



*Let Your Light Shine*

## Frieth C.E.C. School

# Health and Attendance Policy

**Member of staff responsible:** Headteacher

**Governing body committee responsible:** PRP committee

**Reviewed:** 3 Year Cycle

**Headteacher's signature:** Martin Gosling

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Review date: Feb 2024                      signed:                                      date:

Review date: Feb 2024                      signed:                                      date:

Review date: Feb 2027                      signed:                                      date:

Review date: Feb 2027                      signed:                                      date:

Review date: Feb 2030                      signed:                                      date:

Review date: Feb 2030                      signed:                                      date:

## **BUCKINGHAMSHIRE COUNCIL HEALTH AND ATTENDANCE POLICY AND PROCEDURE FOR SCHOOLS**

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Version	Change	Date	Author(s)
1.0		April 2020	Based on November 2018 issue but changed to Buckinghamshire Council
2.0		January 2022	Anne Nichols
3.0	To address TU consultation	March 2022	Anne Nichols
4.0	DP Statement	July 2023	Policy & Reward Team

## **BUCKINGHAMSHIRE COUNCIL**

### **HEALTH AND ATTENDANCE POLICY & PROCEDURE FOR SCHOOLS**

#### **1. Introduction**

- 1.1 Buckinghamshire Council (“the Council”) is committed to promoting the health, attendance, and well-being of its employees. This policy covers the standards that are expected of employees and managers in managing health and attendance effectively, consistently, and fairly. Action should be taken under this Policy as soon as an absence gives cause for concern, even if the employee is currently on sick leave.
- 1.2 It is recognised that employees will from time to time be unable to work due to sickness and the Council does not expect employees to work when they are medically unfit to do so. It is expected that employees will take accountability for their own absences and accept responsibility for addressing their own health issues to keep absences to a minimum.

#### **2. Scope**

- 2.1 Once adopted by the Governing Body, this Health and Attendance Policy and Procedure applies to all school-based staff within Maintained Schools.
- 2.2 These guidelines will **not apply** to schools where the council is not the employer of their staff e.g. Academies, Voluntary-aided schools and Foundation and Trust schools. However, the Governing Board may choose independently to adopt these guidelines with appropriate amendments.

#### **3. Principles**

- 3.1 The policy and procedure contained within this document is founded on the following principles:
- Buckinghamshire Council aims to be a reasonable employer in the treatment of those people absent from work due to ill health. Head teacher/line managers are encouraged to take positive action in supporting individual well-being as well as taking a consistent, sensitive and supportive approach towards employees who are absent from work due to ill-health.

- It is the school's intention to support employees to maintain a consistent level of attendance. Where absence occurs, early intervention is key to encourage and support individuals to return to work as soon as they feel well enough to do so.
- Occupational Health advice is beneficial to support employees' wellbeing and return to work. This will be sought as soon as practical. Where counselling is recommended, support will be provided where reasonably possible.
- At each stage of the absence management procedure, particular consideration will be given to whether there are reasonable adjustments that could be made to the requirements of a job or other aspects of working arrangements that will provide support at work and/or assist a return to work. The Council is aware that sickness absence may result from a disability. If an employee considers that they are affected by a disability or any medical condition which affects their ability to undertake their work, they should inform their line manager.
- Sickness absence may be indicative of problems within the work environment. All reasonable steps will be taken to ensure that employees' health issues, and any associated factors in the work environment, are identified at an early stage, and that appropriate action is taken to address these.
- The Council operates an Occupational Sick Pay scheme.
- The School's Conduct and Discipline Policy and Procedure may be used where, for example it is alleged that:
  - The sickness absence reporting procedure has not been followed
  - medical or self-certificates have been falsified
  - the sickness scheme has been abused
- Employees have the right to be accompanied by a trade union representative, work colleague, or an official employed by a trade union at the formal stages (Stages 2 & 3) of the absence management procedure and any appeal hearing.
- Employees have the right to appeal the outcome of Stages 2 & 3 of the absence management procedure.
- No employee will be subjected to any form of discrimination in the application of this policy on protected characteristics of age, disability, gender, gender reassignment, marriage, and civil partnerships, maternity and pregnancy, race, religion, belief, sex, sexual orientation or other grounds protected by law.
- If employees have any misgivings about either the process or the managers leading it, they should tell the Head teacher or Chair of Governors initially, so that their concerns may be considered. If the employee feels uncomfortable with both of these options they may contact the HR Officer advising the school.
- Sickness absence records will always be held confidentially and in accordance with Data Protection legislation and access to health records and medical reports legislation.

- Schools and where appropriate the Council process personal data for the purposes of managing health and attendance and the identification of reasonable adjustments. Such processing is necessary for compliance with a legal obligation to which we are subject and necessary for the purposes of carrying out obligations and exercising specific rights of the data controller and of the data subject in the field of employment

## **4. Roles and Responsibilities**

- 4.1. Both the Head Teacher/line manager and employees have roles and responsibilities under this policy.

