



**Eastbrook School**  
**Schools Sickness Absence Procedure**  
**Department of Children Services**

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## **1. Introduction**

It is the wish of every employer to promote good employee relations practices and in keeping with this aspiration, this document is designed to clarify the rights and responsibilities of Headteachers, Governing Bodies, employees and Trade Unions in respect of the management of sickness absence.

The Council and Locally Managed Schools are committed to the care, welfare and equitable treatment of staff members. It is recognised that most absence is genuine and, by creating a fair and transparent policy, it is hoped to avoid creating anxiety about the consequences of staying off work when ill.

This policy provides Schools with a consistent and structured framework that will enable them to properly manage the difficult and sensitive area of staff sickness absence levels. The aim is to help people to return to work and to remain at work, where possible.

This policy should be used in conjunction with the Locally Managed Schools "Sickness Absence – A Procedural Guide" document, which provides Headteachers and employees with further information on absence reporting procedures and arrangements.

## **2. Legal Context**

The Framework for managing sickness absence takes into consideration the provisions of; the Employment Rights Act 1996, the Employment Relations Act 1999, the Employment Act 2002, the Education Acts 1944, onwards and regulations made under them, the Equality Act 2010 (which repealed all previous equality legislation, including; the Disability Discrimination Act and the Race Relations (Amendment Act) 2000), the Employment Act 2008 (Dispute Resolution) , the School Staffing Regulations 2004 and the ACAS Code of Practice on Disciplinary and Grievance Procedures.

In addition to the above provisions, adoption and operation of these procedures should ensure that the Governing Body and Headteacher operate in accordance with all national and local conditions of service that apply to both Teaching and Non-Teaching staff

In order to avoid unfair treatment or discrimination, Governing Bodies and Headteachers should seek the advice and assistance of the Schools Human Resources Team at all stages in the operation of these procedures. In any event, the Director of Children's Services or their representative is entitled to attend all the meetings of the Governing Body's Disciplinary and Appeals Committee.

Adoption of these procedures will ensure that the Governing Body will have the full support of the Local Authority in progressing cases. It is noted that this procedure has been agreed locally between recognised Trade Unions, Professional Associations and the Local Authority. If a Governing Body chooses to adopt alternative procedures then a copy of these procedures, together with the reasons for their adoption, should be sent to the Director of Children's Services who will advise the Secretaries of the Professional Associations/Trade Unions.

Governors must ensure that the adopted procedures are readily available to and understood by all staff members.

### 3. Confidentiality

Headteacher's and Governors involved in the various stages in this procedure are advised that under no circumstances whatsoever should they discuss the case with anyone outside of its scope or amongst themselves.

This matter is of particular relevance because certain members of the Governing Body may at a later stage have to act as an appeal body and natural justice demands that they must have no prior knowledge of the case whatsoever.

### 4. Relevant Information relating to short and long term absences

Detailed below, there are separate procedures for managing short-term sickness absences (less than 4 calendar weeks) and long-term sickness absences (continuous absence of 4 calendar weeks or more or linked absences relating to an underlying medical condition).

When dealing with a combination of short and long-term sickness absence and the member of staff is back at work; action will normally be taken under the short-term absence procedure. However, each case should be carefully considered, depending on the individual circumstances.

If, when dealing with absence under the short-term absence procedure, the member of staff goes on long-term sickness absence, further action may follow the long-term absence procedure, depending on the circumstances of the case.

Specific cases of absence cannot be dealt with under both short-term and long-term absence procedures at the same time.

Where sickness absence may be due to a medical condition or impairment defined as a "disability" under the Equality Act 2010, Headteachers should always refer to and consider the guidance outlined in Appendix 1, "Reasonable adjustments under the Equality Act".

It should be stressed that all matters relating to sickness absence should be dealt with sympathetically and although a uniform approach is essential; this should not preclude each case from being considered individually on its own merits.

