



# Supporting Attendance Policy

Date consulted on: July 2013

Date for review: July 2015

Author: Ormiston Academies Trust - HR department

Consulted and agreed with: Ormiston Academies Trust, ASCL, ATL, GMB, NAHT, NASUWT, NUT, Unison and Unite.

Signed .....David Sword..... Chair of Governors

Date.....17<sup>th</sup> December 2014

**Chair's signature: David Sword**

**17<sup>th</sup> December 2014**

## Employee health and wellbeing policy statement

Cowes Enterprise College is committed to promoting the health, safety and wellbeing of its staff by:

- providing appropriate support to facilitate staff retention and return to work after illness, for example through a phased return, counselling, occupational health, flexible working, reasonable adjustments and in some cases redeployment;
- tackling issues which may result in absence due to work related stress or dignity at work issues;
- encouraging attendance, monitoring absence and the cost of sickness absence;
- working with unions and health and safety representatives to identify actions and preventative measures to promote the health, safety and wellbeing of staff; and
- providing coaching and training for managers dealing with sickness absence issues.

In addition to the above, we recognise that Senior Managers influence the culture of our organisation. Their specific responsibilities include:

- Actively promoting the principles and behaviours contributing to positive staff wellbeing
- Vigilance to employees' personal circumstances and offering additional support where appropriate to members of staff experiencing risks to their wellbeing derived from outside work, e.g. bereavement or separation
- Ensuring effective communication between management and staff, particularly where there are organisational and procedural changes
- Ensuring that bullying, harassment and discrimination are not tolerated
- Working with managers and unions to initiate staff wellbeing focus groups where appropriate
- Conducting any investigation necessary to protect staff wellbeing – with input from the most appropriate line manager in the circumstances

The supporting attendance policy aims to ensure that absence is managed in a consistent, supportive and effective way, in line with the above principles, so that operational and service levels are maintained. This policy applies to all staff with a contract of employment and is in line with ACAS guidance.

Disability related sickness absence, and attendance at disability related medical appointments will be recorded but not categorised as sickness absence. Issues relating to attendance and disability or underlying medical conditions will take into account our commitment to retaining staff through making reasonable adjustments to jobs, equipment and processes, offering flexible working options where possible and accessing medical advice through occupational health.

Guidance on making reasonable adjustments is available for managers and staff and HR should be involved in dealing with health and disability, staff retention and adjustments.

## Contents

1.0	Introduction
2.0	Monitoring and Reporting Absence
3.0	Occupational Health
4.0	Managing Repeated Short-Term/Intermittent Absence
5.0	Managing Long Term Absence
6.0	Supporting the Search for Alternative Employment
7.0	Guidance on procedure for applying for Ill-health retirement
8.0	Terminating Employment on the Grounds of Ill Health

[Appendix A. Intermittent sickness: Guidance for conducting informal review meetings](#)

[Appendix B. Intermittent sickness: Guidance for conducting formal stage 1 meetings](#)

[Appendix C. Intermittent sickness: Guidance for conducting formal stage 2 meetings](#)

[Appendix D. Long term sickness: Guidance for conducting an Absence review meeting](#)

[Appendix E. Long term sickness: Guidance for conducting formal review meetings](#)

[Appendix F. Recommended Procedure for Dismissal on Absence Grounds](#)

[Appendix G. Recommended Procedure for a Meeting to consider Dismissal on Absence Grounds](#)

[Appendix H. Recommended procedure for appeal hearing](#)

## 1.0 Introduction

This policy is recommended to OAT academies as a useful guide to support regular attendance of employees, and to minimise absence. This procedure applies to all support staff and Teachers (these staff will hereon be referred to as 'employees').

The aim of this policy is to encourage employees to attend work regularly and to assist Principals and designated managers to reduce levels of absence among staff in a fair and consistent way. The policy aims to balance two considerations; the need for high quality education services for pupils, and the interests and rights of individual employees.

### 1.1 Principles

OAT and the academy must have regard for the health, safety and welfare of all employees. A proactive approach to staff welfare is a more effective means of reducing absence than dealing with individual absence cases.

OAT will treat each case on an individual basis. Individual employees have a duty to attend work regularly, and consequently must take all reasonable steps to protect their own welfare, and to assist in the promotion of a healthy workplace.

The impact of absence is significant, e.g. the impact on education of pupils and the cost of absence to the academy. For these reasons maximising attendance for all staff is very important if the academy wishes to provide high quality services.

Principals and designated managers have responsibility for supporting attendance of staff members.

Individual employees are encouraged to involve their union representative whenever management raise concerns regarding their absence.

Accountability for attendance rests initially with the Principal. Principals may delegate responsibility for managing and supporting attendance to other managers within the academy. Responsibility for the management of attendance of a Principal must rest with the Governing Body. OAT HR will provide information, support, and guidance to Principals, as requested.

This document provides a framework for addressing matters of non-attendance, however it must be recognised that individual circumstances may necessitate a tailored response. In such circumstances the Principal or designated manager must use their judgment in order to sensitively address the matter with due fairness and sensitivity, and with regard for the interests of both the individual and the academy.

Appropriate risk assessments and incident reports should be used to help minimise workplace injuries. Where workplace factors are linked to absence, Principals and designated managers may wish to consult with OAT HR regarding whether action can be taken to minimise reoccurrence.

Employees continue to accrue annual leave whilst they are absent due to sickness. For the purpose of establishing annual leave entitlement whilst off sick, an employee's leave year will be defined as 1<sup>st</sup> September, in line with the start of the academic year.

