



MARISH

Academy Trust



Managing Attendance Policy

Annex 1

Procedure for Dealing with Short-Term Absence

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1. Procedure for Dealing with Short-Term Absence

If an employee breaches the short-term triggers within a rolling 12-month period, the line manager/designated person will record this on the Return to Work Meeting Record during the return to work meeting and inform the employee that a First Sickness Absence Review Meeting will be arranged.

Short-Term triggers are: 12 days or 4 periods of sickness absence over a rolling 12-month period.

2. Stage 1 – First Sickness Absence Review Meeting (Short-Term)

The First Sickness Absence Review Meeting (Short-Term) should take place **within 3 working weeks** of the employee's return to work.

The employee will be given at least **5 working days'** written notice of the meeting. The letter will state the date, time and place of the meeting, the reason for the meeting and the right to be accompanied by a trade union representative or a work colleague. A copy of the Managing Attendance Policy and the Procedure for Dealing with Short-Term Absence (this procedure) will be enclosed with the letter.

At the First Sickness Absence Review Meeting (Short-Term), the line manager/designated person will:

- Confirm the dates and periods of sickness absence in the previous rolling 12-month period and ensure that records are up to date and accurate.
- Review the employee's sickness absence; explore any underlying causes, including any available medical evidence.
- Give the employee an opportunity to present any information regarding their sickness absence.
- Consider any options that might help the employee to reduce their levels of sickness absence. This might include a review of their working hours/type of work that they do, making the employee aware of the school's counselling service, if appropriate.
- Advise the employee that whilst they have only reached the first stage of this procedure, they should be mindful that continuous breaches of the trigger levels can eventually lead to dismissal.
- Set the fixed 12-month review period and outline the triggers that are applicable.

The fixed 12-month review period is defined as 12 months commencing the day after the First Sickness Absence Review Meeting (Short-Term). If during this period the employee breaches the triggers detailed below, the line manager/designated person will proceed to Stage 2 - Second Sickness Absence Review Meeting (Short-Term).

The triggers are:

- 9 days or 3 periods of sickness absence within the fixed 12-month period, commencing the day after the First Sickness Absence Review Meeting (Short-Term).

The outcome of the First Sickness Absence Review Meeting (Short-Term) will be confirmed in writing to the employee **within 5 working days** of the meeting.

If satisfactory attendance levels are maintained, there will be no further formal meetings under this procedure.

Once an employee has cleared the 12 month fixed review period without any breaches, the monitoring of absences will revert to a rolling 12-month period and this can include counting back into the 12 month fixed review period which has just ended and include any sickness absences which may have occurred in this period. For example, if a fixed review period ended 31st March 2009 and the employee is off sick for one day on 3rd May 2009 then you would count back over a rolling 12-month period to see if they have triggered again within the rolling 12-month period which started from 3rd May 2009 going back to 4th May 2008.

If the employee breaches the attendance standards set within the fixed 12-month review period, the matter will progress to Stage 2 – Second Sickness Absence Review Meeting (Short-Term).

3. Stage 2 – Second Sickness Absence Review Meeting (Short-Term)

If any of the triggers set at the First Sickness Absence Review Meeting (Short-Term) are breached, the line manager/designated person will record this on the Return to Work Meeting Record and inform the employee that a Second Sickness Absence Review Meeting will be arranged.

The Second Sickness Absence Review Meeting (Short-Term) should take place **within 3 working weeks** of the employee's return to work.

The employee will be given at least **5 working days'** written notice of the meeting. The letter will state the date, time and place of the meeting, the reason for the meeting and the employee's right to be accompanied to the meeting by a trade union representative or work colleague. A copy of the Managing Attendance Policy will be enclosed with the letter.

The objectives of the meeting will be to:

- Confirm the dates and periods of sickness absence since the First Sickness Absence Review Meeting (Short-Term) and to ensure that records are up to date and accurate.
- Review the employee's sickness absence; explore any underlying causes, including any available medical evidence.
- Give the employee an opportunity to present any information regarding their sickness absence.
- Consider whether the employee should be referred to Occupational Health to seek advice about the employee's medical situation.
- Review any previous efforts made to help the employee reduce their levels of sickness absence, and to consider any further options to help reduce levels of sickness absence.
- Advise the employee that if their sickness absence levels do not improve, once all appropriate procedures have been exhausted, consideration will be given to dismissal at the Contract Review Hearing stage of the process.
- Set the fixed 12-month review period and outline the triggers that are applicable.

The fixed 12-month review period is defined as 12 months commencing the day after the Second Sickness Absence Review Meeting (Short-Term). If during the fixed 12-month period the employee breaches the triggers detailed below, the case will proceed to Stage 3 - Contract Review Hearing.