Head Teacher/Line Managers will:

- Exercise a duty of care for the health and well-being of their employees and be responsible for managing attendance in a consistent way and ensure absences due to ill health are treated sensitively and confidentially. Employees are not expected to work whilst sick.
- Undertake return to work meetings and reviews, and monitor and address any absence issues at an early stage.
- Undertake risk assessments where required by legislation or requested by the employee, including a stress risk assessment on any employee at risk of absence due to stress.
- Consider referring to Occupational Health as a measure to support employees and manage health and attendance.
- Consider reasonable adjustments where it is considered appropriate and should seek advice from HR on this if required.
- Maintain records of discussions and update the relevant HR reporting system with the record of the employee's absence.
- Promote health and well-being initiatives where appropriate
- The Head Teacher/line manager, or Chair of Governors in the case of the head teacher/line manager, is responsible for the overall management of standards of health & attendance within their School. The authority to act under this Procedure rests with the head teacher/line manager or Chair of Governors. The head teacher/line manager will nominate those senior employees in the School who have the authority to give formal warnings. Dismissal is usually managed by the Staff Dismissal Committee.

Employees will:

- Take responsibility for notifying their manager of any absence at the earliest possible opportunity.

- Maintain contact with the Head teacher/manager, unless otherwise agreed, during periods of ongoing absence.
- Adhere to sickness absence certification requirements.
- Take advantage of Council initiatives to promote health and well-being where appropriate.
- Make every effort to engage with Occupational Health and its recommendations.

## **5. Notification of Absence**

5.1 The entitlement to sick pay is dependent on the employee ensuring that their head teacher/line manager or appropriate person is informed that they are unable to attend for work as soon as possible on the first day of absence. Depending on the circumstances of each individual case, if an employee fails to inform their head teacher/line manager of their absence, this may be considered as unauthorised absence, resulting in loss of pay and possibly disciplinary action.

- The employee must telephone their head teacher/line manager or appropriate person on the first day of absence, at the commencement of the working day. (If the head teacher/line manager is not available, the employee must inform an alternative employee normally senior to themselves).
- The employee must provide their head teacher/line manager or appropriate person with details of their illness or injury, their anticipated length of absence and if possible details of any work commitments that may need rearranging.
- If the employee believes that their absence may have been caused by an incident at work, they should inform the head teacher/line manager of this and arrange for the accident reporting procedure to be followed.
- Exceptionally, if the employee is unable to telephone in person, they must arrange for someone else to telephone on their behalf. The employee must make direct contact with the head teacher/line manager or appropriate person as soon as possible thereafter.
- The Administrator responsible for absence recording must update SIMS/notify payroll with details of the absence (see Toolkit for further information). This is vital to ensure that the absence record is updated correctly and the correct rate of sick pay is paid to the employee.

- If the absence continues, further notification as to the nature and probable duration of the illness should be provided to the head teacher/line manager.
- The head teacher/line manager will agree with the Employee the arrangements for maintaining contact during ongoing periods of absence. This is likely to be weekly but may vary depending on the nature of the illness.

5.2 The head teacher/line manager must ensure that time off related to a person's disability, e.g. for repair of aids and adaptations **must not** be recorded as sickness absence. In all such cases, the school will have a duty to make reasonable adjustments, which could include the granting of paid time off for such purposes. It will always, however, be necessary to consider the reasonableness of the requirement/ request for time off.

5.3 The School recognises that there could be occasions where it may be difficult for employees to come into work at short notice due to domestic emergencies. Employees should not report sickness to cover this type of absence and should instead refer to the schools Model Leave of Absence Policy.

5.4 Where an individual attends for work but then subsequently feels unwell and goes home sick, this should still be reported as sickness. See the toolkit for further advice. The head teacher/line manager has a degree of discretion over whether to class this as a half day or full day absence, depending on how long the individual has been at work and their working pattern.

## 6. Absence Certification

6.1 For absences up to and including 7 calendar days a self-certification form must be completed and for absences over 7 calendar days a medical certificate (Fit Note) will be required. A certificate signed by the GP will be provided to the line manager as soon as reasonably practical, this can be scanned and attached to an email. A digital copy from a GP will be accepted where paper copies have not been issued. Further certificates should be submitted to cover the entire period of absence. The original certificate will be returned to the Employee.

6.2 A doctor's medical certificate may, at the school's discretion, be requested to cover any period of absence. (Any cost incurred because of providing such certificates will be reimbursed by the school.)

6.3 For absences relating to pregnancy prior to commencing maternity leave individuals are advised to refer to the Maternity guidelines (see Schoolsweb).



## **7. Conduct whilst on sick leave**

- 7.1 When an employee is absent from work on sick leave it is not always necessary for them to be confined to their home. However, they are not expected to carry out any activities which are likely to hinder their recovery and delay their return to work. It is appropriate for the head teacher/line manager to maintain contact with an absent employee, as agreed in 5.1, to discuss their wellbeing as part of their responsibility to keep in touch. If there is a suspicion that an employee is abusing the sick scheme in any way the matter will be investigated through the Conduct & Discipline Policy (see Schoolsweb).

## **8. Medical Appointments**

- 8.1 Where possible routine medical appointments e.g. doctors, dentists, should be made outside normal working time. Where this is not possible the school will allow a maximum of one hour's paid absence. However, the head teacher may agree to additional time off for appointments where considered appropriate.