### 1.2 Equality Act 2010

This policy has been drafted with regard to the Equality Act EA 2010 and therefore consideration should be given to the requirements of the EA 2010 when following these guidelines. For the purposes of the EA 2010, a person is considered to have a disability if they have 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, or have been diagnosed with a specific illness which gains recognition under the act. Further guidance regarding whether an employees medical condition is likely to fall under the act can be obtained through a referral to Occupational Health.

Under the EA 2010 there is a legal obligation on employers to make reasonable adjustments to premises or working arrangements etc. to facilitate access to work for disabled people and to enable an employee who becomes disabled during the course of his/her employment to remain in work. A reasonable recommendation may be that specialist equipment is required and in this circumstance the Principal/ designated manager should advise the employee to contact Access to Work to arrange an assessment. Provisions should also be made for a risk assessment to be carried out where appropriate.

Where it is not possible to make reasonable adjustments or where the medical condition has deteriorated and the adjustments are no longer working and/or it is not possible to make further adjustments to allow the employee to continue in their post, then consideration needs to be given to options such as supporting the employee in their search for alternative employment and the application for ill health retirement. Should all options have been exhausted, the matter may be referred to the Governing Body who will consider the employees continued employment.

For advice regarding specific EA 2010 issues Principals and designated managers may wish to contact OAT HR.

### 1.3 Infectious Diseases

If an employee is unable to attend work due to them having one of the following infectious diseases:-

- chicken pox
- diphtheria
- german measles,
- mumps
- scarlet fever
- whooping cough

and the absence is covered by a doctors certificate, then the period of sickness for the purpose of monitoring, will not be counted against the individuals absence record. This list is not exhaustive; however Principals/ designated managers should seek further advice before discounting an absence contributed to an infectious disease which is not identified in the specified list.

### 1.4 Medical Exclusion

An employee may be excluded from work on medical grounds. This may arise, for example, when there is a difference of opinion between the employee's GP and the Occupational Health Advisor regarding whether the employee is fit to return to, or continue working in, their existing job. During medical exclusion normal pay arrangements will continue, and the situation should be kept under continuous review. The employee is entitled to a written explanation of the reasons for medical exclusion. The maximum period of exclusion is 26 weeks but in exceptional circumstances may be longer. If the period of exclusion is indefinite, consideration may need to be given to the employees continuing employment. You may wish to seek advice from OAT HR whenever medical exclusion from work is a possibility.

### 1.5 Sick Pay Entitlements

Staff are subject to occupational sick pay schemes described in full in the relevant scheme of conditions of service which allow periods of full pay and half pay during sickness absence. These increase with length of service.

Sick pay entitlement for teachers is as follows for working days:

- 1<sup>st</sup> year – full pay for 25 days and after 4 months, ½ pay for 50 days,
- 2<sup>nd</sup> year – full pay for 50 days and ½ pay for 50 days;
- 3<sup>rd</sup> year full pay for 75 days and ½ pay for 75 days;
- 4<sup>th</sup> and successive years, full pay for 100 days and ½ pay for 100 days.

Sick pay entitlement for staff on Green Book Terms and Conditions is as follows:

- 1<sup>st</sup> year – full pay for one month (plus two months half-pay upon completion of 4 months service)

- 2<sup>nd</sup> year – 2 months full pay and two months half-pay
- 3<sup>rd</sup> year – 4 months full pay and four months half-pay
- 4<sup>th</sup> year and 5<sup>th</sup> year – 5 months full pay and 5 months half pay
- After 5 years – 6 months full pay and 6 months half pay

The conditions of service also include special provisions that apply in relation to absences arising from accidents at work.

Where the decision is taken to extend full pay, consideration must be given as to whether to offset this against the employee's half-pay entitlement. A decision to extend full sick pay does not remove the need to manage the absence.

If an academy agrees to extend an employee's period of full pay, this would not affect their entitlement to incapacity benefit. However, if a period of full-pay is extended and entitlement to SSP has been exhausted the full-pay is abated by the amount of incapacity benefit entitlement (whether this is claimed or not).

## 2.0 Monitoring and Reporting Absence

### 2.1 Absence data

Information on absence should be used to monitor and address absence issues in a fair and consistent way. It must also be used to proactively identify absence trends and areas of concern and to improve general workplace well-being thereby reducing absence.

Absence data can be used to estimate the costs to the academy, both direct and indirect, of non-attendance.

### 2.2 Reporting Absence Procedure

Academies must establish procedures for staff to report sickness absence. This is necessary:

- To plan the way in which the absence will be covered;
- To enable staff to meet the requirements of their pay scheme;
- To ensure the accuracy of data for absence management;
- To generate payments to academy's sickness insurance and benefits schemes.
- To ensure compliance with Health and Safety regulations, e.g. if absence relates to an accident in the workplace.

The procedure should be made known to all staff and include:

- Arrangements on the first day of absence - to whom the absence should be reported, the normal deadline for reporting absence, supplementary information required (e.g. reporting any priority tasks needing attention, likely duration of absence, nature of illness), call back arrangements.
- A self-certificate should be provided for absences lasting between 1 and 7 calendar days. This should be submitted by the 7<sup>th</sup> day of absence.
- The requirement to provide a doctor's certificate (Fit Note) if the absence lasts beyond 7 calendar days (if Fit Note states for '1 week' this equates to 7 calendar days beginning on the date the certificate was signed unless otherwise stated). Doctors' certificates must run consecutively to cover all the period of absence, inclusive of Bank Holidays and all academy closure periods for all employees including part timers.
- The requirement to ensure certificates for absence are submitted in a timely fashion and ideally no later than 3 days after the previous note has expired.
- Requirements for repeating the notification. This should normally be by the fourth day of absence, unless the initial report made it clear that the absence would be longer. The academy may however choose to request that contact is made on a daily basis until a Fit Note or self-certificate is received.
- Where the employee is admitted to hospital, a certificate (Form MED 10) stating the dates of admission and discharge is sufficient to cover this period.

