seek advice from their Schools HR Consultant before taking this action.

8.9.2 An employee who is medically suspended would normally have been referred to the occupational health service or would be in the process of being referred for a medical opinion.

8.9.3 The employee will be advised to visit their GP in this circumstance to ascertain the doctors' opinion on their state of health. If the doctor agrees that the employee should not be in work, the employee should send the fit note to their headteacher. The medical suspension will cease from the date of the fit note.

8.9.4 For cases of suspected drug or alcohol abuse headteachers should refer to the schools Drugs and Alcohol Misuse Policy.

8.9.5 There may be occasions when the medical advice received from the GP or Occupational Health Adviser cannot be practically implemented. In such cases the headteacher has the authority to suspend on medical grounds.

8.10.0 Differences of Medical Opinion

8.10.1 On rare occasions, there may be a difference of medical opinion between the employee's GP and the Occupational Health Physician. The opinion of the Occupational Health Physician takes precedence.

9.0 Sick leave and pay entitlement

- 9.1 Support staff - the rate of sick pay and the period for which sick leave shall be paid in respect of absence due to ill health, will be calculated on a 12 month rolling basis. It is not necessary for an employee's sick leave entitlement to be exhausted before termination of employment on medical grounds can be implemented. If a headteacher is considering this action, please see advice from your Schools HR Consultant.
- 9.2 Teaching staff – periods of sickness leave are calculated in working days only. Teachers absent due to sickness continue to receive full or half pay as appropriate, through weekends, school holidays and bank holidays, though these periods do not count towards sick leave entitlement.
- 9.2.1 Under teachers' conditions of service a new period of sick leave and sick pay starts from 1 April each year. However, if a teacher is absent from work due to illness on 31 March, the period of absence will continue to be calculated against the previous year's absence and the new sickness period will not start again until the teacher is back at work. Again, it is not necessary for a teachers sick leave entitlement to be exhausted before termination of employment on medical grounds can be implemented.

9.2.0 Occupational Sick Pay

- 9.2.1 Occupational sick pay is paid in line with the terms and conditions of employment and subject to the conditions contained in this policy. Occupational sick pay is for a prescribed period based on length of service, as indicated below:-

TEACHERS

Length of Service	Entitlement
During 1 st Year of service	Full pay for 25 working days and, after completing 4 calendar months service. Half pay for 50 working days
During 2 nd Year of service	Full pay for 50 working days, and then Half pay for 50 working days
During 3 rd Year of service	Full pay for 75 working days, and then Half pay for 75 working days
During 4 th and successive years	Full pay for 100 working days, and then Half pay for 100 working days

SUPPORT STAFF

Length of Service	Entitlement
During 1 st Year of service	1 month's full pay and (after completing 4 months service) 2 months' half pay
During 2 nd Year of service	2 months' full pay and 2 months' half pay
During 3 rd Year of service	4 months' full pay and 4 months' half pay
During 4 th and 5th year of service	5 months' full pay and 5 months' half pay
After 5 Years Service	6 months' full pay and 6 months' half pay

The Governing Body can exercise its discretion to extend occupational sick pay.

9.3.0 Stopping Occupational Sick Pay

9.3.1 Sick pay may be stopped if employees fail to comply with the statutory sick pay requirements such as the provision of a fit note.

9.3.2 When making a decision to stop pay the headteacher may wish to seek advice from their Schools HR Consultant. The headteacher must make it clear, in writing, giving two weeks notice of stopping sick pay to the employee:

- a) - the circumstances that are leading the manager to come to the decision;
- b) - the date that the pay will be suspended.

9.4.0 Suspension of Sick Pay

9.4.1 The payment of any occupational sick pay under the scheme may be suspended if the headteacher is of the opinion that the condition which has led to the employees' absence from work is due to any of the following circumstances:

- abuse of the sickness scheme;
- absence on account of sickness due or attributable to deliberate conduct prejudicial to recovery;
- the employee's own misconduct or neglect or active participation in professional sport or injury while working in the employee's own time on their own account for private gain or for another employer;
- some other substantial reason as discussed with the Schools HR Consultant. (e.g. non-engagement with occupational health).