## **9. Return to work**

- 9.1 On return to work, the Administrator responsible for absence recording must update SIMS/payroll with details of the employee's return to ensure that pay and attendance records are updated accordingly.
- 9.2 A return to work discussion after every absence is also to be undertaken by the head teacher/line manager as soon as possible after the employee has returned to work (further guidance can be found in the toolkit). The discussion should explore any supportive measures and/or reasonable adjustments that the School can put in place.
- 9.3 A 'Return to Work Form' should be used. This will include details of any action agreed. The meeting should be informal and supportive, based on concern for the health of the individual and any underlying causes, which may affect health/performance.
- 9.4 On occasion, particularly after a prolonged period of absence, a phased return to work may be appropriate. This will generally be considered following advice from OH or on a Fit Note. The employee will be expected to build their hours back up to full-time/normal hours over an agreed period, normally up to a maximum of 4 weeks, depending on medical advice, and where appropriate because of any issues arising under the Equality Act. Any period of part-time working up to 4 weeks, will be paid at the contractual salary.

## **10. Absence Due to Disability**

- 10.1 If an employee is absent because of a disability, provided the employee has notified the School of the disability, the absence should be recorded, but this period of absence should be discounted from the trigger points set out below.

High levels of absence related to a disability will be managed under this procedure, and support will be provided to employees wherever possible, such as by making reasonable adjustments to accommodate the employee's needs following an Occupational Health referral.

## **11. Absent Management Procedure**

- 11.1 Absence trigger points assist the head teacher/line manager to focus on dealing with both short term absence, through the initiation of formal action, and early intervention in situations of possible long term sickness absence. If management can give support at an early stage, it is more likely that a speedier return to work can be facilitated. The trigger points at which the head teacher/line manager is required to review the employee's absence are:

- three periods of absence within a six-month rolling period;
- 28 or more consecutive calendar days (long term absence); or
- absences appearing to have a recurring recognisable pattern, for example frequent absenteeism around a weekend or particular special events.

### **11.2 Stage 1**

#### **Informal Review Meeting**

- 11.2.1 The head teacher/line manager should arrange a suitable time and place for an informal discussion with the employee as soon as possible.
- 11.2.2 The discussion with the employee should ascertain the cause(s) for the absence(s) and share the relevant monitoring information indicating any patterns of absences. In the case of long-term absence, the employee should be asked for their assessment of the situation.
- 11.2.3 Where the employee is absent from work the principle of maintaining contact regularly and sensitively is important. Contact with an employee on long term sickness may exceptionally be made through a Trade Union representative where the Head teacher/line manager and the individual have agreed that this will be beneficial.

- 11.2.4 As a result of the discussion, the head teacher/line manager may indicate that an improvement in attendance is required, that monitoring will continue and that a follow up meeting will take place at the end of the monitoring period.
- 11.2.5 A written summary of the outcome of the meeting, including agreed improvement for the length of the monitoring period (usually 1-3 months, or longer depending on the nature of the absence), and the date for the follow up meetings should be given to the employee.
- 11.2.6 The head teacher/line manager may refer the employee to the Occupational Health Service (OH) to help them understand any underlying health issues and to explore any supportive measures and/or recommended reasonable adjustments. This step should only be taken following discussion of the case with the relevant HR contact. All referrals to OH will be made with the prior agreement/consent of the individual. The OH will discuss the reasons for absence with the individual and if appropriate request a medical report from their GP, with the employee's consent. They will consider all the relevant information and provide a written report to the school. The report should be discussed with the employee and the appropriate action agreed, including review dates. A written account of the outcome will be kept on the personal file. If requested, a copy will be given to the employee in accordance with the requirements of the DPA 2018(GDPR Regulations).
- 11.2.7 If the individual refuses to consent to attend Occupational Health appointments or to provide access to a GP report, the head teacher/line manager should advise the individual that any decisions on their employment can only be made on the information available. Consequently failure to attend OH appointments or management meetings could impact on decisions made with regard to future employment.
- 11.2.8 If an underlying health problem has been indicated, it may be necessary to make reasonable adjustments to the job, method of working, hours of work etc. to ensure an acceptable level of attendance and performance. The requirements of the Equality Act 2010 will be considered and applied where at all practical.

#### **Follow Up Meeting**

- 11.2.9 At the follow up meeting, the head teacher/line manager should consider whether the employee's absence continues to give cause for concern. If there are no concerns over the employee's health and attendance at this stage, the process is concluded.
- 11.2.10 If the head teacher/line manager continues to have concerns over the employee's health and attendance, they should consider progressing to the Stage 2 Formal Review Meeting.

11.2.11 If, following the informal process employees are unable to sustain the agreed level of attendance, there may be occasions when it is appropriate to progress directly to Stage 2.

### **11.3 Stage 2**

#### **RIGHT TO BE ACCOMPANIED**

11.3.1 The employee has the right to be accompanied at all formal meetings, by a trade union representative, work colleague, or an official employed by a trade union.

#### **Formal Review Meeting**

11.3.2 If, following the informal process, the employee's absence continues to give cause for concern, the head teacher/line manager should hold a formal review meeting with the employee. The Stage 2 Formal Review Meeting should be arranged as soon as possible. Employees should be given at least 5 working days' notice of the meeting.

