

PERRYFIELDS PRIMARY PRU



STAFF ABSENCE POLICY

Review Date	Developed and Reviewed Date	Reviewer (Who?)	Approved By Name and Date
March 2023	February 2023	Chair of Resources and Pay Sub Committee SLT	Management Committee 28.03.2023
March 2025			

Minutes Reference	28.03.2023
Signature of Chair	

1. Statement of intent

Perryfields Primary PRU is committed to maintaining the health, safety and welfare of its staff. We seek to provide a positive and healthy working environment, and recognise the value of our employees' work-life balance. Regular attendance at work is an integral part of each employee's contract of employment; however, we recognise that employees will, on occasion, have genuine and acceptable reasons to be absent from work. On those occasions, we will aim to support an employee during the period of absence, with the aim of assisting their return to work at the earliest opportunity.

We also understand that holidays are precious time away from the regular stress of work, and strongly encourage staff to take annual leave, where leave is not covered by the school holidays. We also recognise that, on occasion, leave may need to be taken due to unforeseen circumstances, and we will try our utmost to accommodate the needs of our staff.

This policy outlines provisions to minimise staff absence levels across the school, the school's duties regarding staff leave of absence, and the provisions for staff to follow when requesting leave, as well as information on how we support employees who are unable to attend work due to ill health. This policy also aims to provide a fair and consistent framework for managing attendance and informs all employees of their responsibilities regarding attendance at work.

In accordance with our obligations under the Equality Act 2010, we will make all reasonable efforts to allow employees with a disability that affects their attendance at work to continue their employment.

This policy is not contractual, and we may depart from its terms where reasonable and circumstances dictate.

2. Legal framework

This policy has due regard to all relevant legislation and guidance including, but not limited to, the following:

- Trade Union and Labour Relations (Consolidation) Act 1992
- Employment Rights Act 1996
- The Working Time Regulations 1998
- Redundancy Payments (Continuity of Employment in Local Government, etc.) (Modification) Order 1999
- The Transfer of Undertakings (Protection of Employment) Regulations 2006 (TUPE)
- Equality Act 2010
- The Employment Rights (Employment Particulars and Paid Annual Leave) (Amendment) Regulations 2018
- The Statutory Parental Bereavement Leave (General) Regulations 2020 (Jack's Law)
- ACAS (2010) 'Code of practice on time off for trade union duties and activities including guidance on time off for union learning representatives'
- Cabinet Office (2022) 'Report trade union facility time data'
- DfE (2014) 'Advice on trade union facility time'
- DfE (2021) 'Teachers' Standards'
- DfE (2022) 'School teachers' pay and conditions document 2022 and guidance on school teachers' pay and conditions' (STPCD)
- Department for Work and Pensions (2022) 'The fit note: guidance for patients and employees'

This policy operates in conjunction with the following school policies:

- Disciplinary Policy and Procedure
- Data Protection Policy
- Grievance Policy

3. Roles and responsibilities

The Management Committee will be responsible for:

- Reviewing this policy and ensuring it is adhered to across the school.
- Ensuring that this policy is implemented fairly, consistently and in line with the board's equality duties.
- Signing off any special leave requested by the headteacher, e.g. bereavement leave.

The headteacher will be responsible for:

- Implementing this policy in line with their statutory duties.
- Informing all employees of attendance management procedures, including the conditions of the sick pay scheme.

- Recording all sickness absence upon notification.
- Managing and signing off annual leave requests.
- Recording all sickness absence on notification.
- Monitoring and reviewing sickness absence across the school.
- Deciding if a stage one absence hearing with an employee is appropriate when their sickness absence level has reached a trigger point.
- Maintaining reasonable contact with employees during a period of absence.
- Meeting with employees on their return to work, regardless of the duration of the absence.
- Implementing a special leave reporting structure for staff and reporting any requests to the Management Committee.
- Delegating responsibilities to line managers to sign off annual leave in line with this policy.

Line managers will be responsible for:

- Implementing this policy in line with their statutory duties.
- Briefing employees on the school's sickness absence procedures.
- Ensuring employees are supported throughout their period of leave and being a point of contact for any queries or problems they may have.

Staff will be responsible for:

- Attending work when fit to do so.
- Complying with the school's notification of sickness absence procedures.
- Maintaining reasonable contact with the school and meeting with the school when required during periods of absence of four weeks or longer ("long-term sickness absence").
- If requested to do so by the school, attending occupational health (and potentially other medical) appointments.
- Arranging annual leave during school holiday periods.
- Requesting special leave as soon as possible.
- Submitting annual leave requests to the headteacher.
- Arranging leave for a convenient time, i.e. not in conflict with other relevant staff leave.
- Adhering to this policy at all times.

4. Annual leave

Specific annual leave arrangements are outlined in each staff member's contract of employment. This section of this policy outlines the guidelines the school will follow in relation to annual leave; however, the school will refer to staff members' individual contracts of employment when looking at their annual leave entitlement.