9.4.2 Where suspension of sick pay is required the headteacher must advise (in writing) the employee of the grounds for suspension and the employee shall have a right of appeal to a panel of governors. If it is decided that the grounds were justified the employee shall forfeit the right to any further payment in respect of that period of absence.

9.4.3 Abuse of the sickness scheme should be dealt with under the disciplinary procedure.

9.5.0 Sick pay and statutory annual leave

9.5.1 All year round contracted employees accrue and can request to take paid statutory annual leave whilst on long term sick leave. Employees whose employment terminates after a period of long term sick leave will be paid in lieu of the statutory leave that they would otherwise have carried forward or lost.

10.0 Return to Work Interview

10.1 Following any period of sickness absence, the headteacher will meet informally with the employee to discuss their sickness absence.

10.2 The purpose of the meeting should be;

- to welcome back and to discuss whether there needs to be a phased return, amendments to hours or any workplace adjustments;
- to ensure full recovery and to give the opportunity for the employee to share any underlying problems; and
- to ensure they complete the necessary notification and that the employee has provided a fit note if appropriate.

11.0 Managing short term sickness absence

11.1 The early and successful management of short-term absence is essential to good working conditions. Responsibility lies with the headteacher to manage this process in a consistent and appropriate manner.

11.2 To ensure that a complete picture of absence is available, comprehensive sickness records must be kept for monitoring purposes.

11.3 The headteacher may arrange for the employee to be referred to the Occupational Health Adviser in order to seek advice including whether there is any underlying cause for the short-term absence.

11.4 Headteachers should review absence levels more formally with an employee where a pattern or level of absence has emerged which causes concern and/or the absence triggers as set out in section 7.0 have been met.

11.5 In these instances a Stage One formal review meeting should be held between the headteacher and the employee to discuss the headteacher's concerns. At this meeting the employee should be provided with a copy of this policy. During the formal stage the employee will be expected to improve their level of attendance. The level of attendance required will be confirmed to the employee in writing and the employee informed that failure to reach this required attendance within a specified timescale could lead to dismissal.

11.6 In extreme cases a Stage Three final review meeting will be convened without going through Stages One and Two.

11.7.0 Steps to be followed

11.7.1 STAGE ONE - Formal Meeting One

11.7.2 The purpose of the meeting is to discuss the situation with the employee in a supportive way, to establish whether the absences from work are related and to agree with the employee the best way forward. The employee should be asked if they wish to be accompanied by a Trade Union representative or a workplace colleague at the meeting. In exceptional circumstances your Schools HR Consultant may be asked to attend if the matter is particularly complex.

11.7.3 By the end of the meeting, the headteacher would be expected to have a real understanding of the problem and any workplace issues that are affecting the employee's ability to attend work and determine reasonable ways of assisting the employee in reducing his/her sickness absence and/or making a successful return to work. The decision of the meeting should be recorded and a copy of the record be given to the employee to avoid any confusion. In situations where the manager is unable to fully understand the problem a further referral will be appropriate.

11.7.4 If the reasons given for the absences appear to be unrelated and the level of absence and/or frequency and pattern is causing concern the headteacher should try and identify through discussion with the individual if there are other problems of a domestic or work nature that may be affecting their attendance. If there are any work issues affecting attendance, the headteacher has a responsibility to make every effort to resolve these and to involve the employee in their effective resolution. A date should be set in two months time to review the position at a Stage Two formal review meeting.

11.7.5 Where an employee has taken three or more periods of sickness absence within a six month period, the headteacher must automatically review the need for a referral to the Occupational Health Adviser. Action taken to refer to the Occupational Health Adviser must be appropriate to the nature of the absence. Guidance on when this is appropriate is available from your Schools HR Consultant.

