

CHULMLEIGH ACADEMY TRUST

SICKNESS ABSENCE POLICY

The Policy was adopted by the Directors on: 5th February 2020

CONTENTS

- 1 PROCEDURE FLOW CHART4**
- 2 INTRODUCTION AND PURPOSE5**
- 3 POLICY5**
 - 3.1 Application and Exclusions 5
 - 3.2 Determining who will hear the matter..... 5
 - 3.3 Time Limits..... 6
 - 3.4 Being accompanied..... 6
 - 3.5 Non Attendance 6
 - 3.6 Sick pay..... 6
 - 3.7 Trigger Points – Sickness Absence 7
 - 3.8 Employees with a Disability 7
 - 3.9 Absences that should be recorded separately 7
 - 3.10 Specific Long Term, Serious or Life Threatening Illness..... 8
 - 3.11 Keeping in contact during sickness absence..... 8
 - 3.12 Medical examinations..... 8
 - 3.13 Return-to-work interviews..... 8
 - 3.14 Returning to work from long-term sickness absence 8
- 4 PROCEDURE.....9**
 - 4.1 Reporting Sickness Absence..... 9
 - 4.2 Absences for more than seven days 10
 - 4.3 First Absence Meeting..... 10
 - 4.4 Second Absence Meeting..... 10
 - 4.5 Formal Absence Hearing..... 11
 - 4.6 Appeal 12
- 5 ADDITIONAL INFORMATION.....13**

5.1	Employee Responsibilities	13
5.2	Medical Suspension/Fitness to Work	13
5.3	Accident, Incident or Injury at Work	14
5.4	Raising a Grievance during the Application of this Policy	14
5.5	Employees attending work but unable to carry out all aspects of their job	14
5.6	Confidentiality	14
5.7	Pensions	14
5.8	Support for Employees	14

2 INTRODUCTION AND PURPOSE

- 2.1 High levels of absence among teaching and support staff pose a serious problem for schools in terms of disruption to teaching programmes, pupils' learning and other areas of a school's work. The Board of Directors is committed to managing attendance so that any disruption to the pupils' education or the effective running of the Trust is minimised. Equally it recognises that during the course of employment, colleagues will occasionally be absent from work through ill health, maternity and other authorised circumstances.
- 2.2 This policy is for managing employees' absence from work due to ill health and/or where an employee does not attend work regularly and reliably due to ill health. It also covers other types of leave which may be requested, except for holiday, maternity and paternity leave, which are covered in separate policies.

3 POLICY

3.1 Application and Exclusions

This policy is based on good practice to ensure a consistent and effective approach. The application of this policy will be fair, equitable, objective and will not discriminate either directly or indirectly on the grounds of an employee's gender, age, disability, gender re-assignment, marital or civil partnership status, pregnancy, maternity status, race (including colour, nationality and ethnic or national origins), religion or belief, sex and sexual orientation.

This policy:

- 3.1.1 applies to all employees engaged under the Chulmleigh Academy Trust statement of particulars; and
- 3.1.2 does not apply to those employed by other organisations, employed on other organisations' terms and conditions of employment, which include a contractual absence policy, casual workers or volunteer.

This policy will be made available to every member of staff through the Academy's internal systems.

3.2 Determining who will hear the matter

3.2.1 Absence Meetings

Where there are concerns about an employee's absence(s) due to ill health and action is to be taken in accordance with this policy, the employee's line manager should usually deal with the matter. In schools, it may be the Head of School that carries out this role. Where the concerns relate to the Head of School, the Executive Headteacher will manage the matter.

The Head of School/Executive Headteacher will be responsible for arranging the meetings, writing to the employee and arranging for a suitable person to attend to take notes.

3.2.2 Formal Absence Hearing

Formal Absence Hearings must be conducted and chaired by those that have delegated authority to dismiss in the Trust. In schools, this is likely to be the First

Committee of Directors or the Executive Headteacher, in accordance with their delegated responsibilities.

The Chair will be responsible for arranging the hearing, writing to the employee and arranging for a suitable person to attend to take notes. In schools, the Clerk to Directors or Designated Manager will normally make these arrangements.

3.3 Time Limits

The time limits included in this policy may be varied by mutual agreement or where necessary. If it is necessary then reasons will be given for any change.

3.4 Being accompanied

Employees are entitled to be accompanied at any meetings or hearings by:

- 3.4.1 a paid official from a recognised trade union;
- 3.4.2 an official of a trade union whom the union has reasonably certified in writing as having experience of, or as having received training in acting as an employee's companion at disciplinary or grievance hearings; or
- 3.4.3 an appropriate work colleague.

