

# HUMAN RESOURCES

## SICKNESS ABSENCE GUIDANCE



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## **1. Introduction**

The London School of Hygiene and Tropical Medicine (“the School”) is a caring employer and aims to provide support to all staff in times of sickness and personal difficulties.

It is important that a consistent approach is adopted and a balance struck between providing support to the employee, recognising individual circumstances whilst ultimately securing their return to work, and improving attendance generally.

It is imperative that confidentiality with regard to an individual’s health and personal circumstances is maintained at all times.

Awareness of health and safety issues must be borne in mind and a risk assessment must be carried out in the light of any injury at work.

Whilst recognising the desire to be reasonable and sensitive in cases of sickness absence, the School is very conscious of the fact that poor attendance at work can contribute to reduced efficiency and can disrupt the quality of service and team spirit.

This guidance supports managers in implementing the Sickness Absence Management Policy and Procedure. It should be read in conjunction with the policy document.

This guidance will:

- assist managers in managing absence consistently;
- provide information and sources of further support within the School;
- offer practical tips on key areas of good practice in managing absence.

This document is not School policy and does not form part of employees’ terms and conditions of employment. It is not intended to replace or substitute advice from the Human Resources (HR) Department but will act as a source of information and guidance on many of the day-to-day issues you as a manager will face when managing sickness absence.

This guidance is an evolving document and as such if there are issues/concerns you are dealing with on a regular basis and which are not covered, please contact the HR Department so that the guidance can be expanded and the knowledge and experience shared with other managers/supervisors.

## **2. Legal considerations in managing sickness absence**

This section looks very briefly at the main legal considerations when dealing with sickness absence cases. It is only intended to provide a context for the practical applications that are referred to in the remainder of this document. The main areas covered are:

- the contract of employment and its termination;
- fair and unfair dismissal;
- the Equality Act 2010;
- remedies for unfair dismissal and discrimination on the grounds of disability.

### **2.1 The contract of employment**

The relationship between the School and its staff is governed by the contract of employment between the two parties. There are terms and conditions which, by law, must be set out in the contract, e.g. salary, hours, notice periods etc.

Moreover, there are implied terms arising from the contract, which crystallise the responsibilities of the two parties to each other:

The School has a responsibility to:

- pay the salary agreed for the job;
- ensure the employee's safety;
- treat the employee fairly under the law;
- treat the employee with respect.

In return, the employee has a responsibility to:

- attend work regularly;
- comply with reasonable instructions;
- exercise reasonable care and skill;
- treat colleagues with respect;
- not disclose confidential information.

## **2.2 Termination of contract**

There are various ways that a contract can be terminated:

- Resignation – when an employee leaves their role voluntarily, giving contractual notice.
- Frustration – when the contract ends unintentionally, without 'fault' on either side, e.g. as a result of illness.
- Dismissal – by the employer, with contractual notice, in accordance with a fair procedure, e.g. redundancy.
- Summary dismissal – by the employer, without notice, in accordance with a fair procedure, usually as a result of the employee committing an act of gross misconduct.

## **2.3 Fair and unfair dismissal**

An employee with more than 2 years' continuous service can claim unfair dismissal at an Employment Tribunal.

Unfair dismissal is where the employee is dismissed without a fair reason or a fair and due procedure. Claims for unfair dismissal make up the majority of cases taken by the Employment Tribunals. Certain reasons for dismissal are regarded as automatically unfair by Employment Tribunals, these include:

- pregnancy;
- spent criminal convictions;
- trade union membership or activities.

There are also a number of reasons for dismissal that are legally fair providing that a fair procedure has been followed. These include dismissals on the grounds of:

- capability and qualifications to do the job (including ill-health);
- conduct;
- redundancy;
- statutory bar (e.g. losing licence to practice);
- Some Other Substantial Reason (SOSR) e.g. irretrievable breakdown in trust and confidence.

As a manager, it is your responsibility to ensure that your actions are fair and in accordance with LSHTM's policy and guidelines. Managers should seek advice from Human Resources (HR) before taking any formal action.

## 2.4 Equality Act 2010 and Disability related sickness

LSHTM is committed to supporting all employees with a disability, impairment or long-term condition. If managers are uncertain where an employee's condition will fall under a disability in line with the Equality Act, advice should be sought from HR.

### ➤ Equality Act 2010

A disabled person in terms of the Equality Act 2010 is someone who has a physical or mental impairment which has a substantial and long-term adverse effect on their ability to carry out normal day-to-day activities.

For the purposes of the Act:

- Long-term means that the effect of the impairment has lasted or is likely to last for at least 12 months (there are special rules covering recurring or fluctuating conditions).
- 'Day-to-day activities' are defined as involving any of the following:
  - Mobility.
  - Doing something with your hands.
  - Physical coordination.
  - Continence (controlling the bladder and bowels).
  - Ability to lift, carry or move everyday objects.
  - Speech, hearing or eyesight.
  - Memory or ability to concentrate, learn or understand, or
  - Perception of the risk of physical danger.

The Equality Act 2010 amended the definition of disability. It ensured that people with HIV, cancer and multiple sclerosis are deemed to be covered by the Equality Act effectively from the point of diagnosis, rather than from the point when the condition has some adverse effect on their ability to carry out normal day-to-day activities.

### ➤ Reasonable adjustments

In line with the Equality Act 2010, employers are required to make 'reasonable adjustments'. These can be to physical features of premises and/or arrangements for employing disabled people. Factors to be weighed up in determining 'reasonableness' are:

- The disabled person's views on what they need.
- How effective the adjustment would be in overcoming the disadvantage.
- How practicable it is to make the adjustment.
- The extent of any disruption to activities.
- Effects on other staff.
- Sustainability.
- The financial and other costs incurred by the employer.

The Equality Act 2010 and the Equality and Human Rights Commission's Code of Practice gives examples of reasonable adjustments for those who are disabled under the definition outlined in the Act. Adjustments must be reasonable and must not constrain or affect the delivery of the service. As an example, where it has been identified as reasonable, these could include the following:

- Making adjustment to the premises (e.g. the entrance).
- Allocating some of the disabled person's duties to another role/person.
- Transferring the person to fill an existing vacancy.

- Altering the individual's hours of work or training.
- Assigning the person to a different place of work or training.
- Allowing the person to be absent during working or training hours for rehabilitation, assessment or treatment associated with disability.
- The review of any assessment for such conditions as dyslexia which has been obtained by the employee.
- Hearing aid tests outcomes where these have been obtained by the employee.
- Counselling/therapeutic treatment.
- Recovery time after blood transfusion or dialysis treatment.
- Arranging training or mentoring.
- Acquiring or modifying equipment.
- Providing all instructions, training or manuals in an accessible form.
- Providing a reader, interpreter or support worker.

In order to comply with the School's duty to make reasonable adjustments, managers should:

- Indicate the reasons for absence as 'disability related' on any records in order to separate such sickness from general sickness absence.
- Stay in touch if someone is absent for a long period to find out how they are and keep them updated as to what is happening at work.
- Think about a plan for return to work, for example, a phased return, or working from home before they come into the workplace, if this is possible in that particular role.
- Consider reasonable adjustments with the person, and use Occupational Health (OH) and HR advice to work out adjustments can be made for when the employee returns to work.

### ➤ **Costs for reasonable adjustments**

Not all adjustments will have a cost, for instance, a change made to an employee's pattern of working hours but where they continue to work the same number of hours overall. However, when there is a cost to the faculty/department/division there are a number of sources of funding, therefore it would be unusual for cost alone to be a justifiable reason for failing to make an adjustment.

### **Access to Work**

Access to Work is a government fund run by the Department of Work and Pensions and provides support to disabled people to help them overcome work-related obstacles resulting from their disability.

An application to the Access to Work programme should be made by the disabled person themselves within six weeks of starting work for LSHTM, in order for Access to Work to pay up to 100% of the costs of adjustments. Access to Work applies to any paid job – part-time or full-time, permanent or temporary.

Existing employees who are or who become disabled are eligible to apply for a grant from Access to Work irrespective of the length of employment at LSHTM, though in some cases Access to Work Scheme may not meet 100% of the costs.

More information on Access to Work such as eligibility and what costs they will cover is available via the link: <https://www.gov.uk/access-to-work/overview>

### **3. Managing Sickness Absence**

#### **3.1 Principles of managing sickness absence**

All managers have primary responsibility for managing the attendance of their staff. To ensure this is effective, the following principles should be applied:

##### Record Keeping

Clear, comprehensive and accurate records must be maintained by managers of all absences, including starting and finishing dates. Line managers should ensure that sickness absence dates and reasons are recorded using MyView self-service. In addition, the line manager should ensure that original (not copy documents) medical notes i.e. 'fit notes' are submitted promptly. Original fit notes should be sent to the HR Partner team and managers are advised to retain copies for their own records.