### 5. LONG-TERM SICKNESS ABSENCES

**In all cases of long-term sickness absence, regular contact with the staff member must be maintained throughout their absence and their expectations for a return to work should be ascertained. At an early stage of the staff member's absence, it would be helpful for management and the staff member to agree an arrangement for maintaining contact.**

5.1 Medical advice from the Council's Occupational Health Service should be sought at an early stage. Depending on the circumstances of the case, it is advisable for a staff member to be referred to Occupational Health after 4 weeks continuous absence, or after 2 weeks absence if the reason for their absence is work-related stress or related to back problems;

5.1.1 The Headteacher must inform the staff member that they are being referred and the reason for the referral.

- 5.1.2 The Headteacher must make a written request to the Schools HR Team for the staff member to be referred, fully explaining the reasons for referral and including a copy of the staff members' job description.

### **First Stage - Informal**

- 5.2 Following receipt of the first Occupational Health report, if the member of staff is unable to return to work for the foreseeable future, a first stage informal long term sickness meeting should be arranged promptly:
  - 5.2.1 The member of staff should be given a minimum of 5 working days written notice of the meeting. They should also be informed that they may wish to be accompanied by a trade union representative or work colleague of their choice.
  - 5.2.2 The purpose of the informal meeting will be to review the staff member's absence and any available medical evidence. Reasonable adjustments and support mechanisms to support the staff member to return to work should also be discussed at this early stage, to encourage an early return to work where possible. The meeting will also be used to inform the employee of the next steps forward procedurally.
  - 5.2.3 At the end of the meeting, a review period will be set with the member of staff, which will be no more than six months from the date of the informal meeting (*depending on the circumstances of the case*). The member of staff should be informed that if they fail to return to work within the review period, a formal sickness absence meeting will be arranged.
  - 5.2.4 The actions of the informal meeting will be confirmed in writing to the member of staff and their trade union representative or work colleague of their choice within five working days.
  - 5.2.5 During the review period set, if the member of staff returns to work, there will be no need to hold any further procedural meetings. However, the Headteacher should conduct a return to work meeting to discuss arrangements for the employee to return to work with support. At this meeting, the staff member should be informed that no further action shall be taken under the stages of this Sickness Procedure, as long as satisfactory attendance levels are maintained. However, the staff member should also be informed that a further episode of long-term sickness absence within a 12 month period, could lead to immediate progression to the formal second stage, without the need to go back to the first informal stage.
  - 5.2.6 If the member of staff has not returned to work successfully during the review period set in point 5.2.3 above, further medical evidence and an up-to-date Occupational Health report should be sought prior to a second stage formal long-term sickness meeting being held.

## Second Stage - Formal

- 5.3 Should the staff member not return to work within the review period set in point 5.2.3, or, if the return is not successful, upon receipt of further medical evidence/Occupational Health advice, a second stage formal long-term sickness meeting should be promptly arranged:
- 5.3.1 The member of staff should be given a minimum of 5 working days written notice of the meeting and be informed of their right to be accompanied/represented by a trade union representative or work colleague of their choice.
  - 5.3.2 The purpose of the formal meeting will be to review the absence of the member of staff and any further medical evidence. Again, reasonable adjustments and support mechanisms should be further discussed.
  - 5.3.3 If, at this meeting, it is considered that the staff member may be unlikely ever to be fit to perform their work, or may not be fit for such a time that the interests of the service will suffer, he/she should be informed that a date will be set for their return to work. If he/she is unable to return on that date, it may be necessary for the Headteacher to consider a recommendation to the Governing Body for ill health dismissal. In such circumstances, the staff member should be given time to consult their GP or relevant medical practitioner before giving a considered response. In addition, HR will seek guidance and up-to-date information on the staff member's health condition.
  - 5.3.4 If point 5.3.3 applies, the member of staff will be set a reasonable "return to work date" during the meeting, taking into account a range of factors including; the nature of their health condition, estimated recovery period, whether the Equality Act applies (see Appendix 1), occupational health advice, their length of service and when he/she will fall into a "no sick pay" situation.
  - 5.3.5 The member of staff should be informed that should he/she fail to return to work by the set "return to work date", the Headteacher may convene a Governing Body Ill Health Dismissal Committee. The outcome of the Governing Body Committee may be that the staff member is dismissed with notice on ill health grounds.
  - 5.3.6 The actions of the stage two formal long-term review meeting will be confirmed in writing to the member of staff and his/her trade union representative/work colleague within 5 working days.
  - 5.3.7 During the review period set, if the member of staff returns to work, there will be no need to hold any further procedural meetings. However, the Headteacher should conduct a return to work meeting to discuss arrangements for the employee to return to work with support. At this meeting, the staff member should be informed that no further action shall be taken as long as satisfactory attendance levels are maintained. However, the staff member should also be informed that a further episode of long-term sickness absence within a 12-month period, could lead to immediate progression to the second stage, without the need to go back to the first informal stage.