11.3.3 Employees have the right to be accompanied.

11.3.4 The meeting will cover the following (as appropriate):

- The head teacher/line manager's assessment of the situation.
- The employee's assessment of the situation.
- ascertain the cause(s) for the absence(s) and share relevant monitoring information indicating any patterns of absences (as appropriate);
- where the employee has been absent on several occasions, discuss the likelihood of further absences (as appropriate);
- A discussion of the likely outcome e.g. return to full duties, reasonable adjustment to job role or responsibilities, phased return, redeployment, early retirement or dismissal.
- Consider any requirements of the Equality Act 2010.
- Determine an appropriate course of action, over a mutually agreed timescale, which may result in further meetings.
- Further advice from OH (as appropriate).
- Before any temporary arrangements are agreed, a risk assessment should be carried out by the head teacher/line manager.
- Where the employee is on long-term sickness absence, the manager and employee should discuss how long the absence is likely to last.

11.3.6 A written summary of the outcome of the meeting, and any further formal contact will be documented by a follow-up letter on each occasion. This should be issued within 5 working days of the meeting. It is important that the individual is informed clearly of the situation particularly if dismissal is being considered. The employee should be given the opportunity to come up with any further proposals or suggestions to resolve the absence.

11.3.8 If there is insufficient improvement over realistic timescales one of the following options will result:-

- Issue a formal warning outlining a further review period, where the situation will be monitored. Advise the employee that dismissal could result if sustained levels of attendance are not achieved.
- Consider any further reasonable adjustments to enable a return to work/sustained level of attendance e.g. phased return, adjusting the current role, change of hours, redeployment
- If it is considered that there is sufficient evidence to suggest that the employee's absences are not sickness related and they are using the scheme to take unauthorised absence from work, it is appropriate to deal with the case as a conduct issue under the Conduct & Discipline process.

11.3.9 If following the further review period, attendance has not reached an acceptable level or been sustained, it will be appropriate to progress to Stage 3.

#### **11.4 Stage 3**

##### **Final Meeting/Termination of Employment**

11.4.1 If the level of attendance has not improved to the level required following the further review period, the options to be considered are:

- Review the arrangements set out in Stage 2 to support sustained attendance or a return to work
- Ill health retirement
- Retirement on the grounds of efficiency for those aged 55+ (see toolkit for more details)
- Redeployment
- Dismissal on the grounds of capability due to ill health

11.4.2 Employees have the right to be accompanied.

11.4.3 Where termination of employment is considered, the Staff Dismissal Committee should ensure that the following points have been adequately covered:

- The employee has been regularly consulted and at each stage the employee has been informed of the likely outcome including the possibility of dismissal.
- An up to date medical opinion has been obtained from a medical adviser and the employee has been given the opportunity to comment on this opinion.
- The employee has been given the opportunity of discussing the situation and has been made aware of the right of representation.

- Consideration has been given to reasonable adjustments under the Equality Act 2010 and alternative employment.
- If the employee has more than three months pensionable service, consideration has been given to ill health retirement (see toolkit for further guidance).
- If ill health retirement is not applicable and the individual is aged 55+ (50 for those protected members), consideration can be given to retirement on the grounds of efficiency (see toolkit for further guidance).
- If the school can no longer sustain the level of sick absence, termination on the grounds of capability due to ill health should be considered. Please refer to the school's Capability Policy. The requirements of the statutory dismissal procedure will apply and HR advice should be sought in relation to this.

## **12. RIGHT OF APPEAL**

12.1 Employees may appeal the outcomes of Stages 2 and 3 of this procedure.

12.2 Appeals may be raised on one or more of the following grounds:

- procedure - a failure to follow procedure had a material effect on the decision;
- decision - the evidence did not support the conclusion of the individual hearing the case (the hearing officer);
- warning/dismissal - too severe given the circumstances of the case;
- alternative action - should (or should not) have been considered.

12.3 An employee seeking to appeal should do so within 10 working days of written notification of the decision. The employee should send their letter of appeal together with the grounds of appeal to the Warning Appeal Panel. If the employee, for whatever reason appeals outside of the specified time limit the letter of appeal should include an explanation for why the appeal is being presented late. In such circumstances the decision as to whether to hear the appeal or not shall rest with the Warning Appeal Panel.

12.4 Once an appeal has been received in writing, an appeal hearing will normally be convened promptly, allowing at least 10 working days' written notice of the hearing.

12.5 An appeal against a written warning will be considered by the Warning Appeal Panel. The Warning Appeal Panel will review all the papers that were presented to the Hearing Officer.

12.6 Where dismissal under the school's Capability procedure has been confirmed, the appropriate appeal process for the Capability policy will be followed.

- 12.7 Where the grounds of the appeal are broader than an appeal against the sanction, the role of the appeal panel shall be to conduct a re-hearing of the evidence and submissions made when the initial decision was taken, plus to consider all matters raised which are related to that decision whether they were known to the line manager/head teacher/Chair of Governors at the time the initial decision was made.
- 12.8 The Appellant shall be given notice in writing of the venue, date, and time of the appeal hearing. Copies of any documents relevant to the case including documents which were not before the line manager/head teacher/Chair of Governors and which are intended for consideration at the appeal hearing will be exchanged at least 5 working days in advance of the hearing.
- 12.9 Following the appeal hearing, the decision will be confirmed to the employee in writing without unreasonable delay, normally within 5 working days of the date of the appeal hearing.
- 12..10 The appeal decision is final; the employee has no further right of appeal.
- 12.11 If a Local Government Pension Scheme Member has left the Council and they are unhappy with the decision not to be granted ill health retirement, they can appeal under the Internal Dispute Resolution Procedure. Details are available from the Pensions team. For teachers who have not been granted ill health retirement, details of the appeal process will be included with their notification letter.