The triggers are:

9 days or 3 periods of sickness absence within the fixed 12-month period, commencing the day after the Second Sickness Absence Review Meeting (Short-Term).

The outcome of the meeting will be confirmed in writing to the employee **within 5 working days** of the Second Sickness Absence Review Meeting (Short-Term)

If satisfactory attendance levels are maintained, there will be no further formal meetings under this procedure.

Once an employee has cleared the 12 month fixed review period without any breaches, the monitoring of absences will revert to a rolling 12-month period and this can include counting back into the 12 month fixed review period which has just ended and include any sickness absence which may have occurred in this period. For example, if a fixed review period ended 31st March 2009 and the employee is off sick for one day on 3rd May 2009 then you would count back over a rolling 12-month period to see if they have triggered again with the rolling 12-month period which started from 3rd May 2009 going back to 4th May 2008.

If the employee breaches the attendance standards set within the fixed 12-month review period, the matter will progress to Stage 3 – Contract Review Hearing.

4. Stage 3 - Contract Review Hearing

If any of the triggers set at the Second Sickness Absence Review Meeting (Short-Term) are breached, the line manager/designated person will record this on the Return to Work Meeting Record at the return to work meeting and inform the employee that a Contract Review Hearing will be arranged in line with the Managing Attendance Policy and this procedure.

The purpose of the Contract Review Hearing is to consider the employee's continued employment with the school. It will normally be held **within 6 working weeks** of the employee's return to work.

A Contract Review Panel will consider the case at the hearing and the panel will consist of three governors. It should consist of the Headteacher and two governors who are not staff governors and, ideally, not parent governors and who have not previously been involved in the case. If the Headteacher is not suitable to be on the panel either because they have been previously involved e.g., at Stages 1 and 2 of the procedure, or could not be seen as being impartial, or for any other valid reason, another governor should replace them on the panel.

It is strongly recommended that a representative from Schools HR is also in attendance in an advisory capacity to the Panel.

4.1 Prior to the Contract Review Hearing

The line manager/designated person will prepare a report that includes:

- A chronological list of the dates and periods of sickness absence from the date action was first taken under the Policy and the stated reasons for the sickness absences.
- A chronological list of the dates of action taken under the Policy. This will include, where appropriate:
 - Records of the Return to Work Meetings
 - Records of the First and Second Sickness Absence Review Meetings (Short-Term)

- All available medical evidence, including a recent report from Occupational Health and, where appropriate, the outcome of any referral(s) to an independent specialist medical adviser. It is necessary to provide an up-to-date medical opinion, e.g., within the last two months.
- An assessment of the impact of the absence on the service area and colleagues.
- A summary of any previous efforts made to support and assist the employee, including any efforts made at redeployment, and reasonable adjustments which have been considered throughout the process.
- The employee's employment record and any other relevant information e.g., details of their job role, length of service etc.

The employee will be given at least **10 working days'** written notice of the Contract Review Hearing. The letter will state the date, time and place of the Hearing, include a copy of the line manager's/designated person's report with all attachments and a copy of the Managing Attendance Policy and this procedure, and advise the employee that they may be accompanied to the meeting by a trade union representative or a work colleague.

4.2 At the Contract Review Hearing

The Chair of the Contract Review Hearing Panel will state the objectives of the hearing which are:

- To confirm dates and periods of sickness absence since the beginning of the process and ensure records are up to date and accurate.
- To review the employee's sickness absence record in the light of any available medical evidence which will include an Occupational Health assessment report completed within the last two months.
- To provide an opportunity for the employee to present their case.
- To review any previous efforts to assist the employee, including reasonable adjustments where the reasons for absence is due to a medical condition regarded as a disability under the Equality Act 2010.
- To review the type of work that the employee does and the impact of their sickness absence on service delivery and colleagues.
- To consider the availability of alternative work, where appropriate.
- To ensure all the appropriate procedures have been followed and that any proposed action is reasonable in all the circumstances; including referrals to Occupational Health as appropriate and confirmation that the employee has been advised that if the attendance standards were not met, dismissal would be considered.

The line manager/designated person will present the facts of the case at the hearing.

The employee and/or their representative will have the opportunity to respond to the information provided by the line manager/designated person.

The Contract Review Hearing Panel may ask questions of both parties and seek advice from appropriate sources prior to reaching their decision.

The Contract Review Hearing Panel may consider an adjournment to consider the information presented or seek further information. Where further information is provided, both sides will have the opportunity to comment.

4.3 Outcome of the Contract Review Hearing

The outcome of the Hearing will depend on the assessment by the Contract Review Hearing Panel of the facts and circumstances of the case. The Contract Review Hearing Panel may decide on the following outcomes:

- Dismissal or
- Give the employee a further and final opportunity to meet the attendance standards and reset the review period.