If the member of staff does not return to work successfully before or on the "return to work date", further medical evidence and an up-to-date Occupational Health report should be sought. This evidence should be received prior to the Headteacher deciding whether to refer the matter to a Governing Body Ill Health Dismissal Committee.

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*Note. The above procedure is, simplified where ill health retirement is granted, although the decision to dismiss is a management and not a medical one).*

### **Third Stage – Referral to Governing Body Committee**

- 5.4 Should the staff member not return to work successfully on or before the set return to work date, the Headteacher should ensure that:
- (a) offers of alternative employment/redeployment have been considered (if recommended by Occupational Health as appropriate);
  - (b) the staff member has been sufficiently consulted about their health condition/s and prospects in the context of their needs and those of the service, including a discussion of the possibility of dismissal. In particular, if a member of staff has a health condition which is identified as being a disability, that Appendix 1 has been fully considered;
  - (c) the length of the period of sickness has been considered, along with the staff member's length of service and employment record;
  - (d) a recent opportunity has been given to the staff member to give their own view on his/her health in relation to his/her employment capability;
  - (e) adequate medical advice has been obtained about the staff member's condition, future prospects of recovery and any support mechanisms or reasonable adjustments that could facilitate a return to work etc;
  - (f) appropriate investigations have been made into all aspects of the matter which may be relevant to the decision to dismiss; and
  - (g) the staff member has had the opportunity to involve his/her Trade Union representative throughout the proceedings if he/she so wished.
- 5.5 If paragraph 1.4 has been fully considered, a Headteacher may refer the matter to a Governing Body Dismissal Committee. The outcome of which could be dismissal on ill health grounds with the required period of contractual notice.
- 5.6 The procedure to be followed at a Governing Body Ill Health Dismissal Committee is as follows;
- 5.6.1 The staff member shall be given notice in writing at least 7 days in advance of the time and place of the hearing. He/she shall be supplied with copies of any papers which are to be produced at the hearing. He/she shall be allowed to be represented by a trade union representative or work colleague of the staff member's choice;
  - 5.6.2 The staff member shall be permitted to call witnesses and produce documents relevant to his/her defence at the hearing, copies of which shall be supplied in advance to the Governing Body and the Headteacher;

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- 5.6.3 The Headteacher shall first put the case in the presence of the staff member and his/her representative and may call witnesses;
- 5.6.4 The staff member (or their representative) shall have the opportunity to ask questions of the Headteacher on the evidence given by them and of any witnesses whom he/she may call;
- 5.6.5 The Governing Body Committee may at any stage ask questions of the Headteacher and his/her witnesses;
- 5.6.6 The staff member (or their representative) shall put his/her case in the presence of the Headteacher and call such witnesses as he/she may wish;
- 5.6.7 The Headteacher shall have the opportunity to ask questions of the staff member (or their representative) and his/her witnesses;
- 5.6.8 The Governing Body Committee may, if they wish, at any stage ask questions of the staff member (or his/her representative) and his/her witnesses;
- 5.6.9 The Headteacher and the staff member (or his representative) may sum up their case if they so wish; (No new evidence may be introduced at this stage).
- 5.6.10 The Headteacher and his/her witnesses and the staff member and his/her representative and witnesses shall withdraw;
- 5.6.11 The Governing Body Committee shall deliberate in private, only recalling the Headteacher and the staff member to clear points of uncertainty of evidence already given. If a recall is necessary, both parties are to return notwithstanding if one only party is concerned with the point giving rise to doubt;
- 5.6.12 The decision of the Committee shall be given, either orally after the hearing or in writing, by the Governing Body to the Headteacher and to the staff member and to any person representing them. Where an oral decision is given, this shall be confirmed in writing as above.