It is important that all staff are aware of the reporting processes and their responsibilities in order to ensure continuity of service provision. If an employee fails to report absence or follow the reporting procedure, the employee may be subject to disciplinary action for unauthorised absence or failure to follow sickness notification

procedures. Advice may be sought from OAT HR with all disciplinary issues and any subsequent action would need to be taken in accordance with the Disciplinary Policy.

In exceptional circumstances employees can be required to provide certification from the first day of absence. Principals/designated managers should seek advice from OAT HR before introducing this requirement.

Absences for reasons other than sickness (including medical appointments) can be considered and authorised under the Leave of Absence Policy. The appropriate documentation should be completed for absences that fall under this policy.

### 2.3 Fit Notes

The Fit Note allows GP's to provide more information on how an employee's condition affects their ability to work and if any reasonable adjustments could be made in order to assist the employee back to work sooner.

Employees will need to submit their 'Fit Note' to the academy when they are absent from work for a period of more than 7 calendar days.

The Fit Note will state if an employee is **unfit for work** or **may be fit** to return to work. Where staff are deemed 'may be fit for work' the GP should indicate what adaptations they recommend either to the staff member's current working practices or environment which will support the employee to return to work. In order to fully consider the recommendations, the Principal may need to speak to the staff member and/ or seek advice from OAT HR.

The staff member may wish to speak to their Trade Union for support and advice in relation to information provided on their Fit Note. The staff member affected can be supported by their Trade Union during discussions regarding the consideration of any recommendations or reasonable adjustments if they so wish.

The information provided on the note is for the employer's information; it is not binding. If the measures suggested by the GP cannot be accommodated, for the purpose of sick pay, the academy should consider the Fit Note as if the GP has advised that the employee is 'not fit for work'.

### 2.4 Return to work

Return to Work meetings should take place promptly after each period of absence, regardless of length of absence. The meeting should be of an informal nature, typically 1-to-1 between the returning member of staff and the Principal/ designated manager. Return to work meetings give the Principal/ designated manager the opportunity to welcome the employee back, update them on any workplace news and to discuss how the employee can be supported back into a normal work routine as quickly as possible.

A Return to Work form should be completed and placed on the employee's personnel file.

## 3.0 Occupational Health

### 3.1 Referrals to Occupational Health

Referrals made to Occupational Health are a supportive measure, and are intended to provide management with advice regarding the employee's condition and how best to support the employee. Referrals can be made if an employee is absent or in work. **Where an employee cites either stress/anxiety/nervous debility, or any musculo-skeletal/back/spinal condition, an early referral to Occupational Health should be considered.** The Principal/ designated manager must make the employee aware if they are to be referred to Occupational Health and explain that this is a supportive measure to provide management with advice on how best to support them in achieving/ maintaining regular attendance at work.

Occupational Health will also send a copy of the report to the academy and employee in the post. Recommendations should be considered carefully and further advice sought from OAT HR if necessary. In the exceptional circumstance that the recommendation is that a return to work is unlikely within the reasonably foreseeable future, the procedure

set out in Section 8 regarding the termination of employment, should be followed. Where consideration is being given to termination or early retirement, the employee is advised to consult with their Trade Union.

The academy is entitled to require any employee at any time to attend an examination by its nominated medical adviser where it appears that the employee is unable to perform his/her duties as a consequence of illness, or where pro-active action is thought necessary to support an employee to continue performing their duties. It is better if the employee agrees to be referred and every reasonable effort should be made to achieve this. Where an employee unreasonably refuses to attend a medical appointment, management may consider disciplinary action. It must be made clear to the employee that failing to attend Occupational Health may result in management making employment decisions without the information an Occupational Health professional can provide.

It is normal practice for the Occupational Health Practitioner to request information from the employee's doctor (whether this be GP or Consultant). Should further information be required, Occupational Health will discuss this with the employee and appropriate approval sought in accordance with the Medical Reports Act.

Teachers have the contractual right to be accompanied by their own doctor, if they so wish, when examined by the Occupational Health Practitioner.

Employees have the option to be accompanied to their Occupational Health appointment by a friend or relative to give support and to act as an observer. Some employees may choose to be accompanied by a Trade Union representative. In this circumstance **Trade Union representatives should be there to offer support and not to present to employees case.**

Case conferences, with Occupational Health, the employee, Principal/designated manager, OAT HR, and Trade Union representative all present, provide a useful forum to discuss employee needs.

#### 4.0 [Managing repeated short-term/intermittent absence](#)

##### 4.1 [Overview](#)

The procedure for managing repeated short-term/intermittent absence consists of the following stages:

1. Informal review
2. Formal Review Stage 1
3. Formal Review Stage 2
4. Formal Review Stage 3 – Referral to Governors or Senior Management

In order to treat staff consistently it is important to establish clear criteria which would prompt action. It is recommended that the above procedure should be initiated when an employee hits one of two possible triggers:-

- 9 days absence in any 12 month period OR -
- 5 occasions of absence in any 12 month period.

These triggers include both certified and self certified sickness absences

Principals, designated managers, OAT HR or Governors, should consider whether action is needed whenever someone has reached one of the triggers above. However, action set out below should not take place automatically as soon as a trigger is reached. It is important that Principals and designated managers consider the individual circumstances relating to the absences. Advice should be sought from OAT HR and/or Occupational Health as necessary.