11.8.0 STAGE TWO - Formal review meeting

11.8.1 The purpose of this meeting is to review the situation.

11.8.2 An exception to this would be where medical advice indicates that the employee will not be able to return to their role or a suitable alternative role, and where there are no reasonable adjustments that would enable them to return. A Stage Three final review meeting will then be convened.

11.9.0 Outcome from Stage Two

11.9.1 The outcome will be either an improvement or failure to improve.

The following explains the next steps that need to be taken in either circumstance:

11.10.0 The level of absence has improved

11.10.1 If the level of attendance has improved sufficiently this should be recognised and a further review organised for two months time. If after that further review, there is no ongoing concern, then no further action is required. A record of this decision should be made and shared with the employee and placed on the employees personal record for 12 months.

11.10.2 Headteachers should make it clear to the employee however that should there be further concerns regarding their attendance within the next 12 months consideration would be given to re-starting the review process at Stage Two. Headteachers should explain that should their level of absence persist after a final two month review period, a Stage Three final review meeting will be convened and that this could result in their employment with the school being terminated on medical grounds.

11.11.0 The level of absence has not improved sufficiently

11.11.1 The process will move to the final Stage Three review meeting in cases where the headteacher has exhausted all options available that might enable the employee to reach an acceptable level of attendance and where:

- the level of short term absence remains unacceptable, and/or
- the steps taken at Review Stages One and Two have not secured the required improvement.

11.11.2 In which case the headteacher should explain that the result of the Stage Three meeting could result in their employment with the school being terminated on medical grounds.

12.0 STAGE THREE – Final Review Meeting

12.1 Where all options have been considered during Stages One and Two of the formal process, the headteacher should convene a Final Review meeting before a panel of governors. The employee will be informed of this meeting. Up to date Occupational Health advice will be sought before the Final Review Meeting.

12.2 Outcomes of the Final Review Meeting will result in either:

- a written warning to remain on the employees personal file for 24 months, or
- termination of employment on medical grounds.

13.0 Managing long term sickness absence

13.1 When an employee is on sick leave for a period of time it is important that the headteacher (or nominated person) keeps in regular contact in order that the individual is supported and does not feel isolated and also that an accurate picture of the circumstances can be maintained. There is also an obligation on the part of the employee to keep their headteacher updated with regard to their health situation.

13.2 Long-term ill health can be a fair reason for terminating an employee's contract of employment. The legal background is that an employee who is absent from work due to ill-health, where there is an underlying medical condition, may be fairly dismissed provided that fair and reasonable steps are taken.

13.3.0 Referral to the Occupational Health Adviser

13.3.1 A referral can be made by the headteacher to the Occupational Health Adviser at any point during the period of sickness for a medical opinion on the employee's fitness to carry out their duties and advice on how to facilitate an early return to work wherever possible. This will normally be where the employee has been off sick for a continuous period of four weeks or in cases of stress, depression and other similar conditions during the second week of absence (i.e. where they have met the triggers for further action).

13.3.2 Action taken to refer to the Occupational Health Adviser must be appropriate to the nature of the absence. If in any doubt headteachers should seek advice from their Schools HR Consultant for further guidance.

13.3.3 On some occasions, and with the express permission of the employee it may be appropriate for the Occupational Health Adviser to undertake a referral to Care first.

13.4.0 Employees unable to return to their normal duties due to a disability

13.4.1 If an employee becomes disabled as a result of illness, reasonable adaptations must be considered under The Equality Act 2010. See [appendix one](#) for further details regarding reasonable adjustments.

13.4.2 Access to Work funding may be available to assist with reasonable adjustments required in the workplace. Whilst the school is not obliged to create a new position for an employee, if there is work available which might be considered suitable, taking into account the individual's capabilities, they should be considered for re-deployment into this position.

13.4.3 No decision to terminate the employee's contract should be taken without firstly consulting your Schools HR Consultant.