#### *Procedural Notes*

- (a) Throughout this procedure "Governing Body" or "Headteacher" includes his/her deputy or other authorised staff members.
- (b) In circumstances where a matter under consideration is highly confidential or sensitive in nature the Chairperson may, at their discretion, require that any witnesses called, shall after giving any evidence, withdraw from the proceedings until further notice.
- (c) One of the possible courses of action which should be considered by the Committee is an offer of alternative employment and Headteachers should therefore ensure that they are aware of the alternative posts available within their School.
- (d) The letter conveying the decision of the Committee should state the grounds on which the decision is based together with details of the staff member's right of appeal.



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#### **Fourth Stage - Appeal**

- 5.7 Should the Governing Body Dismissal Committee decide to proceed with dismissing the staff member with notice, the employee will have a right to appeal against that decision.

The staff member shall be informed of these rights and that if they wish to exercise them, he/she must do so in writing, within 10 days of written notification of the action taken, to the Chair of the Governing Body. Following receipt of the written appeal, an Appeal Committee shall be appointed by the Governing Body to who all appeals under this procedure shall be referred and who shall have the power to overturn, vary or confirm the decision under appeal.

- 5.8 The procedure to be followed at a Governing Body Appeal Committee is as follows;

- 5.8.1 The staff member shall be given notice in writing at least 7 days in advance of the time and place of the hearing. He/she shall be supplied with copies of any papers which are produced at the hearing. He/she shall be allowed to be represented by a trade union representative or fellow colleague of his/her choice;
- 5.8.2 The staff member shall be permitted to call witnesses and produce documents relevant to his/her defence at the hearing, copies of which shall be supplied to the Headteacher and Governing Body.
- 5.8.3 The Headteacher shall put the case in the presence of the staff member and his/her representative and may call witnesses;
- 5.8.4 The staff member (or his/her representative) shall have the opportunity to ask questions of the Headteacher on the evidence given by him/her and of any witnesses whom he/she may call;
- 5.8.5 The Committee of the Governing Body may at any stage ask questions of the Headteacher and his/her witnesses;
- 5.8.6 The staff member (or his/her representative) shall put his/her case in the presence of the Headteacher and call such witnesses as he/she may wish;
- 5.8.7 The Headteacher shall have the opportunity to ask questions of the staff member (of his/her representative) and his/her witnesses;
- 5.8.8 The Committee members of the Governing Body may at any stage ask questions of the staff member (or his/her representative) and his/her witnesses;
- 5.8.9 The Governing Body will ask the staff member and his/her representative to sum up their case if they so wish. (No new evidence may be introduced at this stage);
- 5.8.10 The Headteacher and his/her witnesses and the staff member and his/her representative shall withdraw;
- 5.8.11 The Appeal Committee of the Governing Body shall deliberate in private, only recalling the Headteacher and the staff member to clear points of uncertainty of

evidence already given. If a recall is necessary, both parties are to return notwithstanding if one party only is concerned with the point giving rise to doubt;

- 5.8.12 The decision of the Appeals Committee shall be given either orally after the hearing or in writing, by the Governing Body to the Headteacher and to the appellant and to any person representing them. Where an oral decision is given this shall be confirmed in writing as above.

**This is the final stage. There are no further rights of appeal.**

## **6. SHORT-TERM SICKNESS ABSENCES**

- 6.1 In appropriate instances, due regard will need to be taken of a number of the considerations detailed in relation to long term absences set out above, along with those detailed in Appendix 1. For example, where persistent short periods of sickness relate to the same complaint, or cause, which could be attributable to a chronic though not acute condition, medical advice may need to be sought and consideration given to the likelihood of improvement in the future.
- 6.2 Often, however, persistent short term absences are attributable to relatively minor and unrelated causes and periods of ill-health lasting only one, two or three days can, from a management viewpoint, be aggravating, frustrating, costly and adversely affect the efficiency of the service. Thus, whilst accepting that there will be occasions where staff members are forced, through illness, to take isolated days off work, the frequency of absences should not be allowed to prejudice the efficient running of a School, etc. It is therefore in the interest of Schools and recommended by the Local Authority that they continually monitor, analyse and control periods of short term sickness absence to ensure that these do not become excessive.