Principals/designated managers may hold further informal meetings between each formal stage if they consider circumstances warrant it. A written record summarising the main points from each conversation should be made and a copy kept on the employee's file.

In all cases advice and assistance, to Principals, designated managers, and Governors, is available through OAT HR.

#### 4.2 Written notification

It is important that for any **formal meeting** under this procedure, the employee is given **5 working days written notification** of the meeting, which must also state their right to be accompanied by Trade Union representation or a work colleague. Once the meeting has been held, a summary of what has been discussed should be compiled within an outcome letter. It is the Principal's/ designated managers responsibility for the completion and distribution of the relevant letters.

#### 4.3 Representation

Employees are entitled to be accompanied by their trade union representative or a work colleague at formal meetings under this procedure. At the informal review (including any further informal reviews between formal stages), it would not be considered necessary for the employee to be accompanied to the meeting. However, a request to be accompanied should not normally be refused.

#### 4.4 Informal Review

Where an employee's absence level hits the triggers set out in 4.1 above, the Principal or designated manager should hold an informal review. It is important that Principals/ designated managers explore the cause of the absences and ways in which acceptable levels of attendance can be supported and maintained. Further guidance on what should be discussed at this meeting can be found in Appendix A.

Whilst conducting the meeting, Principals/ designated managers should complete an Informal Absence Review Form and both parties should check and sign the form at the end of the review. It is important that the impact of the employee's absence is made clear and their responsibility to attend work on a regular and sustained basis.

Principals/ designated managers must make it clear to the employee that their absence will be monitored for a period of 12 months. It is recommended that the following attendance targets are set:

- No more than 5 days or 2 occasions of absence over a 12 month period.

The new attendance targets should start with effect from the day following the last period of absence. It is important therefore that Principals/ designated managers conduct the informal review in a timely manner.

It is recommended that Principals and designated managers use their professional judgement and discretion to consider individual circumstances in relation to the progression of an absence case. Should a Principal feel that it would not be appropriate to progress an individuals absence case, it is recommended that they take further advice from OAT HR.

#### 4.5 Formal Stage I

If following the Informal Review the standard of **no more than 2 occasions or 5 days absence in the 12 month period** has not been met, it will be necessary for the Principal/ designated manager to consider meeting with the employee on a formal basis. It is important that Principals/ designated managers explore the cause of the absences and ways in which acceptable levels of attendance can be supported and maintained. Further guidance of what should be discussed at a formal stage I absence meeting can be found in Appendix B.

Principals/ designated managers should make it clear to the employee that they have failed to achieve the required levels of attendance and therefore improvement is required. Their absence will be monitored for a further period of 12 months. It is recommended that the following attendance targets are set:

- No more than 5 days or 2 occasions of absence over a 12 month period.

The new attendance targets should start with effect from the day following the last of absence. It is important therefore that Principals/ designated managers conduct the formal stage 1 review in a timely manner.

It is recommended that Principals and designated managers use their professional judgement and discretion to consider individual circumstances in relation to the progression of an absence case. Should a Principal feel that it would not be appropriate to progress an individuals absence case, it is recommended that they take further advice from OAT HR.

#### 4.6 Formal Stage 2

If following formal stage 1 the standard of no more than 2 occasions or 5 days absence in the 12 month period has not been met, it will be necessary for the Principal/ designated manager to meet with the employee as part of formal stage 2 of the process. It is important that Principals/ designated managers explore the cause of the absences and ways in which acceptable levels of attendance can be supported and maintained. Further guidance of what should be discussed at a formal stage 2 absence meeting can be found in Appendix C.

Principals/ designated managers must make it clear to the employee that they have failed to achieve the required standards of attendance and significant improvement is required. Their absence will be monitored for a further period of 12 months. It is recommended that the following attendance targets are set:

- No more than 5 days or 2 occasions of absence over a 12 month period.

The new attendance targets should start with effect from the day following the last of absence. It is important therefore that Principals/ designated managers conduct the formal stage 2 review in a timely manner.

It is recommended that Principals and designated managers use their professional judgement and consider individual circumstances in relation to the progression of an absence case. Should a Principal feel that it would not be appropriate to progress an individuals absence case, it is recommended that they take further advice from OAT HR.

In the unlikely event that the employee has not been referred to Occupational Health, a referral must be made as soon as it is evident that the employee's attendance has not met the required standard and that Formal Stage 2 will need to be instigated. It may be necessary to obtain an up-to-date report where one has already been obtained earlier

Principals/ designated managers must ensure that reasonable options to help to sustain the employees levels of attendance are explored for example, changes to working arrangements or supporting the employees search for alternative employment. Principals/ designated managers should utilise the information provided to them by Occupational Health when considering any reasonable adjustments or amendments.

The employee must be informed at this meeting that failure to achieve the required levels of attendance may result in the matter being referred to the appropriate body for consideration of dismissal.

#### 4.7 Formal Stage 3

If the employee fails to achieve the required levels of attendance as specified within formal stage 2 of the process, the matter should be presented for consideration of dismissal for repeated, unacceptable levels of non-attendance. Details regarding the termination of employment on absence grounds can be found in Section 8.

#### 5.0 Managing Long term absence

##### Overview

The recommended process for managing long term absence consists of the following stages –

##### 1. Absence Review

## 2. Formal Reviews

## 3. Referral for Dismissal

OAT recommends that sickness absence is treated as long-term under these guidelines once an employee has been absent continuously for 4 weeks. However, it is not necessary for four weeks to expire before action can be taken under this policy; if an employee submits a Fit Note for a duration of 4 weeks or more, or the manager or employee reasonably believes the employee's condition will result in an absence of 4 weeks or more, a referral should be made immediately. This is separate from arrangements for absence insurance cover.