Friends/family members are not permitted unless they fall under the above criteria and it is agreed as appropriate. It would not normally be reasonable for an employee to be accompanied by a work colleague or trade union representative whose presence would prejudice the hearing and/or was from a remote geographical location if someone suitable and willing was available more locally.

If an employee's chosen representative is not available on the day proposed for the hearing, the employee can propose an alternative date within the following five working days of the original proposed date.

3.5 Non Attendance

If an employee fails to attend a meeting or hearing through circumstances beyond their control, an alternative time and date may be offered. Alternatively, they may submit a written statement or nominate a representative to attend on their behalf.

Where an employee is persistently unable or unwilling to attend the meeting/hearing without good cause, it will proceed in their absence and a decision will be made based on the evidence available.

3.6 Sick pay

3.6.1 Teachers and staff in schools may be entitled to sick pay in accordance with the Conditions of Service for School Teachers in England and Wales' (commonly known as the 'Burgundy Book') or the conditions for Local Government employees, contained in the NJC for Local Government Services National Agreement on Pay and Conditions of Service (commonly known as the 'Green Book'), depending on meeting the conditions and eligibility of those schemes and adhering to the terms of this policy.

3.6.2 Teachers and staff may not be paid sick pay if the absence is due to active

participation in sport as a professional unless the Trust decides otherwise.

3.6.3 Any absence during the probationary period for any reason shall be unpaid.

3.6.4 In the case of absence due to an accident, injury or assault which is attested by an approved medical practitioner to have arisen out of and in the course of the teacher's employment, further provisions may apply.

3.7 **Trigger Points – Sickness Absence**

Line managers should ensure an accurate record is kept of absence from work due to ill health and the trigger points below should be used to determine when absence from work is beginning to have an impact either on the service/school and/or colleagues. All absences due to ill health (including pre-arranged absences for planned procedures) are counted towards trigger points.

Trigger Point 1 3 or more single days of absence and/or 3 periods of absence in any rolling 3 month period

Trigger Point 2 6 or more single days of absence and/or 6 periods of absence in any rolling 12 month period

Trigger Point 3 8 or more days of absence in any rolling 12 month period

Trigger Point 4 A discernible pattern e.g. regular absence on a particular day or certain weeks during the year (School holidays/term time, Easter break, Christmas)

3.8 **Employees with a Disability**

The Equality Act 2010 ('The Act') gives employees with a disability certain legal rights. The onus of proof is on the employee to show that they meet the requirements of section 6 of the Act which looks at whether an employee has a physical or mental impairment that affects the employee's ability to carry out normal day-to-day activities and whether the adverse effect is substantial and long term.

Line managers need to manage the absences of employees covered by the Act appropriately and can seek guidance from their Occupational Health provider as to what adjustments to the work/workplace could be considered. Line managers will determine whether suggested adjustments are reasonable given the circumstances and may seek legal advice.

3.9 **Absences that should be recorded separately**

In the following circumstances, the line manager should determine whether it can be justified that these absences should be included in assessing the meeting of trigger points e.g. where reasonable adjustments have been made but absence levels are still unsatisfactory:

3.9.1 any pregnancy related absence (note: if pregnancy related absence occurs during the four weeks prior to the expected week of childbirth [EWC] maternity leave is automatically triggered);

3.9.2 absence that arises as a consequence of the employee's disability covered by the Act; and

- 3.9.3 absences resulting from an accepted accident at work unless resulting from the employee's negligence or carelessness at work.

3.10 Specific Long Term, Serious or Life Threatening Illness

At the Executive Headteacher's discretion, the stages and outcomes of this policy may be modified for employees who have a specific long-term illness. Discretion may also be used to allow the employee to be accompanied by their partner or support worker in a supportive role if it aids the managing absence process.

3.11 Keeping in contact during sickness absence

- 3.11.1 If the employee is absent on sick leave s/he should expect to be contacted from time to time by her/his manager in order to discuss her/his wellbeing, expected length of continued absence from work and any of her/his work that requires attention. Such contact is intended to provide reassurance and will be kept to a reasonable minimum.

- 3.11.2 If the employee has any concerns while absent on sick leave, whether about the reason for her/his absence or her/his ability to return to work, s/he should feel free to contact her/his manager at any time.

3.12 Medical examinations

- 3.12.1 The Trust may, at any time in operating this policy, require the employee to consent to a medical examination by Occupational Health or a doctor nominated by the Trust.