### **Informal Stage**

- 6.3 As a first step in controlling the level of sickness leave, it is essential to monitor the amounts taken by every staff member. For this purpose, the period to be considered will be the twelve months immediately prior to the date on which the record is being examined. If, during those twelve months an individual has had three or more separate periods of absence, which together total seven or more days (which is the Local Authorities" designated target), this should be brought to their attention informally during a meeting and the concern of the School expressed in writing. (An example of both an appropriate letter and the proforma for carrying out a first stage short-term informal sickness absence meeting is attached as Appendix 2). A summary of this process is as follows:
- 6.3.1 The purpose of the informal meeting will be to review the staff member"s short-term sickness absences over the past 12 months. During the meeting, the staff member should be given the opportunity to explain the reasons for his/her absences.

The informal meeting should also be an opportunity to establish if the absence/s related to an underlying health condition or could be classified as a disability under the Equality Act. If this is the case, then the Headteacher should contact the Schools HR Team to arrange an Occupational Health appointment and follow the procedure

outlined in paragraph 5.1 of this procedure.

- 6.3.2 At the end of the informal meeting, the staff member will be asked to demonstrate an improvement in their short term sickness absence/s. A review period will be set with the member of staff and they will be given a target to reach during that period. The target should be no more than three days sickness absence. The review period will be three working months from the date of the informal meeting (depending on the circumstances of the case). The member of staff should be informed that should they fail to meet the target set for the review period; a formal first stage sickness absence meeting will be arranged.
- 6.3.3 The outcome of the meeting is immediately confirmed in writing to the member of staff in the form of the draft letter which HR will have pre-prepared and sent to the Headteacher.
- 6.3.4 During the informal review period set, if the member of staff meets the target, there will be no need to hold any further meetings. The staff member should be informed that no further action shall be taken as long as satisfactory attendance levels are maintained.

### **First Stage – Formal**

- 6.4 Should the staff member not successfully meet the target set for the review period, a first stage formal sickness absence meeting should be arranged.
  - 6.4.1 Because this meeting is formal, the member of staff should be given a minimum of 5 working days written notice of the meeting and be informed of their right to be accompanied/represented by a trade union representative or work colleague of his/her choice.
  - 6.4.2 The process at this meeting will be the same as indicated in points 6.3.1 to 6.3.4 above.
  - 6.4.3 However, on this occasion, the member of staff should be informed that if he/she fails to meet the targets set during the first stage formal review period, the matter may progress to the second stage and transfer to the relevant Disciplinary Procedure. All evidence collected during the informal and first stages will be used to form the investigation at disciplinary. The staff member should also be informed that at the second stage, his/her absence will be fully investigated in line with the Disciplinary Procedure, and a possible outcome of this could be that a hearing is convened, where a warning may be issued to him/her.
  - 6.4.4 During the first stage formal review period, if the member of staff meets the target set, there will be no need to hold any further meetings. The staff member should be informed that no further action shall be taken as long as satisfactory attendance levels are maintained. However, the staff member should also be informed that further failure to reach the School's trigger levels within a 12 month period, could lead to immediate progression to the second stage, without the need to go back to either the informal or first stage (*depending on the circumstances of the case*).

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Second Stage – Formal Investigation and Hearing Process (Transfer to Disciplinary Procedure)

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- 6.5 Should the staff member not successfully meet the first stage formal target set for the review period, upon receipt of further medical evidence/Occupational Health advice, a formal short-term disciplinary investigation should be promptly arranged, to fully investigate the circumstances of the staff member's poor short term absence record. The process to be followed during investigation is further detailed in the Locally Managed School's Disciplinary Procedure.
- 6.6 Following a thorough investigation, if the Headteacher believes that there is a further case to be heard, a formal short-term hearing should be promptly arranged, as follows:
- 6.6.1 The member of staff should be given a minimum of 5 working days written notice of the hearing and be informed of his/her right to be accompanied/represented by a trade union representative or work colleague of his/her choice.
- 6.6.2 The purpose and process to be followed at the second stage formal hearing is identical to that of a disciplinary hearing, as further detailed in the relevant disciplinary policy.
- 6.6.3 Depending upon the outcome of this hearing, either an oral or written warning under the signature of the Headteacher may be sent to the staff member. This letter will indicate the possible future consequences of further breaches of the School's short-term trigger levels, including possible effects on continued employment. This letter will also detail the staff member's right to appeal. The process and procedure at appeal are further detailed above in paragraph 5.7 and 5.8 of this procedure.
- 6.7 If the rate of sickness within the subsequent 12 months continues to be Unsatisfactory, once all of the above steps identified in paragraph 6.5 and 6.6 above have been followed, a further or final written warning under the signature of the Headteacher shall be sent. This letter again will indicate the possible future consequences of further breaches of the School's short-term trigger levels, including the immediate effect on his/her continued employment.