It is the responsibility of Principals and designated managers to manage absence; OAT HR are available to support if required. The actions outlined below should not be deferred, as deferral or delay of actions may result in prolonging the period of absence at the detriment to the employee's health.

Principals and designated managers are responsible for ensuring regular contact is maintained with the employee, in order to;

- Keep informed as to the employee's progress
- Try to establish a return to work date
- Inform the employee of any work-place developments they may have missed
- Ask what support the academy can provide, etc.

Where an employee cites either stress/anxiety/nervous debility, or any musculo-skeletal/back/spinal condition, a referral to Occupational Health should be considered immediately. The Principal/ designated manager must make the employee aware if they are to be referred to Occupational Health and explain that this is a supportive measure to provide management with advice on how best to support them in achieving/ maintaining regular attendance at work.

In all cases advice and assistance, to Principals, designated managers, and governors, is available through OAT HR.

### 5.2 Absence Review

An absence review should be initiated as soon as the manager is made aware that an employee's sickness is likely to last for a period of 4 weeks or more. The review will cover a prognosis enquiry about the employee's health and general welfare and consider supportive measures that can be put in place to support the employee in their return to work. Full guidance on what should be covered in an absence review can be found in Appendix D.

It is usual that Principals/ designated managers conduct the absence review without OAT HR present, however if support is required Principals/designated managers should contact OAT HR.

At the absence review, it would not be considered necessary for the employee to be accompanied to the meeting. However, a request to be accompanied should not normally be refused

The outcome of the absence review should be confirmed to the employee in writing.

### 5.3 Formal Reviews

It is important that for any formal meeting under this procedure, the employee is given 5 working days written notification of the meeting which must also state their right to be accompanied by a Trade Union representative or a work colleague. Once the formal meeting has been held, a summary of what has been discussed should be compiled within an outcome letter. It is the Principals/ designated managers responsibility for the completion and distribution of the relevant letters

Where the absence is prolonged or the employee fails to achieve the return to work date established in their previous meeting, it is necessary for the Principal/ designated manager to hold a formal review. Guidance on what should be covered in a formal review can be found in Appendix E.

It is impossible to give set guidance in relation to how many formal review meetings should be held and the timescales associated with this. Much will depend on the medical prognosis and the operational effect of the absence. If,

following a formal review meeting, and on the advice of Occupational Health, a return to work in the reasonably foreseeable future is unlikely, and alternatives have been explored, consideration may be given to the termination of employment. Guidance relating to the termination of employment on absence grounds can be found in Section 8.

When an employee returns to work following a period of long term sickness absence, the academy should review the employee absence in line with the intermittent procedure set out in section 4.

## 6.0 Supporting the search for alternative employment

The academy will do whatever is reasonable and practicable to retain employees whose health prevents them from continuing in their present job but who, in the opinion of the Occupational Health, are still able to carry out useful work. However there are limits to what can be achieved and the resources, including time, which can be devoted to it. Employees should be committed to being proactive when seeking alternative employment. It is important to note that when faced with this situation advice is available to managers, from OAT HR and Occupational Health.

Occupational Health's advice might be that, although the employee is permanently unfit for the job they do, because it made demands of a very specific type, they are fit enough to do other work. The employee might be able to remain in the existing job with reasonable adjustments, e.g. to the role, working hours, or physical environment. Managers should consider reorganising the existing job before exploring the possibility of other kinds of work.

There are several aspects that need to be considered when exploring the possibility of alternative work:

- Any alternative work must be suitable, both from the employee's standpoint and from the employer's;
- The period allowed for the search for alternative work is clearly finite, although it is impossible to prescribe any given period. In practice, what is reasonable will depend on:-
  - Perceived prospects of success,
  - The availability of such vacancies
  - The period of notice needed to terminate the contract lawfully

The employee's remaining capabilities may have been quite narrowly defined by the Occupational Health Practitioner and may be further limited by the skills and experience of the employee concerned

An employee who has successfully acquired alternative employment may require support in order to adapt into their new role. A trial period of approximately 4 weeks may be appropriate to ensure suitability.

Alternative work may be more or less responsible and/or more or less well paid than the former job. In certain cases the academy may consider limited salary protection for employees redeployed into jobs on lower salaries, based on the merits of the case. In the early stages of discussions about possible redeployment assurances about salary protection should not be given. There may well be other factors which mitigate against protection. However, when an employee is offered an alternative post all terms and conditions relating to the post should be notified to him/her.

## 7.0 Guidance on procedure for applying for ill-health retirement

### Guidance on procedure for applying for ill-health retirement

#### Teaching Staff

- The Teachers' Pension Scheme is a national scheme administered by Teachers' Pension's (TP). In order to receive an infirmity pension, the teacher must make application to TP using forms provided by the TPS.
- The academy Occupational Health provider will support through illness, which will include considering the options for different working patterns, or discussing the possibility of appropriate redeployment opportunities.
- Where an application for ill health benefits is submitted, then medical evidence will be gathered from the Teacher's General Practitioner and Consultant as well as the Occupational Health Adviser.
- Additional information can also be found at [www.teacherspensions.co.uk](http://www.teacherspensions.co.uk)
- Teachers are advised to consult with their professional association when considering an application for ill health retirement.

- The decision to grant Ill Health Retirement is taken by the Teachers' Pensions Scheme medical advisors. If an application is unsuccessful, the employee will be informed of the appropriate mechanism for appeal by Teachers Pensions.