##### Standards

During induction, all new staff should be made aware of the School's procedure for reporting absences, any local requirements and their responsibility to comply with both.

##### Communication

From the outset of any episode of sickness absence, managers should ensure that the individual establishes regular contact with faculty/department in accordance with reporting requirements. The onus must be placed on the employee to maintain contact, failure to do so should be addressed immediately, and if necessary advice sought from HR. Managers are advised to make a point of having a short discussion with individuals on their return to work after any period of sickness absence.

#### **3.2 Responsibilities and Definitions**

In managing sickness absence, it is the role of the manager to:

- Record and monitor all employees' sickness absence via MyView.
- Hold return to work discussions after periods of absence and raise concerns where necessary to try to resolve any underlying issues as promptly as possible.
- Request an Occupational Health referral where it become apparent that there is a medical condition or a continued high or regular level of absence and with HR advice.
- Chair informal, formal Stage 1 and Stage 2 short-term absence meetings.
- Chair long-term informal stage and review meetings.
- Prepare a management report for use at short-term Stage 3 absence meetings and at long-term formal sickness hearings.
- Present the report to the Chair of the meeting or hearing in cases of both long-term and short-term absences.

There will be occasions where it is necessary for a manager to raise an employee's level of absence with them. This may be in instances where the level of absence due to ill-health is having an impact on the team and/or the service.

As a manager, you have a responsibility to the School, your staff and yourself to speak to the individual promptly and courteously. Where issues are left to escalate or are not dealt with appropriately, there can be significant consequences for all concerned, which can cause internal difficulties including but not limited to damage to working relationships.

### **3.3 Responsibilities of employees**

An employee has a responsibility to:

- Follow the correct sickness absence procedures.
- Take all reasonable steps to attend an Occupational Health referral.
- Attend any sickness meetings or hearings.
- Provide any information that they might reasonably be expected to provide.
- Comply with reasonable instructions or objectives/targets set as a result of the Sickness Absence Management Policy and Procedure.

### **3.4 What is absence?**

This guide deals with absence related to ill-health. However, there are other types of absence that employees might take. Keep your own records of these, using MyView where possible, and if it appears excessive, seek advice from HR. Other types of absence might include:

- Compassionate leave.
- Carers leave (to deal with the care of a dependent in an emergency).
- Annual leave requested at short notice (i.e. on the day on which it is to be taken).
- Lateness.

### **3.5 Genuine illness**

There may be occasions where you have concerns about whether an employee's illness is genuine or not, which could determine how you manage the meetings with them. Whatever the circumstances, it is still necessary to follow a fair process in order to:

- Test the validity of your opinion.
- Demonstrate that the employee has been treated fairly, provided with necessary support, and given a chance to have their say.
- Ensure that any operational impact (on service, staff) as a result of an employee's absence is resolved as quickly as possible.

So when dealing with a sickness absence issue:

- Do not assume that the absence is not genuine – there may be an underlying reason for the absence even if it is not medical.
- Do not assume that the problem is less serious or does not need to be addressed because you consider it to be a 'genuine' absence.
- Ask the right type of questions – 'open' not 'loaded' (see 'Related Documents').
- Give the employee time to answer any questions.
- Listen to the employee and do not jump to conclusions.

## **4. Sickness Absence Procedures**

Advice on the following is in the Sickness Absence Management Policy and Procedure:

- Procedure for reporting, recording and monitoring sickness absence.
- Occupational Sick Pay.
- Sickness/Annual leave entitlement.

## 4.1 Fit Notes

'Fit notes' (formerly known as 'sick notes') are the forms that are issued by a General Practitioner (GP) to people as evidence for their employer that the employee is ill or injured and unable to attend work as normal.

This section seeks to support managers in understanding the action they should take upon receipt of a 'may be fit for work' fit note to ensure the employee's situation is fully considered and relevant mechanisms are put in place to support this, including correct pay and pension arrangements.

Under the fit note system, a GP may advise that the employee is either:

### Unfit for work

This confirms that the employee is too ill to work at all for the stated period of time.

**Or**

### May be fit for work taking account of the following advice

This confirms that the employee's health condition may allow them to work with suitable support if available. The GP may then indicate on the form which kind of support the employee may benefit from (e.g. amended duties, workplace adaptations, a phased return to work or altered hours), and the period of time for which this will be the case. If an employer is unable to facilitate a change or adjustment, the fit note will count as evidence that the employee has a health condition preventing them from carrying out their role and should therefore remain on sick leave for the stated period of time.

Where a GP has indicated the employee 'may be fit' for work, they may provide additional information in relation to how the employer could assist a return to work, e.g. via a phased return, amended duties, altered hours, workplace adaptations, or other suggestions. The GP may also advise as to how an employee's condition may affect what they can do at work.

Support and advice can also be sought from HR at any stage.

Action required by managers upon receipt of a 'may be fit for work' fit note:

- a. Managers should contact HR for advice. A decision will then be made by the manager, following HR advice, and following discussion with the employee as appropriate, regarding whether or not it is possible to accommodate the recommended advice.
- b. The manager arranges to discuss this with the employee. Both parties are responsible for ensuring this discussion takes place as early as possible considering, if relevant, whether there are any changes which could help them return to work, focusing on the practical way the department can support their return to work, rather than their condition.
- c. If special arrangements are advised e.g. a phased return to work, the manager should decide whether or not these can be reasonably accommodated at work to support the employee's return to work, or whether further information is needed. Managers are encouraged to speak with HR if uncertain as to what can be accommodated, either prior to or after discussion with the employee.
- d. Advice may also be sought from the Occupational Health regarding reasonable adjustments.
- e. Following discussion with the employee, the manager may document the discussions in an outcome letter.
- f. Where the manager considers that the GP's advice cannot be accommodated, further advice should be sought from HR who will assist the manager in referring the employee to Occupational Health. Following such discussions and referral to Occupational Health, should this remain the case, the manager should treat the fit

note as if it says that the employee is 'not fit for work' (they will not need a new fit note to confirm this).

- g. A copy of the form should also be sent to the HR. Manager retains copy securely for own records; the employee may also keep a copy.

The School is keen to support staff in a return to work wherever possible and will consider all recommendations for reasonable adjustments carefully before a decision is reached, taking full account of any considerations under the disability provisions of the Equality Act 2010 where appropriate.

## **4.2 Conducting Sickness Absence meetings/Review meetings**

All sickness meetings except for short-term Stage 3 formal meetings and long-term formal sickness absence hearings should be conducted in line with the information below. It is recognised that the manager will need to determine how best to manage such meetings given the individual circumstances of the case therefore the information below is for guidance purposes only.

Managers should ensure that all discussions during the process are fair, appropriate and above reproach. Refer to 'Related Documents' for further advice on questions to ask and active listening.

### **Prepare:**

- Gather all the facts before the meeting and review any Right to Work forms/sickness data, previous notes/correspondence etc.
- Check if the agreed actions/targets/reasonable adjustments (if any) have been achieved/implemented. If not, why?
- Identify any specific issues of continuing concern to be explored.
- Choose a private location and provide adequate time to discuss/explore the issues.
- Notify employee of the informal meeting, via face-to-face communications, or phone/email (consider any requests to be accompanied). This may also be communicated in the form of a letter if appropriate.
- Identify what you wish to discuss at the meeting.

### **Meet:**

- Hold an informal review meeting, emphasising that this an informal meeting aimed at supporting the individual in reaching and maintaining sufficient attendance levels and where relevant addressing any other related concerns.

### **Explain & Explore issues:**

- When discussing issues relating to ill-health and sickness absence with an employee, advise that the conversation will remain confidential, but that it may be necessary to disclose certain details to relevant parties to ensure all relevant support is considered, and the School's duty of care is met.
- Discuss how they are feeling and how any support that may have been implemented is working. Review the impact of any reasonable adjustment.
- If relevant constructively explain any ongoing concerns, provide examples and keep your comments objective. Outline the impact these concerns are having on the department/area of work/colleagues and service provision.
- Ensure that some positive feedback is provided, where possible.
- Acknowledge any factors beyond the employee's control.

- Reaffirm any required standards or expectations which are not being met.
- Explore together any possible reasons/specific problems/underlying issues preventing them from attaining sufficient attendance levels/improvement (e.g. any work related/personal issues).
- Explore how issues can be addressed. Consider any suggestions the employee may offer to address the concerns.
- Seek advice (if necessary from HR).
- Clearly explain expectations and the need for sustained improvement.