### **13. Exemptions to warnings/dismissals**

- 13.1 The advice in relation to warnings/dismissals will not apply to pregnancy related illnesses during pregnancy or maternity leave.

### **14. Sickness Scheme**

- 14.1 The sick pay scheme relating to teachers can be found at Appendix 1, and for those on Bucks Pay (Schools) Employment Conditions, Appendix 2.

### **15. Holidays & Sickness**

- 15.1 If an employee falls sick during a school closure period, they should advise their head teacher/line manager as soon as reasonably practicable. The employee will then be regarded as being absent on sick leave for any period covered by a medical certificate issued by a GP or hospital.

- 15.2 The head teacher/line manager should ensure that employees not on term time contracts are aware of the following if on long term sick leave:
- Statutory annual leave continues to be accrued whilst on long term sick leave.
  - Any leave carried forward should normally be taken before 30<sup>th</sup> June in the next holiday year.
  - For individuals to be entitled to request annual leave they have to be available for work and therefore individuals on sick absence have no entitlement to paid holidays whilst absent.
- 15.3 For those on Term time only contracts who exhaust their entitlement to full pay, advice should be taken from HR.
- 15.4 Where a Teacher's long-term absence spans 2 annual leave years and they have exhausted their entitlement to sick pay, they will be eligible for payment of statutory leave. For all other employees this should be discussed with HR.
- 15.5 Although it is recognised that in some cases it will be beneficial for an employee to take a 'holiday' during a period of long-term sickness, this will not be recorded as such and the individual will continue to be classified as being on sick leave. The employee should advise the head teacher/line manager that they are going to be away from home and if this is for a prolonged period of time they should provide a forwarding address for any correspondence.
- 15.6 As the employee will still be considered unfit for work during this period it is essential that a GP's certificate is provided to cover this period.
- 15.7 Failure to produce a sickness certificate will mean that the period of absence is recorded as absence without leave and will be classified as unpaid.

## **16. Agreed Leave of Absence (Medical Suspension)**

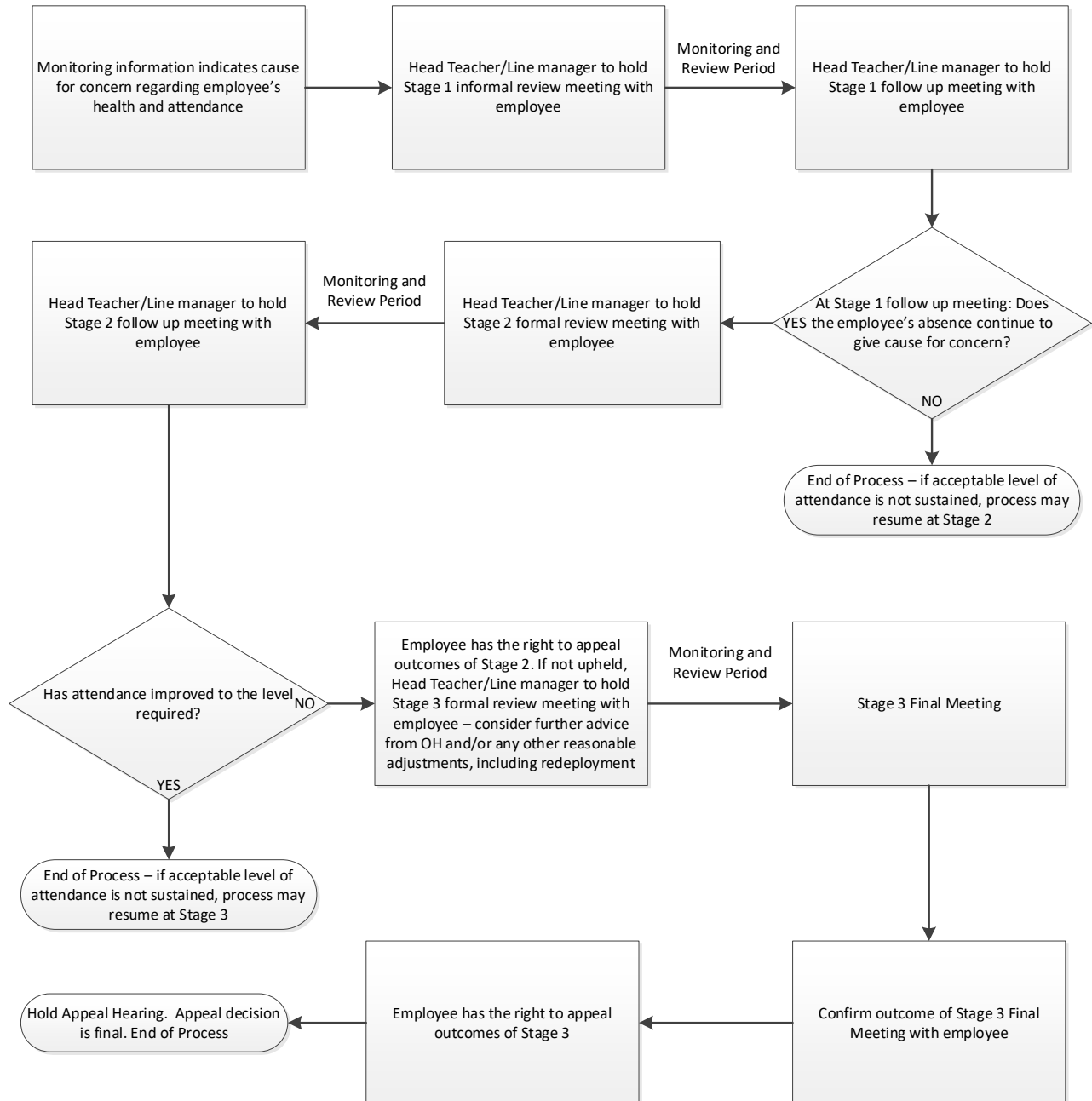
- 16.1 There are rare occasions when it may be in the interest of the employee to be given leave of absence with pay, if a situation arises at work that may cause a detriment to an employee's health e.g. someone with a weakened immune system coming into contact with slapped cheek syndrome.
- 16.2 Each situation will be dealt with on a case-by-case basis and a risk assessment is recommended. The Headteacher should seek guidance from their HR provider where necessary. The Headteacher will be responsible for authorising an absence with pay.