### Support Staff

- In cases where the Occupational Health Physician advises that an employee is **permanently** incapable of undertaking the duties of their employment or that they have a reduced likelihood of obtaining gainful employment before the age of 65, it will be necessary to consider whether to terminate their employment on the grounds of ill-health. This would enable contributors to the pension scheme to receive immediate payment of pension benefits.
- Any decision to dismiss an employee due to ill-health, with or without access to immediate pension benefits, must be discussed fully with the employee concerned, all other options having been considered (i.e. it must not be assumed that dismissal is inevitable in such circumstances).
- There is a requirement placed on employers to take all reasonable steps in the workplace to assist an individual who is disabled within the meaning of the Disability Discrimination Act 1995 to remain in their employment. Consideration must therefore be given to reasonable adjustments or redeployment, in such cases, before a decision to dismiss can be taken.
- Note: Under the Pension Regulations-
  - **'permanently'** means it is more likely than not that the employee is incapable until, at the earliest, age 65.
  - **'gainful employment'** means paid employment for not less than 30 hours in each week for a period of not less than 12 months
- In cases where an employee disagrees with the Occupational Health Advisor's opinion that he/she is permanently incapable of undertaking the duties of his/her employment or any comparable employment available, the employee has a right to contest the opinion and to obtain an independent medical opinion.
- Where the Medical Advisor considers that the employee is not permanently incapable, but where, after a period of long term absence, there remains no prospect of a return to work, within the reasonably foreseeable future, the contract of employment can still be terminated on the grounds of capability.

### 8.0 Terminating Employment on the Grounds of Absence

Termination of a contract of employment amounts to a dismissal.

The employee should be advised to seek guidance from their trade union or professional association regarding any matters where dismissal or termination of employment is a possibility.

Any dismissal must follow the dismissal procedure set out in Appendix G. This also includes details regarding an employee's right to appeal.

If a dismissal on grounds of ill-health is to be considered as fair by an Employment Tribunal the following must be satisfied at their meeting that:

- The full medical information available.
- The employee has been kept informed and given regular opportunities to state his/her own position and preferences.
- The employee has been given reasonable time to meet standards.
- Alternatives to termination have been explored with the employee (and reference given to the requirements of the Disability Discrimination Act). These may include adjustments and/or support in the search for alternative employment
- The employee must be treated no less favourably than others in broadly similar circumstances.

Appendix G outlines the recommended procedure for a meeting to consider dismissal on absence grounds.

Termination on ill-health grounds can follow either of two routes:-

- Termination of contract leading to premature retirement because someone is unfit to do the job they were employed to do, or

- Dismissal because the employee's state of health prevents him/her performing the duties of the post to an acceptable standard.

### Notice Periods

Where the academy terminates the contract, it must give due notice of this, as set out in the individual contract of employment. There is a requirement to pay the employee in full (less any benefits) during statutory notice (as set out in the Employment Rights Act 1996) even though the full sick-pay entitlement might have expired

### Alternative employment

Employees in receipt of ill-health pension should be advised to obtain guidance upon the effects of further employment on their pension before accepting alternative employment.

## Appendices

### Managing repeated short-term/intermittent absence

- A. Guidance for conducting informal review meetings
- B. Guidance for conducting Formal stage 1 meetings
- C. Guidance for conducting Formal stage 2 meetings

### Managing long term absence

- D. Guidance for conducting an absence review meeting
- E. Guidance for conducting formal review meetings

### Dismissal

- F. Recommended Procedure for Dismissal on Absence Grounds
- G. Recommended Procedure for a meeting to consider Dismissal on Absence Grounds

### Appeal

- H. Recommended procedure for appeal hearing

## Appendix A

### Intermittent absence: Guidance Note for Conducting Informal Review Meetings

The bullet points below are intended as a guide only. For further advice and guidance Principals and designated managers may wish to contact OAT HR.

- Advise the employee that this is an informal review meeting within the Attendance policy. Signpost the employee to a copy of the policy.
- Confirm the employee's absence record as correct.
- Discuss the employee's health and well-being to establish if there is an underlying reason for their high level of non-attendance.
- Consider any 'non-medical' (especially work-related or welfare) issues which may be contributing to the absences. Sickness absence may only be a symptom; there is a managerial responsibility to search for the underlying problem and, if possible, to support the employee in addressing it.
- Discuss what support can be offered if there is an underlying reason for the absences, e.g. the Staff Support and Counselling Services, consider reasonable adjustments etc.
- Discuss a referral to occupational health if this has not been done already.
- Discuss, with due sensitivity, what external medical help the employee is getting.
- Ensure the employee is aware of the acceptable standard of attendance, and get their commitment to reach it. Recommended attendance targets can be found in 4.4.
- Set a period during which attendance will be monitored, typically 12 months.
- Advise the employee that if attendance does not meet the acceptable standard the matter may be dealt with through formal stages

#### Note to Principal/ designated manager:

- It is recommended that Principals and designated managers use their professional judgement and consider individual circumstances in relation to the progression of an absence case.
- It is important to record an accurate account of what was discussed during the meeting. Therefore the Principals/ designated manager may wish to bring a note taker.
- During the meeting the Principal/ designated manager must complete a review form, details of which can be found in 4.4.

## Appendix B

### Intermittent absence: Guidance Note for Conducting a Formal Stage 1 Meeting

The bullet points below are intended as a guide for the meeting only.