### **Agree Outcome:**

- Together discuss and agree any follow up action/targets and responsibilities for attaining a sustained improvement.
- Identify whether there is anything else you can reasonably do to help the employee to attain acceptable attendance levels.
- Consider need for external support (Occupational Health, Counselling etc.) if relevant. (Where a referral to Occupational Health is considered appropriate, this should be discussed with the employee and consent sought).
- Advise that the key points of discussion will be recorded and sent to the employee for information.
- Advise of next monitoring/review meeting date/time if relevant.
- Where relevant, explain that there has been sufficient sustained improvement in attendance, and that as such, no further action/review meeting will be necessary. However, should these improved levels of attendance deteriorate it may be necessary for further action to be taken.
- Where relevant, explain that insufficient sustained improvement may lead to more formal action.
- Outline what such formal action could involve, referring to policy.
- Check if the individual wishes to add anything or has any questions to ask.

### **Record:**

- Record summary of the discussions and share with employee (including any agreed actions and timescales for improvement etc.)
- Ensure that the records are factual and constructive.
- Write to employee summarising the outcome of discussions and any next steps (see template letters and form).
- Store records securely, as these may be subsequently required within later procedural stages and shared with all relevant parties, including the employee.

### **Review:**

- Regularly monitor and provide feedback on an ongoing basis.
- Address any new concerns as they arise.
- If process is failing to improve attendance consult with your HR Partner to consider case.

Meetings cannot be recorded (i.e. an audio and/or video recording) by either side, and recordings will not be admissible as evidence even where they exist.

## **4.3 Unauthorised absence**

If an employee does not arrive at work and has not followed the notification procedure and/or submitted medical/fit notes in a timely manner, the line manager and/or nominated

administrator will attempt to make contact with the employee by telephone to establish possible reason for not attending work.

If contact cannot be established, you should seek advice from HR.

Once efforts to make contact have been exhausted and in the event that this does not result in contact being made, a letter will be sent expressing concern and requesting that the employee make contact as soon as possible. This letter will be hand delivered or sent by recorded delivery as appropriate, and a copy will be placed on the employee's HR file.

If no contact has been made by the employee within 5 calendar days from the date of the letter, the line manager and HR Partner will determine the next course of action which may include a second letter being sent explaining that unreported absence is a serious breach of contract and may lead to disciplinary action and a salary deduction for each day of unauthorised absence.

If the employee fails to respond after these steps, the line manager will decide the next steps having sought advice from HR.

#### **4.4 Pregnancy-related sickness**

Special rules apply to sickness absence which relates to pregnancy and having given birth. Pregnancy-related sickness absence must be recorded on MyView self-service under the category of "pregnancy related disorders". Such absence should not be taken into account when assessing whether to take any action under the Sickness Absence Procedure.

Paid time off for antenatal care which includes medical examinations should be given. Further details are contained within the Maternity Policy.

#### **4.5 Fertility Treatment/IVF**

Significant time off may be required by an employee undergoing fertility treatment or IVF and any request for time off will be dealt with sensitively. Where possible, appointments related to fertility treatment should be arranged outside working hours. Where this is not possible, time off should be requested as annual leave.

#### **4.6 Work-related stress sickness**

LSHTM recognises that it has a duty of care towards its employees and a legal obligation to provide a safe working environment. The School's policy for the "Prevention and management of Stress at Work" aims to establish standards for managers and employees for the prevention of work-related stress. It also provides information on sources of support available at the School to facilitate the implementation of these standards and support for those experiencing feelings and symptoms of stress.

An individual may be more susceptible to the impact of work pressure perhaps due to a recognised impairment/condition, or other circumstances. This should be discussed between the manager and the employee concerned and advice sought from HHR and Occupational Health to ensure appropriate support is in place.

#### **4.7 Medical appointments**

Requests for medical and/or dental appointments will be considered on an individual basis. These should be arranged, wherever possible, outside of working hours. Where this cannot

be achieved, they should be booked at the beginning or end of the working day to minimise time away from work. Employees may be asked to make up the time taken to attend these appointments.

Absence due to medical appointments (either half day or whole day) should be recorded on MyView self-service by the employee or line manager. The line manager should agree with the employee who would record the absence on MyView self-service.

Employees may be asked to rearrange their appointments if it affects the needs of the service. An employee may be required to provide evidence of the appointments.

The School is mindful of the fact that there may be other circumstances which arise in an employees working life which may necessitate time away from work, but which do not fall within one of the categories listed above, e.g. IVF treatment. Where there is no legal, or other, right to time off for the circumstance, but the employee wishes to make a request for such leave, the employee should speak to their line manager.

Employees with ongoing medical problems which may be defined as a disability under the Equality Act 2010 should discuss their requirement for regular and/or ongoing medical appointments with their line manager.

Employees attending counselling through School's approved provider should discuss the time required with their line manager. The School recognises that such time off will contribute positively to employee wellbeing; however, the timing of appointments needs to be considered alongside the requirements of the role.

## **5. Managing Persistent Short-Term Sickness Absence**

### **5.1. Understanding Possible Causes**

It is important to understand there may be a variety of reasons for persistent short-term sickness absences, including:

- An underlying medical condition;
- An unusually high, but genuine, vulnerability to colds, flu, etc.;
- Excessive tiredness e.g. the employee may have additional responsibilities outside work such as childcare or a second job;
- Personal or family problems;
- Specific problems in the workplace.

Discussions between the manager and employee can be important to help determine if there are any contributing factors and what, if any, support can be provided. A flowchart on the overview of the short term process is attached to this document.

### **5.2. Possible Impact of Workplace Factors**

It should also be acknowledged that persistent short-term sickness absences may be caused or exacerbated by factors in the workplace. For example, in addition to genuine periods of sickness, frequent short-term absences may be linked to:

- Stress due to the volume of work or pressure of work deadlines;
- Difficult working relationships or conflict with colleagues;
- Bullying or harassment;
- Anxiety relating to organisational change, and/or;
- Other factors causing dissatisfaction e.g. ineffective procedures or equipment, or a lack of clear goals or targets.

Where such issues are identified appropriate support should be considered. This may include mediation, counselling, re-assessing workloads and training etc. If a workplace issue is identified, the manager should take steps to remove or reduce the factors that appear to be contributing to the absences, if this is at all possible and reasonable to do so.

### **5.3. Return to Work Discussions following short-term absence**

Conducting return to work discussions is an essential part of absence management and can be as informal or as formal as the circumstances dictate. Managers are encouraged to hold a return to work discussion after each and every occurrence of sickness absence.

Employees may also request return to work discussions with their manager prior to or upon their return to work from sickness absence.

Return to work discussions provide a good opportunity to investigate any underlying causes of short-term absences and are particularly important if an employee has a high rate of such absences.

If the employee works outside normal office hours or overseas, it may not be practicable to have a face-to-face conversation. In such cases, the conversation could be by telephone.

Return to work discussions should be conducted in accordance with the following principles:

- Handled consistently and sensitively;
- Informal;
- Held in a confidential environment free from interruptions;
- Structured and factual, and;
- Carried out in a supportive and positive way.

In preparation for a return to work discussion taking place, the manager should ensure that:

- Sufficient time has been set aside for the discussion, with arrangements made for a private meeting room or office to ensure confidentiality.
- Sickness absence records, fit notes, and Occupational Health reports have been gathered as appropriate.
- Consideration has been given to any supplementary questions that may be appropriate.

The return to work discussion should be held in a constructive and supportive way. It is important that proper preparation is made, that the discussion is conducted fairly and consistently, and always includes:

#### Welcome Back

It is always appropriate to welcome an employee back to work following any period of absence. This will give the supervisor/manager a more formal opportunity to tell individuals that they were missed during their absence and that the School values their work and their contribution.

#### Enquire About Health

The line manager or supervisor has a duty of care to ensure that employees are fit to work and should explore the reason for absence and whether the absence is work-related in a sensitive and appropriate manner. (It should be recognised that sickness absence can sometimes be a disguise for other things e.g. unhappiness in one's job, harassment, personal difficulties etc.) Identify what steps the individual has taken to investigate the cause and, if necessary, what preventative measures they are taking to ensure that it does not re-occur.

It is particularly important to show care and concern during this exploratory stage of the discussion and assurance should be provided as necessary.

### Consequences and Observations

If there are concerns regarding an individual's attendance record it may be appropriate to discuss the facts regarding their attendance levels in the last 6 or 12 months, including any apparent patterns of absence.

If there is sufficient cause for concern it may be necessary to explore the possibility of obtaining further advice, via HR, in order to establish an individual's wellbeing and capability. If following the necessary investigation, abuse of the sickness scheme is suspected, the employee must be advised that further absence may lead to action being taken under the Conduct Procedure and/or suspension of the sick pay entitlements.

The appropriate supervisor should use this opportunity to explore ways in which they can help the employee to improve their attendance.

The manager and employee should also discuss any actions that may need to be taken after the meeting, for example:

- Reasonable adjustments, such as a phased return to work;
- A workplace assessment;
- An Occupational Health referral (refer to section 12 of this guidance);
- An attendance target, specifying the levels expected and by what date, and;
- An improvement in reporting absence in line with the agreed procedure.