Teacher annual leave

Teachers will be required to be available for work for 195 days each year (194 days for the 2022/2023 academic year due to the additional bank holiday), of which 190 (189 for the 2022/2023 academic year) shall be days they may be required to teach pupils and 5 will be for other duties.

Teachers will not be permitted to request annual leave to take a holiday within term-time. Term-time leave may be permissible in exceptional circumstances, e.g. to take care of a dependant.

Support staff annual leave

Entitlement to annual leave for support staff will be specified in their individual contracts of employment.

The provision for support staff employed on a term-time only basis is the same as for teaching staff above. The annual leave year for support staff runs from 1 April to 31 March. For all-year-round staff, the school expects annual leave to be taken during the school holidays. Support staff may not take annual leave when they are required to be in school for a specific purpose.

The headteacher is responsible for approving annual leave for their respective support staff. Where support staff request leave during term-time, their request will be granted having given due regard to the exigencies of the service.

Term-time only workers

This section is in line with the Harpur v Brazel ruling made in 2022. The government is also currently consulting on how holiday entitlement is calculated for part-year and irregular hours workers.

Holiday entitlement and pay for term-time only workers will be calculated by reference to the hours worked over a 52-week average, known as the calendar week method.

Sabbatical leave

Staff may request sabbatical leave from the headteacher – leave will be granted based on the following considerations:

- Job role
- Number of years continuous service
- Performance standards to date
- Length of time requested

Staff requesting sabbatical leave must give at least three months' advance notice. Staff who request sabbatical leave of absence will receive a response within two weeks of their request. Any rejected requests can be appealed to the governing board.

Accruing annual leave during sick leave

Employees will have the right to accrue annual leave during sickness and to take this upon return or carry forward the annual leave into the next leave year. The time an employee takes leave will be agreed by the staff member's line manager in line with the needs of the school.

Employees are entitled to 28 days (5.6 weeks) of statutory annual leave under the Working Time Regulations 1998; therefore, the entitlement to statutory annual leave can be offset by any periods of school closure, whether they occur before or after the period of sickness. Where there is insufficient school closure time to allow the statutory annual leave to be taken, the school will allow the employee to carry forward the leave to be taken in a school closure.

When an employee commences sick leave, the amount of leave an employee has had in the current leave year will be established by the amount of school closure periods that have already occurred during the leave year. If this exceeds the entitlement to statutory annual leave, there will be no further entitlement to leave.

Leave of absence

The school will comply with any statutory regulations regarding allowance of time off for employees. The school recognises that there may be times when employees will need to take additional time away from work and will comply with this in line with their statutory duties.

Staff seeking to take leave of absence will be required to gain approval from the headteacher in advance, where possible. It is at the discretion of the headteacher to grant leave – any refusal will be reasonable and justified. Staff are able to appeal to the governing board if their request for leave has been rejected.

The procedures outlined in this policy will be reviewed bi-annually by the Management Committee to ensure they remain unbiased and fair for all staff.

The following are examples of leave of absence which may be requested (this is not an exhaustive list):

- Bereavement leave
- Time off to care for dependants
- Urgent domestic reasons
- Jury service and/or witness summons
- Justice of the Peace (Magistrate) duties
- Other public duties
- Personal health and welfare
- Examination and revision leave
- Religious observance
- Service in non-regular armed forces or volunteer reserve services

Retrospective leave may be requested in exceptional circumstances, e.g. a family emergency.

Maternity leave, paternity leave, adoption leave, parental leave and parental bereavement leave will be arranged in line with the Employment Rights Act 1996 and the school's Maternity, Paternity, Adoption, Parental and Parental Bereavement Leave Policy.

A minimum of two weeks' Statutory Parental Bereavement Leave will be granted to staff who have lost a child under the age of 18, or who have suffered a still birth from 24 weeks of pregnancy, which took place on or after 6 April 2020. The leave will commence on or after the date of the death or stillbirth and will finish within 56 weeks of that date of the death or stillbirth. If the staff member is already taking another form of leave, e.g. maternity leave, at the time of the death or stillbirth, the Statutory Parental Bereavement Leave will start after the other leave period has ended.

Statutory Parental Bereavement Leave will be implemented alongside Statutory Parental Bereavement Pay, using the Statutory Parental Bereavement Pay tables to calculate this. Statutory Parental Bereavement Leave and Pay will be implemented in line with the school's Maternity, Paternity, Adoption and Parental and Parental Bereavement Leave Policy at all times.

The school will permit staff a minimum of 10 days of paid leave per annum in order to take necessary action to deal with the illness of a dependant. For the purposes of this policy, a dependant is defined as a staff member's spouse or civil partner, their child or parent, or any other person who lives in the same household as the staff member and is dependent on the staff member for care and assistance when ill.

There may be situations where paid leave is not appropriate, and in this case unpaid leave or time off in lieu arrangements will be considered.

If an employee takes leave without permission from the school, the leave will be considered unauthorised unpaid leave and may result in disciplinary action, including dismissal.

5. Entitlement to take time off to perform trade union representative duties

The school will follow the ACAS 'Code of Practice on time off for trade union duties and activities including guidance on time off for union learning representatives'.