### **Third Stage – Referral to Governing Body Committee**

- 6.8 Only when the above mentioned stages have been followed, the member of staff is on a final written warning and his/her short-term absence record continues to hit short-term trigger levels, a Headteacher may, following consultation with the Governing Body, refer the matter to an appropriate Committee.

Prior to doing so, the Headteacher should ensure that:

- (a) the staff member has been sufficiently consulted about his/her health condition/s and prospects in the context of his/her needs and those of the service, including a discussion of the possibility of dismissal. In particular, if a member of staff has a health condition that is identified as being a disability, that Appendix 1 has been fully considered;
- (b) the length of the period of sickness has been considered, along with the staff member's length of service and employment record;



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- (c) a recent opportunity has been given to the staff member to give his/her own view on their health in relation to his/her employment capability;
- (d) adequate medical advice has been obtained about the staff member's condition, future prospects of recovery and any support mechanisms or reasonable adjustments that could facilitate a return to work/regular attendance at work etc;
- (e) appropriate investigations have been made into all aspects of the matter which may be relevant to the decision to dismiss; and
- (f) the staff member has had the opportunity to involve their Trade Union representative throughout the formal proceedings if he/she so wished.

6.9 If all the above have been fully considered, a Headteacher may refer the matter to a Governing Body Dismissal Committee, the outcome of which could be dismissal on ill health grounds with the required period of contractual notice. Please refer to paragraph 5.6 of this procedure, which details the process to be followed at a Governing Body Ill Health Dismissal Committee.

#### **Fourth Stage - Appeal**

6.10 Should the Governing Body Dismissal Committee decide to proceed with dismissing the staff member with notice, the employee will have a right to appeal that decision.

The staff member shall be informed of these rights and that if he/she wishes to exercise them, they must do so in writing, within 10 days of written notification of the action taken, to the Governing Body. Following receipt of the written appeal, an Appeal Committee shall be appointed by the Governing Body to who all appeals under this procedure shall be referred and who shall have the power to quash, vary or confirm the decision under appeal.

6.11 Please refer to paragraph 5.7 of this procedure, which further details the process to be followed at a Governing Body Appeal Committee.

**This is the final stage. There are no further rights of appeal.**





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## **APPENDIX 1 - REASONABLE ADJUSTMENTS UNDER THE EQUALITY ACT 2010**

From 1 October 2010, the Equality Act 2010 replaced and repealed most of the Disability Discrimination Act (DDA). The Equality Act prohibits discrimination against people with the protected characteristics that are specified in section 4 of the Act. Disability is one of the specified protected characteristics. Under the Act, an employer has a duty to make reasonable adjustments for disabled employees. This Section will consider this.

Please note that this Schedule should be read with the “Equality Act” guidelines set out in the Council’s Guide to Employing Disabled People.