13.5.0 Phased returns to work

13.5.1 In some circumstances, the Occupational Health Adviser may advise that a phased return to work is appropriate for employees returning from a period of long term sickness absence. This will enable the employee to gradually build up their working hours and/or days and settle back into their normal working pattern.

13.5.2 Timescales for phased returns to work will be discussed in advance and medical advice sought to determine when the employee will be able to return to their normal working hours and/or days. The employee should submit a fit note confirming that they are fit to return to work. During the initial period of a phased return, the employee will be paid their normal contractual salary.

13.5.3 If a phased return extends beyond four working weeks then the employee will be paid on the basis of hours actually worked. If the staff member is an all year round employee and has already accrued annual leave, they may request this to make up any time that they are not at work.

13.6.0 Employees not fit to return to work

13.6.1 In cases of long term absence where the employee is not expected to be fit to return to work within a reasonable timescale, and where any steps taken to secure a successful return to work have been unsuccessful the headteacher should discuss this with the employee and move to Stage Three.

14.0 Retirement on the grounds of ill-health

14.1 In those circumstances where employees cannot return to work on grounds of ill health or be found suitable alternative employment, they may be eligible for retirement on ill-health grounds. The pre-requirement for an application is that the employee is a member of the Local Government Pension or the Teachers Pension scheme.

14.2 This avenue will be explored before a formal meeting takes place, providing the medical information received thus far indicates that the employee may be incapable of returning to work for the foreseeable future.

14.3 The process of application is different for both pension schemes, but your Schools HR Consultant will be able to advise you on the application process. The basis of the award is that the member of staff is permanently incapacitated or unable to carry out their employment duties due to illness.

15.0 Out of service applications

15.1 HR Services (Schools) will assist the school in a referral to Occupational Health on behalf of the ex-employee, in order for occupational health to confirm permanent incapacity and issue a permanent incapacity certificate. In order to do this, occupational health may need to: -

- conduct an independent medical assessment
- contact the ex-employee's GP
- contact the ex-employees treating specialist

15.2 The school/or the LA will not meet the cost of such a referral and the member will be asked to sign an agreement to meet the costs prior to the application being commenced.

16.0 Termination of employment on grounds of ill health

16.1 Any decision to terminate the employment on medical grounds will be dealt with in accordance with the following process.

16.2 The Final Review Meeting should be convened to discuss the situation once it is established that:

- an employee is medically unfit for their duties as confirmed by the Occupational Health Adviser, or
 - there is no identified resolution to their sickness which is sustainable, due to its impact on the provision of the service, or
 - the procedure for managing short term absence has been followed and there has been no improvement in attendance at the end of the review period nor further evidence of a health problem has come to light;
 - No reasonable adjustment is possible or any adjustments which have been put in place have failed.
- 16.3 If the Occupational Health Adviser determines that the employee will not be able to return to their normal duties, suitable alternative vacant posts within the school will be considered as a re-deployment opportunity before the Stage 3 final review meeting is convened.

17.0 Final Review Meeting process

- 17.1 The Final Review meeting shall be conducted by a panel of governors and they will be accompanied by a Schools HR Consultant. The employee will be notified in writing at least ten working days ahead of the meeting and will have the right to be accompanied by a trade union representative or work place colleague. The employee is required to provide the panel with any documentation they will be relying on at least five working days in advance of the meeting.
- 17.2 Where an employee is dismissed they should be issued with appropriate notice and the right of appeal.
- 17.3 The employee will be notified in writing of the outcome and their right of appeal, normally within five working days of the decision.

18.0 Right of Appeal

- 18.1 The right to appeal against termination of employment on the grounds of ill health is to a panel of governors not previously involved in the case. Appeals must be lodged with the school, addressed to the Chair of the Appeals Committee within ten working days of the date of receipt of the letter notifying the outcome of the formal meeting, clearly stating the grounds for the appeal.
- 18.2 The appeal will be heard as soon as possible.
- 18.3 The appeal panel's decision will be final.