- The employee should be informed in writing, 5 days prior to the meeting, of their right to be accompanied by their trade union representative, and given time to arrange this
- The employee's absence record should be confirmed as correct.
- The employee should be given the opportunity to explain any further factors which may have arisen and contributed to their levels of absence.
- Consider any 'non-medical' (especially work-related or welfare) issues which may be contributing to the absences. Sickness absence may only be a symptom; there is a managerial responsibility to search for the underlying problem and, if possible, to support the employee in addressing it.
- The manager should highlight any operational problems the absence may be causing and reinforce the Policy Statement about maximising attendance.
- Support should be offered to assist the employee in reaching an acceptable standard of attendance.
- Services of Staff Support and Counselling should be offered.
- Referral to the Occupational Health Practitioner should be initiated, (if not already undertaken), unless there are good reasons for not doing so.
- By the end of the meeting, Principals/designated managers should after considering the particular circumstances
  - Restate the level of attendance required and set a period during which this standard should be achieved. Recommended attendance targets can be found in 4.5. Typically the monitoring period will be 12 months.
  - Explore any respects in which the academy may be able to help;
  - Caution the employee clearly about the possible outcomes if they fail to meet the agreed targets i.e. moving to formal stage 2 of the policy.

#### Note to Principal/ designated manager:

- It is recommended that Principals and designated managers use their professional judgement and consider individual circumstances in relation to the progression of an absence case.
- Prior to the meeting the Principal/ designated manager must have given the employee 5 working days written notice of the meeting. More information can be found in 4.2.
- It is important to record an accurate account of what was discussed during the meeting. Therefore the Principal/ designated manager may wish to bring a note taker.
- Following the meeting, the Principal/ designated manager must complete and distribute a letter to the employee summarising the discussion. More information can be found in 4.2.

## Appendix C

### Intermittent absence: Guidance Note for Conducting a Formal Stage 2 Meeting

The bullet points below are intended as a guide for the meeting only.

- The employee should be informed in writing, 5 days prior to the meeting, of their right to be accompanied by their trade union representative and given time to arrange this
- The employee's absence record should be confirmed as correct.
- The employee should be given the opportunity to explain any further factors which may have arisen and contributed to levels of absence.
- Consider any 'non-medical' (especially work-related or welfare) issues which may be contributing to the absences. Sickness absence may only be a symptom; there is a managerial responsibility to search for the underlying problem and, if possible, to support the employee in addressing it.
- The manager should highlight any operational problems the absence may be causing and reinforce the Policy Statement about maximising attendance.
- Support should be offered to assist the employee in reaching an acceptable standard of attendance.
- Services of Staff Support and Counselling should be offered.
- Referral to the Occupational Health Practitioner should be initiated, (if not already undertaken).
- By the end of the meeting, Principals/designated managers should after considering the particular circumstances
  - Restate the level of attendance required and set a period during which this standard should be achieved. Recommended attendance targets can be found in 4.6. Typically the monitoring period will be 12 months.
  - Explore any respects in which the academy may be able to help;
  - Caution the employee that if they fail to meet the agreed targets, a recommendation for dismissal may be given

#### Note to Principal/ designated manager:

- It is recommended that Principals and designated managers use their professional judgement and consider individual circumstances in relation to the progression of an absence case.
- Prior to the meeting the Principal/ designated manager must have given to employee 5 working days written notice of the meeting. More information can be found in 4.2.
- It is important to record an accurate account of what was discussed during the meeting. Therefore the Principal/ designated manager may wish to bring a note taker.
- Following the meeting, the Principal/ designated manager must complete and distribute a letter to the employee summarising the discussion. More information can be found in 4.2.

## Appendix D

### Long term absence: Guidance Note for Conducting Absence Review Meetings

Absence review meetings provide an opportunity to follow up some or all of the following issues as appropriate in the individual circumstances:

- Prognosis enquiry about the employee's health and general welfare.
- Discuss the report from Occupational Health.
- Discuss with the employee the reasons and/or cause(s) of their absence.
- Discuss with the employee the effect of their continued absence from work. This should be done objectively and in a manner that is sensitive to the nature of the illness.
- Consider whether reasonable adjustments or measures, e.g. changes to the environment, tasks/duties, contractual changes to working hours etc, could be made to facilitate an earlier return to work.
- If adjustments to the physical environment are required the employee should be advised to contact Access to Work. The employee's agreement to contact Access to Work should be clearly minuted in the letter and the Principal or designated manager should ensure that this is followed up.
- Agree a target return to work date and agree what support the academy can provide to help achieve this.
- If medical information is available that indicates that the employee may be unable to resume in their current job early consideration should be given to alternatives such as redeployment, ill health retirement etc. The employee should be provided with information regarding these options.
- Advise the employee that they can access support and counselling
- Advise the employee they can contact their union for further support
- Ensure that the employee has received a copy of the Attendance policy.
- Explain that if the employee does not achieve the agreed return to work date, a formal meeting will be held to discuss the absence further.

#### Note to Principal/ designated manager:

- It is important to record an accurate account of what was discussed during the meeting. Therefore Principals/ designated managers may wish to bring a note taker to the meeting
- Following the meeting, the Principal/ designated manager must complete and distribute a letter to the employee summarising the discussion. More information can be found in 5.2.

## Appendix E

### Long term Absence: Guidance Note for Conducting Formal Review Meetings

The bullet points below are intended as a guide for the meeting only.