### **Principles**

- A person has a disability within the meaning of the Equality Act if he or she has a physical or mental impairment, which has a substantial and long-term adverse effect on his or her ability to carry out normal day to day activities. For the purpose of the Act; “substantial” means more than minor or trivial. “Long-term” means that it has lasted at least 12 months, it is likely to last at least 12 months or it is likely to last for the rest of the life of that person. It should be noted that staff who have had a disability in the past and meet this definition are also covered by the Act.
- The Equality Act continued to make it unlawful for the Council and Schools to treat a disabled person less favourably because of their disability. It is also illegal for a policy or procedure to impact unfairly on someone due to their disability. In such situations, as it is indirect, we may have a defence to that treatment if it can be objectively justified. Advice should be sought in such situations. It should also be noted that the Act protects staff from disability discrimination should they be treated less favourably because of their association with a disabled person.
- Dismissal, including compulsory early retirement, of a disabled person for a reason relating to their disability would need to be justified by good reason and the reason(s) for it would have to be one(s) which could not be removed by any reasonable adjustment(s). In summary, it would be justifiable to terminate the employment of a member of staff whose disability makes it impossible for him/her to any longer perform the main functions of their job if an adjustment, (such as a move to a vacant post elsewhere in the School/Local Authority), is not practicable or otherwise not reasonable for the School to have to make.
- If the School (as represented by its Headteacher and Governing Body) knows or could reasonably be expected to know that a person has a disability, it is under a positive duty to consider what reasonable adjustments could be made to the workplace or the way the work is done to resolve any difficulties the disabled person faces in doing his/her existing job.
- As the School can be reasonably expected to know that a person has a disability, Headteacher’s need to consider and be sensitive to the possibility that a member of staff’s period of sickness may be caused by a disability. This is particularly true in respect of possible psychological conditions including depression, which may result in periods of absence (combined possibly with poor work as a result of lack of concentration, etc.), and which a member of staff may be reluctant to disclose or discuss with his/her manager. Such situations need to be approached with particular sensitivity.
- The nature of the reasonable adjustments which have to be considered will depend on the circumstances of each case. Where no reasonable adjustments would overcome a particular



disability to enable the disabled person to continue with their existing job, reasonable adjustments can include the transfer of the member of staff to a suitable alternative post. The duty to make reasonable adjustments is a continuing one and thus applies to alternative posts as well. Reasonable adjustments can also include provisions made to assist a gradual return to full-time hours or, for example, a change to part-time hours. Additional training may be necessary to enable the member of staff to take on the new post. If it is viewed as appropriate, the member of staff may be asked to contact Access to Work for support for reasonable adjustments. If this is the case, it will be the staff member's responsibility to do so.

## **Process**

1. Where a member of staff has breached the short/long-term absence triggers as a result of any informal or formal meetings and the Headteacher has reason to believe that any or all of the periods of absence may be due to an actual or perceived disability as defined under the Equality Act, he/she must be referred to the Occupational Health Services (OHS). The existence of such a condition may in any event be revealed by simple and sympathetic investigation with the member of staff about the reason for his/her absence. The Headteacher, in conjunction with the Schools HR Team, should seek advice from the OHS as to the member of staff's ability to do his/her work and any limitations on his/her capabilities that may need to be taken into account in considering what reasonable adjustments to the individual's work it may be practicable to make.
2. If it is confirmed (by the OHS or otherwise) that there is a health condition which is defined or classified as a disability under the Act, the Headteacher should ensure that records of any subsequent periods of absence indicate whether the absence is due to their disability or for any other reason.
3. Where periods of absence are due to a disability the Headteacher has a positive duty, as part of the informal and formal meeting process, to consider what reasonable adjustments can be made to the member of staff's workplace or to the work he/she is doing, which would overcome these effects. The member of staff should be consulted as to his/her needs. The Headteacher must ensure that any considerations, which are given to reasonable adjustments, including details of any consultations with the member of staff, are properly noted. The reasons for making any particular adjustments or the reasons why any particular adjustments are not considered practicable must also be noted, whether such considerations take place within meetings, with the member of staff or afterwards. Copies of the notes of the contents of meetings should be supplied to the member of staff for his/her agreement or otherwise. They should be advised that if he/she disagrees with the accuracy of the note he/she should set out his/her disagreement in writing and confirm how/what he/she says the note should read to accurately reflect the contents of the meeting.
4. Where periods of absence are unrelated to a disability condition covered under the Equality Act, the normal procedures set out in this policy will apply.
5. Where periods of absence are due to a mixture of conditions classified as a disability and non disability under the Act, the appropriate action should be taken in relation to the health condition classified as a disability, as outlined in this Appendix. Absences relating to a disability will be dealt with under the "Procedures for Dealing with long-term Sickness." Non disability-related absences will be dealt with under the relevant short or long-term procedures.
6. Prior to any consideration of dismissal, attention must have been given to the obligations under the Equality Act towards the disabled member of staff. In particular, it is only after consideration