After the meeting, the manager should confirm the discussions and follow up any actions, for example:

- A record of the meeting should be made;
- Where appropriate, a management referral form should be sent to Occupational Health;
- Arrange any other help or support that can be provided (i.e. Access to Work);
- Ensure any reasonable adjustments are actioned, and;
- Review adjustments after an agreed period and remove or continue as required.

Record of the discussion can be recorded in writing by completing the **Return to Work Discussion form** (see 'Related Documents'). More detailed meetings will be appropriate following a period of long-term sickness absence.

## **5.4 Setting objectives and review periods**

The purpose behind using the Sickness Absence Management Policy and Procedure is to ensure that, as far as reasonable possible, an employee is provided with the necessary support to help them to return to work successfully and carry out either their job or an alternative job to a reasonable standard.

It is therefore essential, especially in cases of short-term absence, that the manager makes their expectations clear to the individual along with their reasons and the possible outcomes if it is not possible for them to meet those expectations. This is not only fair to the employee, it is fundamental to the implementation of the Sickness Absence Management Policy and Procedure to achieve the required improvements.

Setting objectives and review periods is crucial when dealing with persistent short-term absence at the informal, Stage 1 and Stage 2 sickness absence meetings.

## SMART objectives and Sickness Absence

When dealing with a case of short-term absence due to ill-health, SMART objectives are extremely useful because they allow the manager to monitor progress against them easily and therefore justify further action if appropriate or necessary.

So when thinking about improvements or changes the manager wants to see, the manager should ensure that their objectives are:

- S**     **Specific** – e.g. *“exactly what do I want the employees to do from now on?”*
- M**     **Measureable** – e.g. *“how will I know whether the employee has achieved it?”*
- A**     **Agreed** – e.g. *“can the employee do this and is there any reason why they cannot commit to it?”*
- R**     **Realistic** – e.g. *“are these objectives challenging, but achievable?”*
- T**     **Time bound** – e.g. *“what would be a reasonable length of time for them to achieve this and how will I review it?”*

## Review Periods

Once the manager has made a decision, established and clarified the necessary improvements, and considered the support that may be necessary, they should think about how they will monitor the employee’s progress. This will depend on the particular circumstances of the case but it will almost always be necessary to include a review period, at which point if the support has not enabled the employee to achieve the necessary attendance targets, a further formal sickness absence meeting should be convened to consider the remaining options.

## The outcome of the sickness absence meeting

The manager should send the outcome of the sickness absence meeting to the employee in writing as soon as reasonably possible. The possible consequences, should concerns regarding sickness absence continue, should be stated.

## 5.5 Monitoring and Recording Short-Term Absences

It is important to monitor an employee’s short-term absences to enable issues to be identified, such as high levels or particular patterns. An accurate record of sickness absence levels is essential to the management of sickness absence. Please refer to the Recording Sickness Absence section of the policy for further details.

Medical/fit notes (original copies) will be retained on the employee’s personnel file. Such records should be held confidentially and in compliance with legislation on data protection.

## 5.6 Identifying and Discussing Patterns in Short-Term Absences

When reviewing an employee's sickness absence record, any patterns which cause concern should be identified and discussed. “Trigger points” as stated in the policy are as follows:

- Any pattern or any other reason for absence e.g. repeated absence on a particular day of the week; reasons which creates a cause of concern for the welfare of the employee.
- Absence totalling more than 6 working days in a rolling period of 12 months.
- Any absence citing ‘stress’.

- Any concern about health and welfare, work or pattern of behaviour

Discussions about patterns in sickness absence should be carried out in a factual way, by stating the facts and asking open, probing and closed questions.

## 5.7 Short-Term Absence – Conducting Informal Stage Meetings

Sickness absence concerns are most effectively managed as early as possible. In most cases informal discussions between the manager and the employee will help to understand the issues and assess what support might be needed.

Managers should invite the employee to the meeting via e-mail or in writing using the **Invitation to informal stage meeting letter** (see 'Related Documents').

Whilst employees only have the right to be represented at formal Absence Review Meetings by a trade union representative or work colleague, by agreement with all parties, the request to be accompanied may be extended to informal discussions. Accompaniment at the informal stage will only be permitted where it is deemed to be in the interests of an early resolution and where there are particular circumstances in which an employee needs additional support. In such cases an independent note-taker may also be present.

During an informal discussion the employee should be advised of any sickness absence concerns. Feedback should be constructive, with the emphasis placed on finding ways to support the employee and improve attendance wherever possible. The employee should be given the opportunity to provide feedback and to respond to any questions from the manager.

The discussion at the meeting should be documented either in a letter or by using the **Informal stage meeting record form** (see 'Related Documents').

## 5.8 Moving to the Formal Process

Sickness absence will be managed informally in the first instance. However, if an employee's absence due to sickness is of concern or informal action has not succeeded in improving attendance to an acceptable level, consideration will be given to whether there are grounds for undertaking formal action under the Sickness Absence Management Policy and Procedure.

The Formal Process has three formal stages, with provision for an appeal against formal warnings and dismissals. A summary of the formal process is provided in the relevant policy flowchart. The aim is to resolve issues at Stage 1 wherever possible. Timescales for each stage will depend on individual circumstances and some sickness absence issues may be dealt with over a longer or shorter period than others. The point at which a manager decides to move an employee to the next stage of the formal process will vary from case to case.

Factors to take into account include:

- What the issues causing the absence are;
- What affect the absence is having on service delivery and/or colleagues;
- What additional support could be given, and/or;
- Whether attendance has improved as a result of the informal processes.

Where there are grounds for undertaking formal action, a staged approach will be adopted as detailed in the Sickness Absence Management Policy and Procedure. The Formal Process will seek to establish:

- The level of sickness absence;
- The attendance target set if applicable;
- The causes of the sickness absence;
- The impact the sickness absence is having on the team and service delivery;

- The actions to be taken;
- Who has responsibility for the actions, and;
- The support to be given to the employee.

The focus of the formal process will be to give an employee support to help them to achieve the expected attendance levels. Where an attendance target is set, regular review meetings should be held with the employee. At the end of the review period, the employee's progress will be reviewed to assess if any further action and/or support is required. If the employee's attendance levels have not improved to an acceptable standard, consideration will be given to the next stage of the formal Process.

At any stage of the formal process, a manager may consider a range of other options including:

- Reverting to an informal approach;
- Taking action under an alternative School Policy;
- Providing appropriate support including a referral to Occupational Health;
- Extending an attendance target and/or review period, and/or;
- By agreement, investigating the possibility of alternative available roles.

## 5.9 Short-Term Absence – Formal Stage 1 and 2 Meetings

At a short-term absence formal meeting at Stage 1 or Stage 2, the manager (accompanied by a member of the HR Department where necessary to advise on policy and procedural aspects) will outline the sickness absence concerns that have led to the meeting and will review the circumstances of the case and the actions taken to date.

Managers should invite the employee to the meeting in writing. An **Invitation to formal Stage 1 or 2 meeting template letter** can be used for this purpose (see 'Related Documents').

The employee (who has the right to be accompanied by a trade union representative or work colleague) will be given the opportunity to state their case and raise any factors they wish to have considered. The manager should identify if there are measures, such as an Occupational Health referral, which may be beneficial, discuss any attendance targets for improvement, and establish a timescale for review.

If as a result of the meeting and the evidence presented it is considered that no further action is required, this will be confirmed to the employee in writing.

If as a result of the meeting and the evidence presented the employee's attendance is considered to be unsatisfactory, if appropriate, the manager will write to the employee issuing a first written warning or second written warning. The outcome letter will state the improvement in attendance required, the timescale for improvement, any support to be provided including reasonable adjustments as appropriate and the consequence of not meeting the attendance target within the review period. It will also set out the employee's right of appeal.

Managers can use the template letter "**Outcome of Formal Stage 1 or 2 meetings**" (see 'Related Documents').

## 5.10 Short-Term Absence - Formal Stage 3 Meetings

If the employee's attendance does not improve, as specified at an Absence Review Meeting at Stage 1 or Stage 2 of the formal Sickness Absence Review Process, the employee may be required to attend a formal Stage 3 Absence Review Meeting.

The Chair of the meeting will be the line manager's manager who will be accompanied by a member of the HR Department to advise on policy and procedural aspects. This meeting

and the long-term absence formal sickness hearing will be conducted in a same manner. Refer to section 7 for further information.

## **6. Managing Long-Term Sickness Absence**

### **6.1 Reviewing Long-Term Sickness Absence**

There are two stages to managing an employee's long-term sickness absence. The first is to manage the employee's absence from work and the second to manage their return to work.

The management of an employee's absence should be carried out proactively with the primary aim of supporting the employee and facilitating a return to work as soon as possible.