19.0 Relevant Legislation

Employment Rights Act 1996
 Equality Act 2010
 Social Security (Medical Evidence) and Statutory Sick Pay (Medical Evidence) (Amendment) Regulations 2010 (SI 2010/137)

Supporting an employee who becomes disabled

Making reasonable adjustments

Under the Equality Act 2010, disabled employees are protected against discriminatory treatment that occurs for a reason related to their disability. One of the key duties under the Act for employers is to make reasonable adjustments to working arrangements, working practices and premises.

Reasonable Adjustments

Should an existing employee become disabled an employer can help practically by considering what reasonable adjustments could be made to accommodate the employee's needs and ensure they are successfully retained in employment. The employee may have suggestions, which you should of course consider, but it remains your responsibility to identify and implement any adjustments. An employee may also need counselling or other advice and information, Care First, can provide these services on 0800 174319.

Some examples of these reasonable adjustments include in no particular order:

- **altering premises**, e.g. widening a doorway, providing a ramp, stair-climbing chairs or non-slip flooring, moving furniture, altering lighting, or providing parking spaces for drivers with disabilities.
- **allocating some duties to another employee**, within the working environment.
- **transferring the person to fill an existing vacancy via a redeployment process**, e.g. if an employee becomes disabled and there is no reasonable adjustment which can enable them to continue in their post they might be considered for another suitable post within the school.
- **altering working hours**, e.g. allowing an employee who becomes disabled to work part-time or to job share.
- **changing the person's place of work.**
- **allowing absences during working hours for rehabilitation, assessment or treatment**, e.g. allowing an employee who becomes disabled time off during work to receive physiotherapy or other treatment.
- **supplying additional training**, e.g. training in the use of particular pieces of equipment unique to the disabled person.
- **Acquiring or making changes to equipment**, e.g. a visible fire alarm system, an adapted telephone, a specific software package etc.

- **providing a reader or signer**, e.g. reading information to a visually impaired person at particular times during the working day.
- When planning changes to buildings or practices, management should, as a matter of good practice, consider the possible needs of new employees with disabilities, impairments or long term health conditions and existing employees who may develop them in the future.

Access to work programme (AtW)

Access to Work can provide advice and practical support to disabled people and their employers to help overcome work related obstacles resulting from a disability. AtW can also agree to pay a grant, through Jobcentre Plus (Dept for Work and Pensions), towards extra employment costs resulting from a disability. This can help pay for special equipment or alterations to existing equipment to suit particular work needs arising from a disability or alterations to premises or working environment, if needed because of disability.

Further information about this programme can be requested by contacting the local representative of AtW on 01273 364761 or by visiting www.jobcentreplus.com

Employee Support

Care first, the council's confidential employee assistance provider can be contacted by the employee for support. With the employee's permission line managers may also contact Care First on their behalf.

Care first can provide counselling to employees and members of their immediate household. They can also provide advice via their information line on a wide range of subjects including benefits, housing and health.

Care first are contactable on freephone number 0800 174319 24/7, 365 days per year or by emailing cousellingformedway.co.uk.

Disabled Workers Forum (DWF)

The Disabled Workers Forum is run by a group of staff who have disabilities and meet on a regular basis to discuss issues and provide support to each other. The DWF also provide valuable input in policy creation by giving the benefit of their experiences and knowledge. Any member of staff who has a disability is able to attend forum meetings providing they notify their line manager in good time for cover to be arranged if necessary