## 17. Absence Management Process Workflow

### BC Absence Management Procedure

Always refer to the policy and guidance documents when using this workflow to ensure the details of each stage of the process are understood and followed.



## Sick Pay Scheme for Teachers (extract from Section 4, Burgundy Book 2000)

### 1. Leave of absence

This section covers entitlement to sick pay and sick leave and the conditions to be fulfilled for those entitlements.

### 2. Sick leave and pay

2.1 Provided the appropriate conditions are met, a teacher absent from duty because of illness (which includes injury or other disability) shall be entitled to receive in any one year sick pay as follows:-

During the first year of service	full pay for 25 working days and after completing four calendar months' service, half pay for 50 working days
During the second full year of service	pay for 50 working days and then half pay for 50 working days
During the third full year of service	pay for 75 working days and half pay for 75 working days
During fourth and subsequent years	full pay for 100 working days and half pay for 100 working days

For the purpose of the sick pay scheme, "service" includes all aggregated teaching service with one or more local education authorities.

2.2 Each employer has discretion to exceed the minimum entitlement for sick leave and should review the position of teachers at an early opportunity and before their entitlements to paid sick leave expire.

2.3 For the purpose of this scheme, "working days" means teaching and non-teaching days within "directed time", as specified under paragraph 40 of the School Teachers' Pay and Conditions Document.

### **3. Sick pay**

- 3.1 Sick pay shall include, where appropriate, Statutory Sick Pay and shall not exceed the full (ordinary) pay of the teacher under the contract of employment.

### **4. Sick Leave year**

- 4.1 For the purpose of calculating a teacher's entitlement during a year under paragraph 2, a year is deemed to begin on 1st April and end on 31st March of the following year. Where a teacher starts service after 1st April in any year, the full entitlement for that year will be applicable. Where a teacher is on sick leave on 31st March in any year, no new entitlements shall begin until the teacher has resumed duty and the period from April 1st until the return to duty is regarded as part of the preceding year's entitlement for the purpose of this scheme. When a teacher moves to another employer, any sick pay paid during the current year by the previous employer shall be considered in calculating the amount and duration of sick pay payable by the new employer.

### **5. Deductions from sick pay**

#### **5.1 Full pay**

The following deductions, subject to paragraphs 6.1 and 7 below, shall be made from sick pay where it equals full pay.

- (a) the amount of sickness and incapacity benefit receivable under the Social Security Act 1975-1994;
- (b) compensation payments under the Workmen's Compensation Acts where the right to compensation arises in respect of an accident sustained before July 5, 1948;
- (c) the dependency element (but not disability element) of any treatment allowance received from the Department of Social Security

## **Half pay**

- 5.2 Where sick pay is less than full pay, deductions shall be made only so far as is necessary to ensure that sick pay together with benefits receivable in respect of insurance under the Social Security Acts 1975-1994 does not exceed full (ordinary) pay.
- 5.3 Deductions equivalent to those in paragraphs 5.1 and 5.2 above shall be on the basis that the teacher is eligible to receive such benefits, payments or allowances whether or not he or she takes the necessary steps to obtain them.
- 5.4 Deductions equivalent to those set out in paragraph 5.1 above shall be made from the sick pay of a teacher who is a married woman or a widow and has elected to pay reduced contributions under the terms of the Social Security Act 1975 and Social Security Contribution Regulations 1979, provided that, where a widow is in receipt of a widow's or widowed mother's allowance or widow's pension, regard should be paid in calculating the amount of sick pay only to such part of the national insurance benefit receivable as is in excess of the amount received by the teacher from the Department of Social Security in weeks of full normal employment.