#### Formal Review Meetings

- Prognosis enquiry about the employee's health and general welfare.
- Discuss the report from Occupational Health.
- Agree a target return to work date and agree what support the academy can provide to help achieve this.
- Give details of outstanding sick pay entitlement.
- Consider whether any reasonable adjustments can be made to facilitate a return to work.
- If adjustments to the physical environment are required the employee should be advised to contact Access to Work. The employee's agreement to contact Access to Work should be clearly minuted and confirmed in writing and the Principal or designated manager should ensure that this is followed up.
- Advise the employee that failure to agree a target return to work date, or to achieve an agreed target return to work date, may result in the matter being referred for consideration of termination of the employment contract.
- If medical information is available that indicates that the employee may be unable to resume in their current job early consideration should be given to alternatives such as supporting the search for alternative employment, ill health retirement etc. Employees should be provided with information regarding these options.
- Convey information/decisions, if the stage has already been reached where termination of employment is imminent, see section 8.
- Advise the employee that they can access support and counselling.
- A decision to terminate employment should only be taken after reasonable adjustments and other alternatives have been fully investigated. (See 6.0 and 7.0 for information regarding the search for alternative employment and ill health retirement)
- Advise the employee to consult with their professional association or trade union regarding the matter, if they have not already done so.

#### Note to Principal/ designated manager:

- Prior to the formal review meeting the Principal/ designated manager must have given the employee 5 working days written notice of the meeting. More information can be found in 5.3.
- It is important to record an accurate account of what was discussed during the meeting. Therefore the Principal/ designated manager may wish to bring a note taker.
- Following the meeting, the Principal/ designated manager must complete and distribute a letter to the employee summarising the discussion. More information can be found in 5.3.

## Appendix F

### Recommended Procedure for Dismissal on Absence Grounds

1. Dismissal on absence grounds may relate to:

- a marked shortfall in overall performance compared with the standard required, due to intermittent absence; or
- non-performance of the job/contract because the employee is continuously absent.

In either case full regard will be given to the implications of the Disability Discrimination Act.

2. The decision to dismiss an employee must be taken either by the Principal or a panel of Governors. It is recommended that this is the same committee as deals with other types of dismissals (e.g. under the disciplinary procedure). It must in any event comprise of at least three members.
3. The employee has the right to attend the committee meeting and to make representations to it. The employee should have at least 5 working days written notice of the meeting, and the right to be accompanied by a professional association or other representative. The letter advising the employee of the meeting should state clearly that dismissal is a possible outcome of the meetings, and give brief details as to why dismissal is being considered. The recommended procedure for conducting this meeting is set out in Appendix G.
4. The employee will be advised in writing of the outcome of the meeting. If the decision is to dismiss, the letter will state clearly the reason(s) for dismissal, contain details of any continuing assistance in seeking alternative work, and contain details of his/her appeal rights and to whom the appeal should be made.
5. The appeal committee will be comprised of different governors from those involved in the original decision to dismiss; it is recommended that this is the committee which deals with other staff appeals but it must in any event have at least as many members as the original committee.
6. Appeals must be made in writing within ten working days of being notified of the decision.
7. Any employee dismissed on health grounds may pursue a claim of unfair dismissal through an employment tribunal, subject to having one years' continuous employment (two years for employees who join the academy on or after 6 April 2012). Under tribunal procedure, the Governing Body is the 'Respondent' to such a claim. Assistance from OAT HR will be available in responding to such a claim, particularly where the Principal and Governors have followed advice from OAT HR on the application of these guidelines.
8. Dismissal on health grounds does not preclude a teacher from subsequently seeking an infirmity pension but enhancements can be affected.

## Appendix G

### Recommended procedure for a meeting to consider Dismissal on attendance grounds

1. Introduction by Chairperson: explanation of procedure.
2. The Principal/designated manager should present the case for the proposed dismissal.
3. Employee (or representative) may ask questions of Principal/designated manager.
4. The person/committee conducting the hearing and OAT representative (if present) may ask questions of Principal/designated manager.
5. Employee (or representative) should present their case against dismissal.
6. The Principal/designated manager may ask questions of the employee.
7. The conducting person/committee and OAT representative (if present) may ask questions of the employee and ask further questions of the Principal/designated manager regarding the case made on behalf of the employee.
8. The Principal/designated manager to sum up case.
9. The employee (or representative) to sum up case.
10. Parties to retire, including the Principal/designated manager and the employee (and representative).

**[Note: OAT representative(s) may remain with the person/committee conducting the hearing to offer advice].**

The Committee considers the case and notify the parties of their decision. This may be conveyed at the conclusion of the hearing but will in any case be confirmed in writing, with information on appeal rights where appropriate.

This procedure may be varied by agreement of all the parties.

#### NOTES:

The Principal/Section Head have the right to attend the meeting and to comment on the issues under discussion.

## Appendix H

### Recommended procedure for Appeal Hearing

1. Introductions by Chair: explanation of procedure.
2. Appellant or representative to state his/her grounds for appeal.
3. Principal/ Governor may ask questions of appellant.
4. Appeals Committee members/OAT representative (if present) may ask questions of the appellant.
5. Appellant to call witness(es) (if applicable)
6. Principal/ Governor may ask questions of appellant's witness(es)
7. Appeals Committee members/OAT representative (if present) may ask questions of the appellant's witness(es).
8. Principal/ Governor to state the academy's case.
9. Appellant (or representative) may ask questions of Principal/ Governor
10. Appeals Committee members/OAT representative (if present) may ask questions of Principal/ Governor
11. Academy to call witness(es) (if applicable)
12. Appellant (or representative) may ask questions of academy's witness(es) (if applicable)
13. Appeals Committee members/OAT representative (if present) may ask questions of academy's witness(es) (if applicable).
14. Principal/ Governor to sum up case. \*
15. Appellant (or representative) to sum up case. \*
16. Parties to retire. OAT representative (if present) may remain with the Appeals Committee to offer advice.

\* N.B. New evidence or material must not be allowed at this stage.

Appeals Committee to consider the case and notify the parties of their decision. This may be conveyed at the conclusion of the Appeal hearing and then confirmed in writing or confirmed in writing at a later date by the Committee.

This procedure may be varied by agreement of all the parties.