- 3.12.2 The Trust will be asked to agree that any report produced in connection with any such examination may be disclosed to the Trust and that the Trust may discuss the contents of the report with the Trust's advisers and the relevant doctor.

3.13 Return-to-work interviews

- 3.13.1 If the employee has been absent on sick leave the Trust will arrange for the employee to have a return-to-work interview with her/his manager.

- 3.13.2 A return-to-work interview enables the Trust to confirm the details of the employee's absence. It also gives the employee the opportunity to raise any concerns or questions s/he may have, and to bring any relevant matters to the Trust's attention.

- 3.13.3 Where the employee's doctor has provided a certificate stating that s/he "may be fit for work" the Trust will usually hold a return-to-work interview to discuss any additional measures that may be needed to facilitate the employee's return to work, taking account of her/his doctor's advice.

3.14 Returning to work from long-term sickness absence

- 3.14.1 The Trust is committed to helping members of staff return to work from long-term sickness absence. As part of our sickness absence meetings procedure, the Trust will, where appropriate and possible, support returns to work by:

- 3.14.1.1 obtaining medical advice;

- 3.14.1.2 making reasonable adjustments to the workplace, working practices and working hours;
 - 3.14.1.3 considering redeployment; and/or
 - 3.14.1.4 agreeing a return-to-work programme with everyone affected.
- 3.14.2 If the employee is unable to return to work in the longer term, the Trust will consider whether the employee is entitled to any benefits under her/his contract and/or any insurance schemes the Trust operates.
- 3.14.3 If the employee returns to work following a long period of absence s/he will receive full pay. If after 6 weeks the employee is not working her/his full contracted hours s/he will be paid in accordance with the hours actually worked.

4 PROCEDURE

4.1 Reporting Sickness Absence

On the first day of absence, the employee must contact their line manager no later than thirty minutes after the normal start time (unless it is extremely extraordinary circumstances) to:

- 4.1.1 confirm the reason for not attending work;
- 4.1.2 advise what date they were unable to attend work (even if it was not a normal working day);
- 4.1.3 advise the likely return date, where possible;
- 4.1.4 provide contact details; and
- 4.1.5 advise of any outstanding or urgent work that requires attention.

Where the employee's line manager is unavailable, the employee must contact another suitable person in the workplace to confirm the points listed above.

The employee should attempt to personally telephone their line manager. In exceptional circumstances and only if the employee is unable to telephone personally, they should arrange for someone else to telephone their line manager on their behalf to explain why they cannot attend work as well as why they could not speak directly to their line manager.

Where an employee fails to report for work and/or maintain appropriate contact during a period of sick leave this may be considered as the employee being absent without leave. In these circumstances, action under the Conduct Policy and Procedure may be considered once efforts to contact the employee have been exhausted.

Where the line manager has concerns about the regularity of an employee's absence or the reasons for the absence given, the employee may be instructed to submit a Fit Note from the first day of any absence.

Timely and accurate recording of absence is essential to ensure correct payment of contractual and/or statutory sick pay where applicable.

4.2 Absences for more than seven days

The employee is required to provide their line manager with a Fit Note from their doctor covering all of the days from the eighth day of the absence through to the last working day before they return to work, regardless of whether these are their working days or not.

4.3 First Absence Meeting

When a trigger point has been reached, there is concern for the well-being of the member of staff or there is any concern for the welfare of others who the employee may come into contact with, the line manager will convene a First Absence Meeting with the employee. The employee may be back at work or still absent at this time. The purpose of the meeting is for the line manager to:

- 4.3.1 clarify the reason(s) the employee was absent from work or is still absent from work;
- 4.3.2 ensure the criteria under the relevant sick pay scheme have been met, where the employee is eligible;
- 4.3.3 ensure that the employee and line manager have been keeping in contact;
- 4.3.4 if the employee is still absent, determine the likely date for a return to work;
- 4.3.5 discuss what steps the employee has taken to reduce their level of absence;
- 4.3.6 discuss the impact the employee's absence has on the service / colleagues and what arrangements might be put in place to cover work etc;
- 4.3.7 consider a referral to Occupational Health. This may include a referral to seek advice on the suitability of ill health redeployment; and
- 4.3.8 set targets for reducing absence levels
- 4.3.9 if it is determined that the employee has a disability covered by the Act, agree whether any reasonable adjustments could be considered or reviewed to reduce absence
- 4.3.10 discuss whether the employee could access any support through specialist groups e.g. counselling
- 4.3.11 at the discretion of the line manager (after review of the employee's normal attendance pattern) arrange a date within the following 6-12 weeks for a Second Absence Meeting.