To achieve these aims, the manager should ordinarily carry out regular reviews of the employee's length of absence, state of health and readiness to return, as well as whether or not anything can be done to facilitate a return. This should be done in discussion with HR, Occupational Health and, where appropriate, the absent employee.

The starting point will be for the manager to have a supportive conversation with the employee as soon as it is known that the absence is likely to be long-term. The aim of this conversation will be to identify how the School can support the employee and take care of their inevitable work-related concerns. For a flowchart on the overview of the long-term sickness absence process, please see 'Related Documents'.

### **6.2 Maintaining Contact with the Employee during long-term absence**

An employee on long-term sickness absence may feel isolated and miss the social contact that work usually affords. It will be very important for the employee to know that, even though they are off sick, support is available from the School. The manager should take positive steps to keep in touch so that the employee knows that the School is interested in their health and wellbeing, and that support is available.

Employees on long-term sickness absence should agree with their manager how contact should be maintained on a regular basis, for example, by telephone, e-mail or letter. The timing and the nature of contact will be appropriate to the situation of the employee and their health conditions. However, employees should be expected to be contacted by their manager from time to time and it is expected that telephone or personal contact will be made at least every 4 weeks.

Some managers may, understandably, feel uncomfortable about the prospect of contacting an employee who is off sick in case the contact might be perceived as unfair pressure. The manager should, however, also reflect on how the employee might feel if no contact is made.

The first step would be for the manager to telephone or write to the employee indicating a desire to maintain contact and asking the employee whether they would prefer telephone contact, e-mail communication or a combination of these.

It should be clarified that the contact is as a result of concern about the employee's welfare and progress and in order to offer any support that is reasonable and practicable. Keeping in touch personally will also allow the manager to keep up-to-date with the employee's state of health and progress and their perspective on the likelihood of a return to work. This in turn will allow the manager to organise and maintain temporary cover more effectively.

In the event that the manager is unable to make contact with the employee, the manager should contact HR who may advise, for example, that the employee's next of kin be contacted.

### 6.3 Obtaining Medical Advice through referral to Occupational Health

As soon as it becomes clear that an employee's absence will be long-term, the manager should speak to the employee about a referral to Occupational Health for an assessment of the effects of the condition, the likely duration of the illness or condition, and whether or not there are any steps that the manager could take to facilitate the employee's return to work.

Where an employee does not consent to an Occupational Health referral or refuses to attend an Occupational Health appointment, it may be necessary for the School to make decisions without the benefit of further information. On receipt of the Occupational Health report, the manager and HR should consider it carefully with a view to identifying what specific further actions should be taken.

In the event that the manager believes further medical information is required from an employee's own GP, specialist or consultant, they should speak to HR in the first instance. Managers should be aware that the Access to Medical Reports Act 1988 places certain restrictions on employers that wish to obtain medical information about employees from their own GP and also gives individuals a range of rights in relation to any such medical report. Refer to policy for more advice on referrals to Occupational Health.

For further information on case conferences and case review meetings with Occupational Health, see 'Related Documents'.

### 6.4 Long-term absence – Informal meeting

This is the first meeting with the employee where the absence is deemed to have entered a period of long-term sickness. This informal meeting allows for a supportive discussion as soon as it appears that the period of absence may exceed 28 days. Managers should also seek HR advice at this stage.

The purpose of the informal meeting with the manager is to identify reasons for absence, the support available, expectations, and a review period. A review period is to ensure adequate support is available. Managers will need to carefully assess the circumstances surrounding further absences and make a judgement regarding the next course of action. This may be a further informal meeting or review meetings as appropriate.

The employee should be invited to the informal meeting by the line manager. HR will be attendance at the meeting and the employee can be accompanied by a trade union representative or work colleague. For an **Invitation letter to informal meeting** template please see 'Related Documents'.

The meeting should be conducted in line with section 4.2 of this guidance. Further information about this meeting is included in the policy.

Following the meeting, the manager will write to the employee, confirming a summary of the discussion and any agreed actions. For a **Long-Term informal meeting outcome letter** template please see 'Related Documents'.

### 6.5 Long-term absence – Review meetings (Monthly)

After 8 weeks' continuous absence, the manager will write to the employee to advise of the need for them to attend a follow up sickness review meeting. The employee may also be asked to attend an Occupational Health appointment if this has not already been arranged. For an **Invitation to informal meeting** template letter which can be used to invite the employee to review meetings, please see 'Related Documents'.

The purpose of follow up review meetings, which should be held monthly, is to:

- discuss the employee's health;
- consider any medical advice received;

- review any actions which have been discussed;
- consider any further support including reasonable adjustments where appropriate that we are able to offer to improve attendance or facilitate a return;
- identify a possible return to work date, and;
- consider whether employment may be at risk, where appropriate.

However, if while the employee is away due to long-term sickness absence, and/or it becomes evident at any stage that a return to work is unlikely or that the employee will be unable to fulfil the role effectively for health reasons, the employee may be invited to attend a Formal Sickness Hearing and a potential outcome may be that employment is ended due to reasons of ill-health. Before any decision is taken about the employee's employment situation, medical advice will be sought from Occupational Health.

Review meetings should be conducted in line with section 4.2 of this guidance. In exceptional cases, the School may extend these timescales depending upon the individual circumstances of the case.

Discussions at review meetings should be documented by the manager. For an **Outcome of informal meeting** template letter, please see 'Related Documents'.

## 6.6 Managing the Employee's Return to Work

As time goes on, the manager should seek to obtain further updated medical advice about the employee's fitness to work and continue to discuss the situation with the employee directly where this is possible.

Once Occupational Health has indicated that the employee may soon be ready to return to work, the manager should turn their attention to the steps that might reasonably be taken to support the employee's return. The manager should take account of the GP's advice in a fit note as well as Occupational Health recommendations that could help to identify any appropriate steps which might help the employee return to work. These steps which might include:

- Considering a phased return to work and discussing the options with the employee (and Occupational Health where appropriate).
- Discussing with the employee (and Occupational Health where appropriate) whether they will be fit to perform all the duties of the job or whether some adjustments may need to be made.
- Checking if the employee is taking any medication and whether or not there are any likely side effects, for example tiredness.
- If possible, arranging a social visit for the employee shortly before the proposed return date so that the employee can meet informally with colleagues and be brought up to date on a range of matters.
- Discussing the employee's capabilities with them, either when the employee returns to work or just prior to this, and reviewing if any special arrangements or support need to be provided initially.
- Planning to give the employee meaningful work to do so that they quickly feel useful.
- Making sure that the employee is not overloaded with work or faced with a mountainous backlog.
- Agreeing with the employee what support will be available during the first weeks if appropriate after their return, and how their progress will be monitored.
- Considering arranging for one of the employee's colleagues to act as their "buddy" for a period, taking responsibility for helping the employee with any difficulties in the first few weeks after their return.
- Taking positive steps to ensure that the employee feels that their return to work is welcomed.

- Actively monitoring the situation for a period of time to make sure that the employee is coping adequately with the day-to-day work and its associated pressures.

The manager should take into account that the employee may feel very anxious about returning to work after a lengthy period of absence and worried about how they will be perceived and treated by colleagues and management. This may be a particular concern if the employee's absence was the result of a mental illness.

It will therefore be extremely important for the manager to take positive steps to make the employee feel at home and facilitate their reintegration into the workplace rather than just expecting the employee to get on with things.

## 6.7 Phased Returns

Phased returns can be implemented to help facilitate an employee's return to work after long-term sickness absence. Legally, a phased return could constitute a "reasonable adjustment" that an employer must make where an employee has a disability under the Equality Act 2010 and, in practice, a phased return can be beneficial for both the employer and the employee when trying to achieve a successful return to work.

A phased return to work will not be suitable in every situation. The premise of a phased return is that the employee is well enough to carry out some work, and is likely, given time, to recover sufficiently to return to their previous role (or previous role with some adaptations). Where the employee is not capable of any work, the question of a phased return will not arise.

A phased return to work should be based on medical advice, either in a fit note from the employee's GP, or in an Occupational Health assessment. In the case of a fit note, in addition to ticking the "phased return to work" box, the GP is required to provide details of what the employee is or is not capable of doing. If a phased return is recommended on a fit note, the manager should always seek advice from Occupational Health in the first instance.

In the event that a phased return has been recommended and is supported by an Occupational Health recommendation, the manager should discuss the following with the employee:

- When the phased return is to start.
- With what work and hours the employee will start the phased return.
- At what location the employee will start the phased return (e.g. at home or in the office).
- Whether or not there are any other changes to the working arrangements that might need to be made (e.g. a special chair or computer equipment to help support an employee with a disability).
- What changes in work, hours and/or location are thereafter expected to occur, and when they are expected to occur.
- What arrangements will be put in place to monitor the employee's progress and any difficulties which may arise.
- What will happen to the employee's pay during the phased return to work.
- To whom the employee should report if they have any difficulties with the arrangements.