## **6. Termination of employment during a period of sick leave**

- 6.1 In the event of a teacher exhausting in part or full his/her entitlements under paragraph 2.1 above and being given notice of the termination of his/her contract without returning to work on the ground of permanent incapacity or for some other reason related to the sickness absence, he/she shall be paid full salary for the notice period with normal deductions only. Please see Toolkit for further details.

## **7. School closure periods**

- 7.1 For the purpose of 2.1 above, two half school days shall be deemed to be equivalent to one working day. Whilst sickness during closure periods will not affect the period of a teacher's entitlements to sick leave under 2.1 above, it will be relevant so far as deduction of benefit is concerned. Thus the same deductions applicable to a teacher in respect of sickness on working days will be applicable in respect of sickness during a closure period.
- 7.2 The rate of sick pay applicable to a teacher in respect of sickness during the closure of a school is the rate applicable to him/her on the last day before the closure. Where a teacher, therefore, is ill immediately preceding a closure period and:

- he/she is on full sick pay
  - he/she shall continue on full sick pay, but the closure period is not counted against his/her entitlement under 2.1 above;
- he/she is on half sick pay
  - he/she shall continue on half sick pay, but the closure period is not counted against his/her entitlement
- he/she has exhausted his/her sick pay entitlement and is not receiving any pay
  - he/she shall continue to receive no pay.

7.3 Where a teacher is either on half pay or is not receiving pay he/she may be put back on full (ordinary) pay by the procedure in 7.4 below.

7.4 When a teacher is ill immediately preceding a closure of the school, and has exhausted his/her sick leave entitlement, or is on less than full pay, and recovers during the period of closure, such teacher shall be deemed, for the purpose of calculating the amount of salary due, to have returned to duty on the day he/she is authorised medically fit to do so by means of a doctor's statement obtained for that purpose, provided he/she actually returns to duty on the first day after the period of closure. Where a teacher in these circumstances does not return to duty on the first day after the period of closure he/she shall refund such sum as the employer at their discretion may decide.

7.5 If, during the period of closure of a school a teacher falls ill and becomes entitled to Statutory Sick Pay or becomes or would become (but for election to be excepted from liability to pay contributions) entitled to claim any of the benefits referred to in sub-paragraph 5.1 above, it shall be his/her duty to notify the employer thereof (in accordance with sub-paragraph 8.1 below as if the days of closure were working days) so that the employer may either pay Statutory Sick Pay (where appropriate) or make the appropriate deductions.

## **8. Conditions**

8.1 A teacher shall not be entitled to sick pay unless:

- (i) Notification is made to the employer as may be required, not later than the fourth working day of absence.
- (ii) A doctor's statement is supplied not later than the eighth day of Absence.
- (iii) Subsequent doctor's statements are submitted at the same intervals as they are required for D.S.S. (N.I.) purposes and on return to duty in those cases where the

absence extends beyond the period covered by the initial statement and at similar intervals during a period of entitlement to Statutory Sick Pay.

- (iv) In the case of prolonged or frequent absence, the teacher undertakes any examination that the employer may require by an approved medical practitioner nominated by them, subject to the provisions of the Access to Medical Reports Act 1988 where applicable. The cost of the examination shall not be borne by the teacher. The teacher's own doctor may be present at the examination at the teacher's request.
- (v) The teacher declares to the satisfaction of the employer his or her entitlement to benefits under the relevant Acts as well as any alteration in the entitlement to such benefits.

8.2 When a teacher enters hospital or similar institution a doctor's statement on entry or discharge shall be submitted in the place of periodic statements.

## **9. Absences arising from accidents, injury or assault at work**

9.1 In the case of absence due to accident, injury or assault, attested by an approved medical practitioner to have arisen out of and in the course of the teacher's employment, including attendance for instruction at physical training or other classes organised or approved by the employer or participation in any extra curricular or voluntary activity connected with the school, full pay shall in all cases be allowed, such pay being treated as sick pay for the purposes of paragraphs 3 to 7.5 above, subject to the production of self certificates and/or doctor's statements from the day of the accident, injury or assault up to the date of recovery, but not exceeding six calendar months.

9.2 After that maximum period of six months' full pay, in the event of the teacher not returning to duty he/she shall be entitled to normal sick leave and pay under the terms of paragraph 2.1 according to his/her length of service as prescribed by that paragraph.

9.3 Absence resulting from accidents, injuries or assaults referred to in sub-paragraph 9.1 shall not be reckoned against the teacher's entitlements under paragraph 2 above, though such absences are reckonable for entitlement to Statutory Sick Pay.

9.4 For the purpose of sub-paragraph 9.1 "absence" shall include more than one period of absence arising out of a single accident, injury or assault.