4.4 Second Absence Meeting

The Second Absence Meeting will be convened by the line manager on the date agreed at the First Absence Meeting. The agenda followed at the Second Absence Meeting will be similar to that followed at the First Absence Meeting but in addition may also include the following points:

- 4.4.1 further advice from Occupational Health. This may include a referral to seek advice on the suitability of ill health redeployment;

- 4.4.2 advice on whether Ill Health Retirement should be considered;
- 4.4.3 determine what has prevented the employee from reducing absence levels and if possible, determine likely future absence;
- 4.4.4 if the level of absence has not improved between First and Second Absence meeting, advise that the circumstances concerning absence will be referred to a Formal Absence Hearing at which time the appropriateness of continuing with the employee's contract of employment will be considered;
- 4.4.5 where it is determined the employee has a disability covered by the Act, consider whether any suggested adjustments are reasonable or review any already in place;
- 4.4.6 discuss any support through specialist groups e.g. counselling, that may be of benefit; and
- 4.4.7 if the level of absence has reduced, advise the employee that if they exceed any of the trigger points again within the following 12 months from the last day of absence, the process will recommence at the Second Absence Meeting stage.

4.5 **Formal Absence Hearing**

The purpose of the Formal Absence Hearing is to consider whether an employee is able to fulfil their contractual obligation to carry out the job for which they are employed and whether continued employment is appropriate.

The line manager will prepare a summary report, which should include the reasons for the absence(s), an up to date medical opinion from Occupational Health, what adjustments have been looked at and/or introduced, the impact of the absence on the school/Trust and/or colleagues and what support measures have been considered.

A Formal Absence Hearing will be convened in any of the following circumstances:

- 4.5.1 where there is evidence that an employee, due to illness, cannot carry out the duties for which they are employed;
- 4.5.2 following an unsatisfactory conclusion of a monitoring period;
- 4.5.3 where the employee's pattern of absence illustrates an inability to attend work regularly and reliably;
- 4.5.4 where an assessment of an employee who contributes to the Local Government Pension Scheme (LGPS) has been made that meets the criteria for Ill Health Retirement;
- 4.5.5 where the employee is assessed by a Physician/Occupational Health Adviser as not fit for work in the foreseeable future and/or no indication of when the employee is likely to return to work and where no reasonable adjustments can be put in place to facilitate a return to work; and/or
- 4.5.6 where there is sufficient concern for the employee's welfare and/or for the welfare of others with whom the employee may come into contact, that the continuation of the contract of employment should be considered.

Where it is determined that a Formal Absence Hearing is to be convened, the Clerk to Directors will notify the employee in writing giving reasonable notice, stating the details of the Formal Absence Hearing, the possible outcomes of the hearing, the employee's right to request to be accompanied and that the hearing may take place in the employee's absence if they fail to attend without providing a satisfactory explanation. A copy of the summary report and a copy of this policy must be included with the letter.

The hearing may be chaired by the Executive Headteacher in accordance with his/her delegated responsibilities and if she/he has had no previous involvement in the matter being considered, otherwise the First Committee of Directors will conduct the hearing. The purpose of this hearing will be to consider the line manager's report.

In advance of the hearing, the employee will provide any relevant information that they wish to be considered at the hearing to the Clerk to Directors. This information will be passed to the Executive Headteacher or the First Committee. The employee will be given an opportunity to address the hearing whether or not they wish to submit any relevant information.

The Chair of the hearing will ensure that all relevant information presented at the hearing by the line manager and the employee will be considered. There will be an adjournment to enable consideration of the information by the Chair. The outcomes may include:

- 4.5.7 to issue a final written warning with a review period of up to 12 months;
- 4.5.8 adjournment while further medical information/reasonable adjustments are investigated with a date set to reconvene; or
- 4.5.9 dismissal with notice on full contractual pay, pro rata to the hours worked, with adjustments as necessary for any national benefits received such as Statutory Sick Pay. During the notice period, employees will be expected to engage in any redeployment process.

The Chair will reconvene the hearing and confirm their decision verbally, unless valid reasons exist not to do so, and will write to the employee as soon as possible after the hearing to confirm their decision.

If the decision is to dismiss the employee, the appropriate period of notice should be issued in accordance with the employee's contract of employment. Where a final written warning or dismissal with notice is the outcome, the employee must be informed of their right of appeal and where to send the appeal.

Where dismissal with notice is the outcome, consideration should be given to assisting the employee in seeking suitable alternative employment within the boundaries of their capabilities during their notice period.