The DWF can be contacted by email dwf@medway.gov.uk

Directorate Business Support Department	Name of Policy Schools Management of Sickness Absence	
Officer responsible for assessment Tracey Stephens, HR Strategy Consultant (Schools)	Date of assessment 2nd October 2011	New or existing? Existing
Defining what is being assessed		
1. Briefly describe the purpose and objectives	To review the current policy (dated Sept 2004) with a view to incorporating both the requirements of the Equality Act 2010 and for providing a swifter process for Schools to manage sickness absence.	
2. Who is intended to benefit, and in what way?	The Schools will benefit by reduced sickness absence costs; headteachers will benefit by having a leaner step-by-step process for managing short term absence. Employees will benefit by having access to support when needed and will also benefit from headteachers/line managers consistently applying the process.	
2. What outcomes are wanted?	<ul style="list-style-type: none"> • reduction in number of sick days lost • reduction in sick pay costs • policy applied consistently across individual LA Schools 	
4. What factors/forces could contribute to or detract from the outcomes?	Contribute <ul style="list-style-type: none"> - Commitment to the policy from everyone at all levels of the school. - Staff and headteachers/line managers being aware of their responsibilities as outlined within the policy. - Good communication of the new policy to all employees. - Effective monitoring data; - Effective training for headteachers/line managers; - Consistent application of the policy. 	Detract <ul style="list-style-type: none"> - inconsistent approach to managing sickness absence; - failure to keep accurate records of sickness absence; - lack of promotion of policy at implementation stage.
5. Who are the main stakeholders?	Headteachers and employees	
6. Who implements this and who is responsible?	HR Schools Services and Headteachers implement the policy and HR Schools Services is responsible for the policy	

Assessing impact	
7. Are there concerns that there <u>could</u> be a differential impact due to <i>ethnicity/ racial groups</i>?	
	No
What evidence exists for this?	<p>This policy is almost identical to the non schools policy which has been shared with the Black Workers Forum members and no concerns have been raised. The policy has been shared with the Trade Unions and no concerns have been raised.</p> <p>From 2009 the councils sickness absence monitoring included ethnicity and included schools in this data (see table 1, appendix 1) .This revealed a marginally higher level of average sickness within the black/black British grouping. However it should be noted that due to the smaller number of employees in this group (1.35 per cent) the data could be distorted by the small numbers and one or two long term sickness cases would account for the difference. It is therefore not considered a concern but this will be monitored to see whether there are any developing trends.</p>
8. Are there concerns that there <u>could</u> be a differential impact due to <i>disability</i>?	
	No
What evidence exists for this?	<p>This policy is almost identical to the non schools policy, which was shared with the Disabled Workers Forum members. Forum members were pleased to see that reference to reasonable adjustments had been given a higher profile within the policy. Forum members required confirmation that disability related sickness would be recorded separately under this policy. This was confirmed. Sickness breakdown figures from the Workforce Monitoring report 2009/10 (see Table 2, appendix 1) indicates a higher level of absence for employees declaring a disability as opposed to the rest of the workforce. However, the data could be distorted by the small number of employees involved and the fact that some employees with a disability will require more time off work due to their disability. This is an acceptable reasonable adjustment under the Equality Act 2010 and is recorded separately but is included within the overall figures.</p>
9. Are there concerns that there <u>could</u> be a differential impact due to <i>gender</i>?	
	No
What evidence exists for this?	<p>The Schools policy has been shared with the trade unions. This policy is almost identical to the corporate medway policy which has been shared with staff forums, and a selection of managers and no issues relating to gender were identified.</p>
10. Are there concerns there <u>could</u> be a differential impact	