Arrangements should take into account the individual circumstances and addressed on a case by case basis. However, a phased return should normally be for a period of no more than 4 weeks and would be on full pay. Where a 4-week phased return has been agreed, it is recommended that the manager and employee make contact monthly or fortnightly to discuss progress and whether the employee is ready to resume their full contractual hours at that stage or if the phased return should continue for the full 4 weeks.

At the end of a phased return, if an employee is fit for work but does not feel ready or able to resume their full contractual hours, they may wish to consider the following options:

- To reduce their contractual hours on either a temporary or permanent basis, with an associated reduction in pay.
- To take annual leave either in one block or staggered over a period of time.
- To take unpaid leave.

There is no guarantee that a request for a reduction in contractual hours, annual leave or unpaid leave will be granted. Before making a decision, the manager will need to consider the impact on service provision, budgets and colleagues, and also seek advice from HR.

Following this discussion, the manager should document the agreed arrangements. For an **Outcome of informal meeting letter** template or **Phased return letter** template, please see 'Related Documents'.

It should be noted that advice provided by the Occupational Health service can take precedence over an employee's GP/Consultant in relation to the viability, duration and structure of a phased return, as they will have a greater understanding as to the impact of the employee's role/duties on their health situation and the department's ability to accommodate such arrangements (in liaison with the employee's line manager/HR).

### **6.7.1 Payment Arrangements**

During a phased return, the employee will normally be paid on full pay for up to 4 weeks. Non-worked contracted hours will be paid using sick pay provision based on the employee's remaining entitlement. Where sick pay is paid during a phased return this will be deducted from the employee's remaining sick pay entitlement.

After the 4-week period of phased return, employees will normally be paid for the hours worked. The employee may request the ability to use accrued annual leave, which should be considered and recorded in the normal way via MyView self-service; otherwise the un-worked periods will be unpaid.

During a phased return, the level of entitlement to sick pay provision will be based on their continuity of service as at the start of the sickness period the phased return is linked to.

When considering the use of annual leave in these circumstances, the manager and individual should ensure that enough annual leave is retained to enable the individual to take appropriate breaks/rest from work during the remainder of the leave year, following their return to their normal contracted hours. An employee is expected to co-operate in the implementation of a phased return.

## **6.8 Disabilities and Making Reasonable Adjustments**

An employee who is off sick for a lengthy period of time may be considered to have a disability for the purposes of the Equality Act 2010. If this is the case the employee will be entitled to protection against discriminatory treatment and to expect the employer to make reasonable adjustments. The Act contains a very broad definition of disability, which includes both physical and mental impairments that last, or are expected to last, 12 months or more and are substantial in terms of their effects on the individual's day-to-day life.

A wide range of physical and mental conditions and illnesses may amount to disabilities, depending always on whether or not the effect of the condition on the person is substantial and long-term.

An important point to note is that a condition may amount to a disability even if, as a result of medication or another form of support, the person experiences no adverse effects on a day-

to-day basis. The feature which determines whether or not an employee is disabled relates to how the condition would affect the employee if they did not take the medication or use the support.

Employers are under a duty not to treat employees less favourably because of a disability (direct discrimination). It is also unlawful for employers to apply a provision, criterion or practice to all employees that puts an employee with a disability at a disadvantage (indirect discrimination). Employers are also under a duty not to treat an employee unfavourably because of something arising in consequence of their disability.

The Equality Act 2010 requires employers to make reasonable adjustments for employees with a disability. Deciding on the most effective adjustment should always involve the employee. Discussion between the employee and manager can often result in appropriate changes or the identification of the most helpful equipment or software. The employee is often best placed to know their own condition, so the employer should seek the employee's opinion. However, if the condition is new or fluctuating, the employee may not be knowledgeable or have all the answers. In all circumstances, involving Occupational Health will aid the identification of support, but input from a range of specialists may be needed before the most effective solutions are found. It would also be advisable for the manager to take into account any recommendations contained in a fit note provided by the employee's GP.

### **6.8.1 What is reasonable?**

Managers should consider a range of aspects when considering whether or not an adjustment is reasonable and proportionate, including:

- The practicality of the adjustment;
- Health and safety considerations;
- The cost of the adjustment and available resources;
- The efficacy of the adjustment in preventing the disadvantage;
- The amount of help and support that has already been provided to the employee;

Adjustments may be agreed on a temporary or permanent basis. Ultimately it is for the manager to determine whether a recommended adjustment is 'reasonable'. In all cases, the manager should seek HR advice.

### **6.8.2 Types of Adjustment**

The sorts of adjustments that staff with a disability need are wide-ranging. For example, a change to working patterns to maximise energy levels, or supplying coloured paper to those with dyslexia, cost little yet can have a significant positive impact. The following are examples of adjustments that a manager might wish to consider include:

- Temporary changes to job duties e.g. exempting an employee with a back condition from doing heavy physical work during a phased return.
- Changes to the method of doing the job e.g. allowing an employee who cannot drive on account of a medical condition to travel on business by some other reasonable means.
- Changes to working hours e.g. agreeing a reduction in working hours or an exemption from overtime working; allowing a later or flexible start time; or granting more frequent or longer rest breaks.
- A transfer to a different workplace e.g. moving someone with limited mobility to a ground floor location or allowing partial homeworking.
- Adjustments to procedural requirements e.g. allowing an employee who has returned after a period of sickness absence to take paid time off work to attend regular medical appointments, physiotherapy or rehabilitation.

- Additional or tailored training, coaching, mentoring or supervision e.g. if the employee is moved to new job duties as a result of partial incapacity.
- Modification of premises e.g. widening a doorway or relocating door handles or shelves if the employee has difficulty reaching them.
- Provision of an auxiliary aid e.g. changing a key pad door entry system to a card swipe system where a blind employee is unable to use it.
- Modification of information e.g. supplying documents in a large font where an employee is visually impaired.
- Redeployment support e.g. to a suitable available vacancy (although the employee's express consent would be required and HR advice sought).

### **6.8.3 Alternative Duties**

If the employee is not considered fit to undertake normal duties, for example in cases of a broken limb, you may be requested to undertake other appropriate work for a temporary period normally up to 2 months. This must be jointly agreed by the line manager and the employee and will only be made available where:

- Occupational Health has recommended that the employee is fit for the alternative duties;
- Roles and/or demand exist for the employee to do and the local manager is agreeable;
- The employee has the skills and capability to do that work;
- Occupational Health advise that the role will not adversely affect the employee's recovery;
- Occupational Health advises they are able to safely perform the role.

The provision of alternative duties does not ever suggest that there is a permanent role available should the employee not be able to return to their employed role. In the event that alternative duties are exhausted, the employee will be required to return to sickness absence and normal sick pay provisions will apply. If the employee is unlikely to be able to return to their normal role, redeployment opportunities will be discussed.

### **6.8.4 Redeployment**

If the Occupational Health service has advised that an employee is no longer capable of carrying out their substantive duties, any potential redeployment opportunities (through existing vacancies) that may exist to which the employee may be suited will be discussed. Consideration will have to be given to their suitability for any available alternative posts, subject to their fitness and capability to perform the role. However, permanent redeployment cannot be guaranteed.

Employees will be given access to the School's redeployment list normally for a period of 2 months. If no vacancies are available or suitable during this period, other options will be considered in managing the sickness absence.

If a role is identified as suitable for the employee, a trial period of 4 weeks will commence in the role. After the trial period a meeting with the employee and line manager will be held to determine if the employee, with the agreement of the new manager, wants to be confirmed into the role.

Employees who are offered and accept permanent redeployment do so in the knowledge that this change of circumstances will attract the grade and terms and conditions applicable to that post.

### **6.8.5 Reviewing Adjustments**

The manager should undertake regular reviews of reasonable adjustment provisions to ensure that the support provided is still the most appropriate for the employee's condition. Appraisals, regular one-to-one reviews and return to work discussions after sickness or disability-related absence are useful points to review arrangements. This ensures that the employee is working to the best of their ability and enables the School to fulfil and demonstrate its duty of care.

Business changes may necessitate alterations to the adjustments in place. For example, a department or faculty may no longer be able to accommodate a particular working pattern. Before altering or removing an adjustment, the manager should have a sensitively managed meeting with the employee to explore the impact of any proposed change and the options available.

### **6.8.6 Record of Adjustments**

The manager should maintain a written record of discussions about reasonable adjustments and the resulting support put in place for a disabled employee. The record can also be used to record any additional provisions that have been agreed. For example, who to contact if the employee is not at work and has not followed the Sickness Absence Reporting Procedure.