## **10. Contact with infectious diseases**

- 10.1 When the approved medical practitioner attests that there is evidence to show a reasonable probability that an absence was due to an infectious or contagious illness contracted directly in the course of the teacher's employment, full pay shall be allowed for such period of absence as may be authorised by the approved medical practitioner as being due to the illness, and such absence shall not be reckoned against the teacher's entitlement to sick leave under paragraph 2 above, though such absences are reckonable for entitlement to Statutory Sick Pay.
- 10.2 Where the absence is attested by the approved medical practitioner to be due to pulmonary tuberculosis and the teacher carries out an approved course of treatment, full salary shall be paid in respect of the first twelve calendar months of the period of absence after attestation and further full or half-pay shall be allowed at the discretion of the employer.
- 10.3 A teacher residing in a house in which some other person is suffering from an infectious disease shall at once notify the employer and the teacher shall, if required, take such precautions as may be prescribed, provided that if in the opinion of the approved medical practitioner it is considered inadvisable, notwithstanding such precautions, for such teacher to attend duty, full pay shall be allowed during any enforced absence from duty, such pay being sick pay for the purpose of paragraphs 3 to 7.5 above. This provision will also apply where, in the opinion of an approved medical practitioner, it is inadvisable for a teacher to attend duty for precautionary reasons due to infectious disease in the workplace. The period of the absence under this paragraph shall not be reckoned against the teacher's entitlement to sick leave under paragraph 2 above, though such absences are reckonable for entitlements to Statutory Sick Pay.

## **11 Absences caused by negligence**

- 11.1 If the absence of the teacher is occasioned by the actionable negligence of a third party in respect of which damages are recoverable, he/she shall advise the employer forthwith and the employer may require the teacher to refund a sum equal to the aggregate of sick pay paid to him/her during the period of disability of such part thereof as is deemed appropriate, but not exceeding the amount of the damages recovered. In the event of the claim for damages being settled on a proportionate basis, the employer will require full details and will determine the actual proportion of sick pay to be refunded by the teacher.

- 11.2 If the employer, in consultation with the governing body as appropriate, are of the opinion that the disability which has occasioned the teacher's absence from work is due to his/her misconduct, or if the teacher has failed to observe the conditions of this scheme, or has been guilty of conduct prejudicial to his/her recovery, the payment of any sick pay under the scheme may be suspended by the employer. In any such case the employer shall inform the teacher of the grounds upon which the payment of sick pay has been suspended. He/she will then be given the opportunity to submit his/her observations and to appear (accompanied by a representative if he/she so wishes) before the employer, or governing body, as appropriate. The employer, in consultation with the governing body as appropriate, will thereupon decide whether the disability was due to the conduct of the teacher or whether he/she has failed without reasonable cause to observe the conditions of the scheme, or has been guilty of conduct prejudicial to his/her recovery, in which case the teacher shall forfeit his/her right to any payment or further payment of sick pay in respect of that period of absence.
- 11.3 Sick pay shall not be paid in a case of accident due to active participation in sport as a profession unless the employer decides otherwise, though Statutory Sick Pay may be payable.

## **APPENDIX 2**

### **Sick Pay Scheme for Employees on Bucks Pay(Schools)Employment Conditions**

1. Employees' entitlement to pay during periods of sickness absence is usually composed of two elements; Statutory Sick Pay (SSP) and Contractual Sick Pay (CSP). The amount of SSP included in an employee's gross pay will be 'topped up' by any sickness payment that an employee is entitled to under the Council's Contractual Sick Pay scheme. Both schemes



are taxable and employees will have to pay National Insurance and Pension contributions on these.

2. The Sick Pay employees receive will be based on a combination of the individual's entitlement to Statutory Sick Pay and Contractual Sick Pay in accordance with the individual's Contract of Employment. The length of time an employee receives CSP is based on their length of service (see below), taking into account any sickness they have had in the 12 months prior to their first day of absence. An employee's entitlement to sick pay starts from the first day of absence; therefore if their service increases whilst they are absent, they are not entitled to further sick pay. For this purpose, length of service means continuous service in local government and related employment.

	Full Pay	Half Pay
During 1 <sup>st</sup> year of service	1 month	+ 2 months (after completing four months' service)
During 2 <sup>nd</sup> year of service	2 months	+ 2 months
During 3 <sup>rd</sup> year of service	4 months	+ 4 months
During 4 <sup>th</sup> year of service	5 months	+ 5 months
After 5 years of service	6 months	+ 6 months

3. When an employee is off sick they will receive their entitlements to SSP/ CSP combined in such a way that at no time will their total pay when off work exceed their normal pay when at work. In exceptional circumstances where an employee has exhausted their entitlement to sick leave on either full or half pay, an extension may be considered.
4. Head teacher/line managers should operate a bring forward system for the review of sick pay in all cases of long-term sickness absence so that they may advise the individual when a reduction in sick pay is to occur. This also allows early consideration to be given to the possibility of extension of sick pay (see the toolkit for further information).

## 5. Qualifying days – SSP

5.1 SSP calculations operate over the full seven-calendar day week. It is therefore necessary for the head teacher/line manager to collect full details of any period of sickness from their employee. This includes weekends, public holidays, annual leave, or any other day that they would not be required to work, so that calculations of SSP can be properly made and the school has full and accurate records of employees' sickness absence.

## **6. Absence caused by Third Party negligence**

6.1 Where an absence is caused by third party negligence and the employee successfully recovers damages from the third party, the school reserves the right to recoup any contractual sick payments that have been made.

### **Data protection**

We process any personal data collected during the health and attendance procedure in accordance with our [data protection policy](#). Any data collected is held securely and accessed by, and disclosed to, individuals only for the purposes of completing the health and attendance procedure. Inappropriate access or disclosure of employee data constitutes a data breach and should be reported in accordance with our data protection policy immediately. It may also constitute a disciplinary offence, which will be dealt with under our disciplinary procedure.