due to <i>sexual orientation</i>?	No	
What evidence exists for this?	This policy is almost identical to the non schools policy, which has been shared with the trade unions, all staff forums including the LGBT forum, and a selection of managers and no issues relating to gender were identified.	
11. Are there concerns there <u>could</u> be a have a differential impact due to <i>religion/belief</i>?		
	No	
What evidence exists for this?	This policy is almost identical to the non schools policy which has been shared with the trade unions, all staff forums, and a selection of managers and no issues relating to religion or belief were identified.	
12. Are there concerns there <u>could</u> be a differential impact due to <i>age</i>?		
	No	
What evidence exists for this?	This policy is almost identical to the non schools policy which has been shared with the trade unions, all staff forums, and a selection of managers and no issues relating to age were identified. With the removal of the default retirement age there is potential for the organisation to be employing older workers who may develop ill-health or disability as they get older. Data captured for the 2009/10 Workforce profile would support this statement (see table 3 – appendix 1). The schools will monitor any trends relating to age and sickness and put into place mechanisms for appropriate management and support.	
13. Are there concerns that there <u>could</u> be a differential impact due to <i>being transgendered or transsexual</i>?		
	No	
What evidence exists for this?	This policy is almost identical to the non schools policy which has been shared with the trade unions, all staff forums, and a selection of managers and no issues relating to those undertaking the transgender process or those living as a transsexual were identified.	
14. Are there any <i>other groups</i> that would find it difficult to access/make use of the policy, or who might experience unfavourable treatment (eg		

people with caring responsibilities or dependants, those with an offending past, or people living in rural areas)?	No	
What evidence exists for this?	This policy is almost identical to the non schools policy which has been shared with the trade unions, all staff forums, and a selection of managers and no issues relating to any of these categories were identified.	
15. Are there concerns there could be a differential impact due to <i>multiple discriminations</i> (eg disability <u>and</u> age)?	No	
What evidence exists for this?	This policy is almost identical to the non schools policy which has been shared with the trade unions, all staff forums, and a selection of managers and no issues relating to multiple discriminations were identified.	

Conclusions & recommendation		
16. Could the differential impacts identified in questions 7-15 amount to there being the potential for adverse impact?	No	
17. Can the adverse impact be justified on the grounds of promoting equality of opportunity for one group? Or another reason?	No	

Recommendation to proceed to a full impact assessment?		
No	This policy complies with the requirements of the legislation and there is evidence to show this is the case.	
NO, BUT ...	What is required to ensure this complies with the requirements of the legislation? (see DIA Guidance Notes)	The Equality Act 2010 applies to the sickness policy in relation to managing those with disabilities. The policy provides guidance on managing staff who are either already disabled or become disabled.

Action plan to make minor modifications		
Outcome	Actions (with date of completion)	Officer responsible
Staff involved in reviewing the policy	Continual monitor and review	Schools HR team

Planning ahead: Reminders for the next review		
Date of next review	October 2013	
Areas to check at next review (eg new census information, new legislation due)	Legislation changes. Monitoring for the Equality Duty, establish trends etc	
Is there <i>another group</i> (eg new communities) that is relevant and ought to be considered next time?	N/A	
Signed (completing officer/service manager)	Date 4/10/11	
Signed (service manager/Assistant Director)	Date 6/10/11	

Related documents

Workforce monitoring report 2009/10

Schools workforce, on average headcount in 2009/10 was 5,305 employees.

That equates to 64% of the total Medway Council employee headcount.

Table 1 - Sickness breakdown by ethnicity (schools and non schools)

2009/10	Total calendar days Sick	Average calendar days Sick
Asian or Asian British	1,589	5.23
Black or Black British	1,644	7.37
Chinese or Other	331	6.12
Multi-Ethnic	712	5.57
White (White British, White Irish, or White Other)	86,600	6.81
Not Given or Refused	1,749	7.00
Total	92,625	6.77

Table 2 - Sickness breakdown by disability (schools and non schools)

2009/10	Total calendar days sick	Average calendar days sick
Yes	3,926	10.02
No	86,304	6.65
Not Given or Refused	2,395	7.70
TOTAL	92,625	6.77

Table 3 - Sickness breakdown by age (Schools and non schools)

2009/10	Total calendar days sick	Average calendar days sick
16-19	261	2.56
20-24	3,262	4.52
25-29	5,864	4.55
30-34	4,915	4.24
35-39	8,341	5.49
40-44	14,197	6.75
45-49	14,481	6.68
50-54	14,935	7.63
55-59	14,578	8.70
60-64	9,278	11.77
65+	2,513	12.52
TOTAL	92,625	6.77