The Contract Review Hearing Panel may consider the following guidance in reaching a decision:

- At the Second Sickness Absence Review Meeting (Short-Term), the employee would have been advised that the subsequent review period being set would be their final opportunity to improve their attendance; and that if the case was to reach the Contract Review Hearing stage, consideration will be given to dismissal. In the circumstances it would be reasonable that where the reason for the sickness absence is not due to a condition considered to be regarded as a disability under the Equality Act 2010 the outcome of the Contract Review Hearing would be dismissal. The reason for dismissal would normally be due to persistent levels of sickness absence which are unacceptable to the school.

Dismissal will be with paid contractual notice. Employees will not be required to work during their notice period.

As an alternative to dismissal, the Contract Review Hearing Panel may decide to give the employee a further and final opportunity to meet the attendance standards, if there are mitigating circumstances present. Examples of mitigating circumstances could be if the absence was due to an industrial injury or that the employee has previously had an exemplary record of attendance.

Where the Panel decides that the employee can remain in employment, the original triggers will be set (i.e. 9 days or 3 periods within a fixed 12-month period) starting from the day after the Contract Review Hearing.

The outcome of the Hearing will be confirmed in writing to the employee **within 5 working days** of the Contract Review Hearing.

5. Notice Periods

The period of notice for **support staff** is one week's pay for each year of service in the post up to a maximum of 12 weeks.

The period of notice for **teachers** must be as stated in the Conditions of Service for School Teachers (Burgundy Book). Notice to terminate employment must be given by the specified dates (by 31st October to end employment on 31st December, by 28th February to end employment on 30th April and by 31st May to end employment on 31st August) and notice pay will be to the end of that term. Teachers who have over 8 years continuous employment are entitled to longer notice based on their total continuous service, which is calculated based on one week for every complete year of service up to a maximum of 12 weeks.

The notice period starts from the date when the employee is informed that they are to be dismissed.

6. Appeal Hearing

The employee has the right to appeal against the decision to dismiss.

6.1 Grounds of Appeal

The appeal is against the dismissal decision reached at the Contract Review Hearing and is not a re-hearing of the case. The employee can appeal on the following grounds:

- The severity of the action and/or
- The finding of the Contract Review Hearing on a point of fact and/or
- A failure to adhere to agreed procedure.

6.2 Prior to the Appeal Hearing

If the employee wishes to appeal, they must submit their written case statement to the Chair of Governors **within 10 working days** of the date of receipt of the letter confirming the outcome of the Contract Review Hearing. The employee's case statement must clearly state the reason(s) for the appeal and any supporting information.

The Chair of the Contract Review Hearing Panel should prepare a management case statement detailing the decision taken at the Contract Review Hearing, explaining the reasons for this decision, and answering any issues that may have been raised in the employee's appeal statement. This should be sent to the employee at the same time as notification of the Appeal Hearing. If this is not possible, this should be sent to the employee at least **5 working days** before the date of the Appeal Hearing.

The Appeal Hearing should be convened **within 6 working weeks** from receipt of the employee's appeal. The employee should be given at least **10 working days'** written notice of the Appeal Hearing.

The appeal will be heard by an Appeals Committee consisting of three governors who are not staff governors and, ideally, not parent governors and who have not previously been involved in the case. The Chair of the Contract Review Hearing Panel will be required to present the management case at the appeal and, for the purposes of this procedure, will be known as the 'The Presenting Officer'. In the absence of the Chair of the Contract Review Panel being available to present the case, this responsibility will fall to one of the other two members of the Contract Review Panel.

6.3 At the Appeal Hearing

The Chair of the Appeals Committee will state the purpose of the appeal which is to consider the grounds of the appeal.

The Chair will explain the procedure to be followed:

- The employee and/or their representative will present relevant information in support of their appeal.
- The Presenting Officer will have the opportunity to respond and provide information relevant to the appeal.
- The Appeal Committee may ask questions of the Presenting Officer and employee and seek advice prior to reaching their decision.

- The Appeal Committee may adjourn to consider the information presented or seek further information before reaching their decision. Where further information is provided, both parties will have the opportunity to comment.

6.4 Outcome of the Appeal Hearing

The Appeal Committee will ask both parties to withdraw whilst the decision is considered.

Once a decision has been reached, both parties will be recalled and advised of the decision which will be confirmed to the employee, in writing, **within 5 working days** of the decision, which could be one of the following:

- Dismiss the appeal and uphold the decision to terminate employment
- Uphold the appeal and reinstate the employee, setting a new review period and triggers
- Any other action they might consider to be appropriate and reasonable depending on the circumstances of each case.

Short-Term Absence Flowchart