The process of completing such a record facilitates an open and thorough conversation between the manager and employee, lessens the time taken to review reasonable adjustments, and acts as a guide should the employee be assigned a new manager. This eliminates the risk of the School taking an inconsistent approach, where one manager supports an adjustment and another takes a different view. This approach also helps to ensure that the employee feels that they are being listened to. It can be very demoralising for an employee to have to repeat themselves several times. Managers should however maintain the confidentiality of such records, as with any other HR-related information.

### **6.8.7 External Support**

External support is often available to help with the cost and supply of reasonable adjustments, via government schemes such as Access to Work. Employees usually need to refer themselves to Access to Work.

These schemes can contribute towards the cost of equipment, business-related travel (e.g. taxis to and from work), personal assistants who could provide physical assistance to an employee (e.g. getting to and from work), and co-workers who could assist an employee with the elements of the role that the employee finds difficult because of their disability.

### **6.8.8 Carryover of annual leave**

In the case of long-term sickness absence, a member of staff is able to transfer from one leave year to the next only what they have not be able to take out of their full entitlement, due to ill-health. In such cases it may be to the employee's benefit to request annual leave to cover otherwise unpaid periods of a phased return.

### **6.8.9 Pension Implications**

If the individual is a member of a pension scheme at the School, their pension benefits may be affected by a phased return to work.

If the employee is receiving reduced pay, then this means the contributions they pay may be less than those expected by the pension scheme. This could then impact on the benefits the employee receives at retirement if they have not paid sufficient contributions.

Should further assistance and information be required in relation to how the absence will affect the employee's pension and what options may be available to them, please contact the School's Payroll and Pensions Office.

## **7. Conducting a Stage 3 Formal absence meeting (for Short-Term Absence) or a Formal Sickness Hearing (for Long-Term Absence)**

If an employee's attendance does not improve following short-term Stage 1 or Stage 2 meetings or an employee is unable to return work following informal stage and review meetings, it will be necessary to invite the employee into a Stage 3 formal absence meeting or a Formal Sickness hearing. The following process should be followed:

### **▪ Preparation**

The employee will be notified in writing by the Chair and will be given at least 5 working days' notice of the meeting. An **Invitation letter to Stage 3 formal meeting/formal sickness hearing** template letter can be used for this purpose (see 'Related Documents'). The invite letter will:

- Explain the purpose of the meeting;
- Provide details of the sickness absence concerns and the reasons for those concerns;
- Explain that one possible consequence of the meeting may be the termination of employment;
- Specify the role of the Chair and identify any others who will be attending such as a member of the HR Department;
- Invite the employee to make any written submissions, and;
- Advise the employee of their right to be accompanied.

Where there is additional information to provide to the employee, this should be sent with the letter and may include:

- Management report
- Any other relevant documents which will be used at the sickness absence meeting e.g. Occupational Health report.

Prior to the meeting the employee must provide the manager conducting the meeting with:

- Any written submissions they wish to have considered, and;
- Any documentary evidence they intend to rely on at the meeting with an explanation of the relevance.

The employee should provide this information as soon as reasonably practicable and at least 3 days before the formal meeting.

### **▪ Introductions**

At the start of the meeting the Chair will introduce those present and explain the purpose of the meeting and the process that will be undertaken, encouraging those present to speak openly.

### ▪ **Presentation of the case**

The presenting manager (normally the manager who has dealt with the case up to this point) will present the management case which should detail the history of the employee's sickness absence, its effect on the School and any actions previously taken to resolve the concerns such as Occupational Health reports and reasonable adjustments.

### ▪ **The employee's response**

The employee or their representative should state their case and respond to any issues raised. They will have an opportunity to ask any questions and present any evidence in support of their case.

### ▪ **Consideration by the manager conducting the meeting**

The Chair conducting and hearing the case should:

- Go through any relevant evidence presented at the meeting;
- Use questions to clarify the issues and to check that what has been said is understood;
- Encourage the employee to speak freely to establish all the facts;
- Establish if there are any underlying causes for the sickness absences;
- If dismissal is a possibility, establish whether there is any likelihood of a significant improvement being made within a reasonable time and whether there is any practical alternative to dismissal, such as redeployment support;
- Summarise the main points of the discussion after questioning is completed;
- Ensure all evidence and points for all parties have been put forward, including if there are any special circumstances to be taken into account, and;
- Ask the employee if they have anything further to say or to be taken into account.

The Chair will consider all representations before deciding what outcome or support is appropriate.

### ▪ **Adjournment**

If new facts have emerged or there is any dispute over facts that have not been properly investigated, it may be necessary to adjourn the meeting in order to investigate them and reconvene the meeting at a later time or date. Any new evidence should be shared with both parties prior to reconvening the meeting. Requests for an adjournment by either side should be made to the Chair of the meeting for their consideration.

### ▪ **Meeting Outcome**

The employee will be informed of the decision in writing within 5 working days of the meeting, where possible.

If, as a result of the meeting and the evidence presented, it is considered that no further formal action is required, this will be confirmed to the employee in writing. If, as a result of the meeting and the evidence presented, it is considered that further formal action is necessary further advice should be sought from the relevant HR Partner, particularly if dismissal on grounds of ill-health is under consideration.

The correspondence shall also notify the employee of their right to appeal against any sanction. In the event that the decision is taken to dismiss the employee, the correspondence will include the reasons for dismissal and the date that their employment will

terminate, together with details of any notice arrangements and right of appeal. Dismissal will always be a last resort after consideration of all other options.

Any or several of the following may be possible outcomes of a Stage 3 absence meeting/Formal Sickness hearing, but the list is not necessarily exhaustive:

- A review period, with an agreed timescale, to try and address the problem. This option will only be pursued with the final stage of the process if there are clearly identified reasons why further action is likely to lead to an improvement where it has not done so previously, or if some signs of improvement have already been shown and it is expected that allowing a further review period will lead to an acceptable, sustained improvement in attendance.
- Consistent with the School's obligations under the Equality Act, if the medical advice is that the employee would be able to attend work on a substantive basis if reasonable adjustments were made to the place of work and/or method of work, consideration will be given to whether this can be reasonably accommodated, and arrangements will be made accordingly, along with an agreed review period.
- Where the medical assessment is one of permanent ill-health and the employee is a member of the pension scheme, early retirement on grounds of ill-health will be considered.
- To dismiss the employee on the grounds of unsustainable levels of absence, with notice (regardless of whether the employee is in a half or no pay situation, the notice period will attract full pay).

In relation to short-term absence, if following a review period and after a period of satisfactory improvement based on the target set, the individual's absence levels deteriorate and a further review is triggered, a Stage 3 meeting will be repeated.

Where a remedy/action other than dismissal is identified, where appropriate, the letter will advise of any agreed action/support, and will also caution that should the chosen option not result in necessary improvements or prove unsuccessful within a defined timescale, dismissal could follow.

Following the meeting, the employee will be advised of the decision of the Chair of the meeting. The decision and the reasons for it will be confirmed in writing within 5 working days, where possible. Where the outcome of the meeting is a decision to dismiss the employee on the grounds of ill-health, the letter will also include the right of appeal, termination date, and details of appropriate period of notice. At this stage, the provisions under Part IV of the Statute will apply to Academic Staff.

For an **Outcome of Stage 3 meeting/formal sickness hearing letter** template, please see 'Related Documents'.

## 7.1 Accompaniment and Representation

Employees can be represented at formal meetings by a trade union representative or a work colleague. In exceptional circumstances, an individual may wish to request to bring a second representative to a formal meeting or hearing, for example, a representative from the organisation Mind. Where this is permitted, it must be confirmed in advance which named representative will actually be presenting the case.

The employee's representative will be allowed to address the meeting or hearing to put and sum up the employee's case, respond on behalf of the employee to any views expressed at the meeting, and to confer with the employee during the meeting. The representative does not, however, have the right to answer questions on the employee's behalf, address the meeting if the employee does not wish it, or prevent management from explaining their case.

The employee should provide relevant details to the manager convening the meeting sufficiently in advance of the meeting. It is the employee's responsibility to supply copy documentation for their representative or companion.

It is the employee's responsibility to ensure that their representative is available to attend the meeting. However, where possible, the manager will seek to consult with the trade union representative in advance of scheduling a formal meeting to ensure their availability.

## **7.2 Postponements**

When a formal meeting is scheduled, both parties, including the representative, should make every effort to attend.

Where the employee is unable to attend a formal meeting on the date scheduled they should inform their manager at the earliest opportunity. In the first instance the meeting will usually be rearranged for an alternative date. Where an employee fails to attend a rearranged meeting without good cause, a decision may be made to go ahead with the meeting in the employee's absence, and a decision will be reached based on the evidence available. The employee will be notified when this is the case.

The employee can request for a formal Absence Review Meeting to be postponed by up to 5 working days (beginning with the day after the day on which the meeting was originally convened), only for reasons of non-availability of a chosen representative or companion. One postponement of a formal meeting on these grounds may be permitted. Where possible, the manager may wish to communicate with the employee's chosen representative or companion regarding their availability before scheduling a Stage 1, 2 or 3 Absence Review Meeting, which may avoid the need for a postponement. Before making any such contact, the manager should be satisfied that the employee will be represented at the meeting by that individual.