4.6 **Appeal**

If an employee wishes to appeal against the decision from the Formal Absence Hearing, they must do so in writing, stating the grounds for their appeal, within five working days of receiving the written outcome.

An employee may appeal on the following grounds:

- 4.6.1 the sanction given was too harsh given the circumstances;

- 4.6.2 the procedure was not fairly or correctly applied; and/or
- 4.6.3 new information has come to light that would directly affect the decision made at the hearing.

The appeal should be sent to the Clerk to Directors who will then arrange for the appeal to take place. The purpose of the appeal hearing is to give the employee the opportunity to have the grounds of appeal considered by the Second Committee consisting of directors who have had no previous involvement.

The appeal should be heard without unreasonable delay. At least five working days' notice will be given to the employee to allow for preparation.

The outcome of the appeal hearing may be to:

- 4.6.4 adjourn and refer the matter back to the Executive Headteacher/First Committee if significant new information/evidence is provided, which was not available previously, and may change the original decision;
- 4.6.5 conclude a procedural irregularity occurred and determine whether this had an impact on the decision-making process and outcome. If so, determine an appropriate sanction and make a recommendation to rectify the situation;
- 4.6.6 uphold the appeal and determine an alternative sanction/appropriate course of action; or
- 4.6.7 reject the appeal and confirm that the original decision stands.

The decision will be given verbally to all parties at the end of the appeal hearing unless valid reasons exist not to do so. The decision will be confirmed in writing to the employee within five working days. An appeal is not a re-hearing of all of the facts but to determine if the original decision was reasonable given the circumstances. The process ends with the decision of the Second Committee.

5 ADDITIONAL INFORMATION

5.1 Employee Responsibilities

Employees have a contractual responsibility to attend work to carry out the requirements of their job. Employees have a responsibility, where necessary, to take any steps required to minimise their absence. Employees must take all reasonable steps to attend meetings as required and adhere to this policy. It will be the responsibility of the employee or their line manager to contact Payroll if they require a hard copy of their Payslip to be sent to their home address while absent from work.

5.2 Medical Suspension/Fitness to Work

In some circumstances, it may be necessary to suspend an employee on medical grounds in order to ensure they do not stay at work or resume their duties if there is a risk to the employee or any other person the employee may come into contact with. There may also be occasions where an employee's doctor has certified the employee as fit to return to work but given the nature of the work undertaken by the employee, the line manager has concerns about the employee's fitness to return to/remain at work. In these circumstances, further advice should be sought on fitness to work from Occupational Health and HR advice sought.

5.3 Accident, Incident or Injury at Work

Any accident, incident or injury arising out of a work activity should be reported to the line manager in the first instance, who will escalate the matter as necessary. Absences occurring as a result of an accident, incident or injury at work should be monitored separately from trigger points but should be managed in accordance with this policy. The Injury Allowance scheme may be applicable in these circumstances.

5.4 Raising a Grievance during the Application of this Policy

If an employee is currently being managed under this policy and has a complaint related to either the person applying it and/or its application, the employee will raise a complaint under this policy which will be investigated in line with the Grievance Policy

5.5 Employees attending work but unable to carry out all aspects of their job

There may be situations where an employee attends work but is unable to carry out the full duties/requirements of their job, not as a consequence of a disability or ill-health but due to physical factors which are not related to their health. The physical factor may prevent the employee from undertaking duties such as responding quickly and effectively to children's needs in an emergency; caring for vulnerable adults appropriately; or inhibiting the employee from carrying out personal care to clients. In these circumstances, the Capability Policy should be used to manage the situation after determining that no underlying health issues exist.

5.6 Confidentiality

Any parties affected by, or involved in the application of this policy will be expected to maintain an appropriate level of confidentiality. Breaches of confidentiality will be taken seriously, especially if they hinder the application of the policy. Failure to maintain confidentiality may result in action being taken under the Conduct Policy.

Disclosure of information may also be a breach of the Data Protection Act (2018) and may lead to action being taken under the provisions of this legislation, in addition to actions being taken under the Conduct Policy and Procedure.

5.7 Pensions

Termination of employment under this policy does not mean that the employee's pension will be released automatically. The employee should seek further advice from their pension provider. Teachers should contact Teachers' Pensions at www.teacherspensions.co.uk. Members of the Local Government Pension Scheme can make contact at: www.lgps.org.uk or pensions@devon.gov.uk.

5.8 Support for Employees

Employees are encouraged to seek support from their trade union/professional association in the first instance.

END OF POLICY