has been given to make reasonable adjustments to the member of staff's existing job and there are no alternative jobs available (which again should be considered in the light of any reasonable adjustments which may be made to the role to make it suitable to the disabled member of staff) that termination can properly take place. The decision to dismiss will have to be justified by good reasons. It may be that if consideration of reasonable adjustments or the consideration of alternative work is taking longer than the time limits set down under the Long-Term Absence procedure for a contract review, the time limit should be varied to allow for such detailed consideration to have taken place (this would be seen as a reasonable adjustment). Equally, where a disabled member of staff meets the requirements for ill-health early retirement or redeployment the dismissal would have to be justified and the reason for it would have to be one, which could not be removed by any adjustment.

7. When all reasonable adjustments and alternative options have been explored dismissal on grounds of ill health or „some other substantial reason“ will be considered. Before any decision to dismiss can be taken advice from both legal and human resources must be sought.
8. Termination of employment will be with contractual notice.
9. Similarly, where a member of staff meets the criteria, as medically assessed, for ill-health early retirement or ill-health redeployment, due regard must be given to the obligations under the Equality Act.



**APPENDIX 2 – Proforma: first stage short-term informal sickness absence meeting**

**Name:** \_\_\_\_\_ **School:** \_\_\_\_\_

**Number of days sickness absence:** \_\_\_\_\_ **over** \_\_\_\_\_ **periods**

<b>PERIOD</b>	<b>REASON</b>
1 _____	1 _____
2 _____	2 _____
3 _____	3 _____
4 _____	4 _____
5 _____	5 _____
6 _____	6 _____

**Issues Headteacher (or delegated individual) might wish to cover:**

- a Explain that the frequency of the absence is over the departmental average.
- b Ask if the individual is experiencing any difficulties at work/home or has any other mitigating circumstances.
- c Consider if there is a need for referral to the Occupational Health Service (i.e. if a disability or long-term health condition is identified).
- d Get an undertaking from the member of staff to reduce and sustain the level and frequency of the sickness (unless absences are related to a disability or are pregnancy related, which should not be monitored without further advice from Human Resources).
- e Set a date to review the situation after a specified period of time (3 months) and set a target number of absence days during that period.
- f Indicate that failure to meet the target, could result in progression to Formal Stage 1 of the Sickness Absence Procedure and ensure they are given a copy of that Procedure.
- g Continuously appraise the situation during the 3 month review period and ensure that the informal review meeting is held when scheduled





**PRIVATE AND CONFIDENTIAL**

**Notes of the Meeting**

**Date:**

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**Present:**

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**Issues covered  
i.e. points a-g**

**Any mitigating circumstances highlighted by individuals**

**Review date and targets set**

**Signed:**

**(Headteacher/Deputy Headteacher/Delegated Individual)**

### **Appendix 3 – Additional Advice and Support**

**Occupational Health** – Any employee who falls under this procedure may find it helpful to talk to the Occupational Health Adviser. In addition, the Headteacher and Human Resources will need medical advice. Therefore, the staff member may be referred to the Occupational Health Service during any part of this procedure.

**Counselling** – The Council provides a confidential external service for staff through our Occupational Health Service.

**EAP – Employee Assistance Programme** – is a neutral welfare initiative available by telephone to give counselling, information, signposting and support. This is only available to schools that have bought into this service. Each School will be able to advise their staff members accordingly.

**Trade Unions** – The Council recognises the important role that trade unions have in resolving and supporting such issues and encourages staff members to approach their Representatives for support and/or representation at meetings. The recognised trade unions are as follows:

**Non-Teaching:**

- APEX
- GMB
- Unison
- Unite

**Teaching:**

- ATL
- NAHT
- NASUWT
- NUT
- ACSL

**External Support for Teaching Staff** – Teacher Support Line is a 24 hour, 7 day a week confidential telephone helpline for teachers. The contact number is 08000 562561. Further information can be sought on their website: [www.teachersupport.info](http://www.teachersupport.info)

**Staff Support Networks** - The Council has well established support networks that provide valuable support, including confidential advice, on both work related and personal matters. The staff support networks are as follows:

- BME Staff Support Network
- Disabled Staff Network
- LGBT Staff Support Network