In exceptional circumstances, other reasons for postponement may be considered. However, there is no entitlement and it cannot be guaranteed; the manager would consider the circumstances and may arrange to have the meeting or hearing at a neutral venue. If a meeting is held at a non-School venue, it is recommended that the manager be accompanied. If the employee fails to attend a meeting, it may be held in their absence.

If an employee's trade union representative or work colleague cannot attend on a proposed date, the employee can suggest another date so long as it is reasonable and is not more than 5 working days after the date originally proposed. Whilst every effort will be made to find a time that is suitable for all parties, if the companion is not available at the rearranged time the School can insist that the employee choose a different companion, or that they attend the meeting unaccompanied.

Where an employee is unable to attend formal meeting due to ill-health, consideration will be given to making reasonable adjustments, such as holding the meeting at a different location or allowing the employee to make written representations.

## **7.3. Authority to Act**

Short-term absence formal meetings at Stages 1 and 2 and long-term review meetings are conducted by the employee's manager as appropriate. Short-term absence meetings at Stage 3 and long-term formal sickness hearings are conducted by the line manager's manager or a more senior manager as appropriate. There may be exceptional circumstances where it would not be appropriate for the line manager's manager to act in a case e.g. the senior manager's independence is compromised in some substantial way. In such circumstances the case will be referred to the Director of HR who may refer the case to an alternative Senior Manager of the School.

## **8. Formal Sanctions**

### **8.1. Written Warnings**

If as a result of a formal Stage 1 or 2 Meeting the employee's attendance is found to be unsatisfactory, the manager will write to the employee to issue a written warning. The written warning should be stated in an outcome letter and should include the improvement in attendance required, targets for improvement, the timescale for improvement ("the review period"), any support which should be provided, and the consequence of not meeting the attendance targets within the review period. It will also set out the employee's right of appeal.

The manager will monitor the employee's attendance during the review period and will hold regular review meetings. On completion of the review period the manager will write to the employee to inform them of the outcome.

A written warning will remain active for a specified period. This will usually be 12 months for warnings at Stage 1 or 2 meetings, after which time it will remain on file for reference purposes but will be disregarded when making a decision on future sickness absence proceedings.

### **8.2. Dismissal**

The dismissal of an employee on the grounds of long-term ill-health should be a last resort only after all other options have been fully considered and discussed with the employee, and after all possible adjustments have been made to support the employee's continuing employment.

Long-term sickness absence can be a fair reason for dismissal. However, for a dismissal to be fair in practice the employer would have to show that the employee's long-term absence was sufficient to justify dismissal and that it acted reasonably in dismissing the employee for this reason.

Before contemplating dismissal, the manager should consult with HR to review the circumstances for advice as to whether proper grounds for dismissal exist. In order to ensure that a dismissal on the grounds of long-term ill-health is capable of being fair, the manager should, as a minimum, ensure that they:

- Consult with the employee regularly and keeps them in the loop about any proposals or plans regarding their ongoing employment.
- Review the employee's absence record to assess whether or not it is sufficient when considered in context to justify dismissal.
- Obtain up-to-date medical and/or Occupational Health advice prior to taking any final decision.
- Review whether there are any other jobs that the employee could do.
- Act reasonably towards the employee throughout.

The key question is whether or not in all the circumstances the employer can reasonably be expected, in light of the requirements of the business, to wait any longer for the employee to recover and return to work. This will depend, among other things, on the degree of disruption or negative impact that the employee's long-term absence is causing.

Often the best approach is routinely to review the status of the employee after a specified period of absence, for example a month or two. At this point it may be appropriate to set a further time limit for a decision to be made about the employee's continuing employment. Where this is done, it will be vital to inform the employee about the time limit and that a decision is to be made when that time arrives if they are still absent.

In the event that dismissal is recommended, LSHTM's Statute should be followed for academic employees. For all other School employees, the decision to dismiss on the grounds of unsatisfactory attendance is made under the Sickness Absence Management Policy and Procedure. The Director of HR should be consulted in advance of the proposed dismissal of any employee.

## **9. Appeals**

An appeal against formal sanctions such as first and second written warnings and dismissal should be made in writing under the Appeal procedure for the relevant staff category. The purpose of the appeal hearing is to establish if the outcome of the procedure was appropriate and procedurally correct.

## **10. Sources of Support**

Consideration should be given to the wide range of support available to assist employees in managing their health, attendance and wellbeing. Consideration should also be given to advice and guidance that can be offered by managers and peers, including reading lists and professional sources of information and advice.

## **11. Human Resources**

The relevant HR Partner or their team are the principal designated points of contact for each department/faculty. Full details of the School's HR contacts, staff policies and all other information for staff are available on the School's intranet pages.

## **12. Occupational Health**

Occupational Health provides a specialist support service that focuses on the prevention of ill-health and promotion of health at work. Its services respond to the School's statutory requirements under health, safety and employment law and are designed to protect health at work and ensure that health-related problems are effectively managed.

Through collaborative work with both external and internal disciplines such as the Safety Advisers and HR, Occupational Health aims to provide an integrated service to all staff.

### **12.1 Counselling Service**

The Counselling Service is available free of charge to all School employees. It provides confidential personal counselling to help employees solve personal or work-related problems away from the work environment.

Employees approach the service for help with a wide range of issues, including work issues such as stress, bullying or harassment, or difficult relationships with colleagues. They may also access the service for personal reasons such as bereavement, family or relationship difficulties, cultural experiences, or for support with questions relating to their sexual orientation or gender identity. The service is able to respond sensitively to a diverse range of different concerns.

### **12.2 Internal Mediation Service**

Mediation is a well-established process for resolving disagreements in which an impartial third party (the mediator) helps two or more people in dispute to attempt to reach an agreement and find a mutually acceptable resolution.

### **12.3 Health and Safety Office**

The Health and Safety Office provides a central resource for health and safety to complement and support the work of safety officers in the School's academic departments. Working together with colleagues in Occupational Health, the Health and Safety Office ensures that the School is a safe and healthy place to work.

### **12.4 External Support**

#### **▪ Macmillan Cancer Support**

Macmillan Cancer Support provides practical, medical and financial support for those living with cancer, those that care for those with cancer, and employers who have staff affected by cancer. Macmillan's Cancer Support line number is 0808 808 00 00 and is also available for anyone affected by cancer.

#### **▪ Mind**

Mind provides advice and support to empower anyone experiencing a mental health problem. It campaigns to improve services, raise awareness and promote understanding. It has produced a series of free resources to help improve mental wellbeing in the workplace.

#### **▪ ACAS**

ACAS (the Advisory, Conciliation and Arbitration Service) works to improve organisations and working life through better employment relations. It has teamed up with the NHS's Mindful Employer initiative, a leading authority on managing mental health at work, to develop an advisory booklet called 'Promoting Positive Mental Health at Work' which is designed to help employers to tackle the stigma around mental health, focus on the practical things managers can do to help, and develop solutions by listening.

## **13. Managing Confidentiality**

Any records in relation to an employee's health are confidential and any information that is collected and stored should be held in accordance with the Data Protection Act 1998. The following principles should be followed:

- Only information necessary to the monitoring and management of sickness absence should be sought (e.g. from discussions between the employee and manager or via a management referral to Occupational Health);
- All relevant and necessary information (e.g. records of absence meetings, management referrals and reports etc.) should be stored securely (e.g. with restricted access), and for no longer than necessary;
- Information is shared only with those directly involved in the management of the case, enabling the employee to see information relating to them on request;
- It is important to retain a record of all intervention/support and decisions taken to evidence compliance with the Sickness Absence Management Policy and Procedure and our obligations under the Equality Act 2010. These records may also be helpful as a personal aide memoire to aid the effective management of sickness absence cases.

These principles apply to all personal data, whether it is stored in an electronic or paper format.

## 14. Related Documents

- Questions to ask and active listening
- Return to work discussion form (form)
- Invitation letter to short-term informal stage meeting (template)
- Informal stage meeting record (form)
- Invitation letter to formal stage 1 or 2 meetings (template)
- Outcome letter for formal stage 1 or 2 meetings (template)
- Protocol for case conferences and case review meetings (guidance)
- Invitation letter to long-term informal meeting (template)
- Outcome of long-term informal meeting (template)
- Phased return letter (template)
- Invitation letter to stage 3 meeting / formal sickness hearing (template)
- Outcome letter to stage 3 meeting / formal sickness hearing (template)
- Short-term absence process (flowchart)
- Long-term absence process (flowchart)

### Accessibility

If you require any document in an alternative format, for example, in larger print, please contact Human Resources.

January 2018