A **"trade union representative"** is an employee who has been elected or appointed in accordance with the rules of the independent union to be a representative of all or some of the union's members in the school(s) where the union is recognised for collective bargaining purposes.

A **"union learning representative"** is an employee who is a member of an independent trade union recognised by the employer who has been elected or appointed in accordance with the rules of the union to be a learning representative of the union at the school.

The entitlements below only apply to employees of the school.

Members of staff who are trade union representatives will be entitled to reasonable paid time off to perform their union duties and to undertake relevant training. Trade union representatives are also able to ask for unpaid time off work to undertake activities. Together, these arrangements constitute facility time.

Paid time off

For a union representative to be entitled to paid time off, the union must be:

- Independent.
- Officially recognised by the school's employer.

Union representatives have the right to have paid time off to conduct a variety of activities, including the following:

- Negotiating pay, terms and conditions
- Helping union members with disciplinary or grievance procedures, including meetings to hear their cases
- Going with union members to meetings with their line manager to discuss flexible working requests
- Discussing issues that affect union members, such as redundancies

Union learning representatives have the right to paid time off to:

- Analyse the learning or training needs of union members.
- Give information and advice about learning or training.
- Arrange or encourage learning or training.
- Discuss their activities as a learning representative with their employer.
- Train as a learning representative.

Where paid time off is granted, the staff member will be paid the amount they would have earned had they worked during the time off taken or, where the staff member's earnings vary with the work done, an amount calculated by reference to the average hourly earnings for the work they are employed to do.

Unpaid time off

Union members and union representatives may also request reasonable unpaid time off during working hours to take part in union activities, such as:

- Meetings with union officials.
- Meetings of official policy-making bodies.
- Workplace meetings to discuss and vote on the outcome of negotiations with the employer.
- Voting in union elections.

Staff members will not be permitted to request time off for activities relating to lobbying for, planning or carrying out industrial action.

Requests for time off

Union members will give their line managers as much notice as possible when asking for time off. When requesting time off, union representatives will provide their line managers with the following information:

- The purpose of the time off
- Details of the date and time being requested
- The location of the activity taking place

Wherever possible, union representatives will be asked to ensure any time off they are requesting does not interfere with the normal functioning of the school.

When a staff member requests time off to conduct union representative activities, their line manager will discuss how much time can be taken off. The following questions will be considered by the staff member's line manager:

- Can the school accommodate the amount of time requested, and ensure adequate cover for safety and the provision of educational services?
- Does the request contain the right information, and has enough advanced notice been given to provide cover arrangements where necessary?
- Does the request attract paid or unpaid time off?
- If the request cannot be accommodated, is there a reasonable alternative?

The staff member's line manager will determine whether a request for time off is appropriate. Staff members will be able to raise any disputes regarding the outcome of requests will be dealt with in line with the school's Grievance Policy. Staff members will also be informed of their right to take a case to an employment tribunal.

Facilities for union representatives

The school will make the following office facilities available on the premises for union representatives when they are taking time off to conduct union activities:

- Meeting room
- Access to communication devices

These office facilities will not be permitted to be used for union activities which are only union-facing and/or which encourage or promote industrial action.

Reporting arrangements

Arrangements will be in place to ensure union representatives can account for the duties and activities they have carried out during facility time.

[Public sector employers, including schools, with more than 49 full-time equivalent (FTE) employees during any seven months of the relevant period are required to report and publish facility time information. School that had fewer than 49 FTE employees during any seven months of the period between 1 April and 31 March each year can choose whether to report the data. For maintained schools, the LA should report the data on their behalf.]

The school will support the LA to report the required information to the government on facility time, in line with the government guidance 'Report trade union facility time data'.

6. Sickness absence

The school will make appropriate arrangements to minimise the impact of sickness absence, including arranging supply cover or longer-term arrangements in the event that an employee is absent for a longer period of time. Any leave granted, whether paid or unpaid, will be subject to the availability of staff to cover the employee's period of absence.

The school expects staff to report absence using the following procedure:

- On the first day of sickness absence, staff will call the headteacher by no later than 7:15am.
- Staff will notify their headteacher of the reason for their absence and the likely duration of their absence.
- Staff will maintain contact with the school for the duration of their absence.
- Unless and until staff are certified by a fit note from a healthcare professional, they will call the headteacher by no later than 7:15am for each day of absence unless instructed otherwise.
- If a staff member is absent for longer than seven consecutive days (including weekends), then they will submit a fit note from a healthcare professional to the school.

Failure to follow this process could result in sick pay being withheld or the absence being treated as unauthorised.

The school will accept fit notes that are handwritten or computer generated as a printed out or digital copy. The school will only accept fit notes that include the issuer's name or signature, profession, and the address of the medical practice.

The school will accept fit notes from the following healthcare professionals that deliver NHS services:

- Doctors
- Nurses
- Occupational therapists
- Pharmacists
- Physiotherapists

Headteacher sickness absence

In the case of headteacher sickness absence, the absence management procedure will be managed by the deputy headteacher and for longer term absence, the Management Committee.

Long-term sickness absence

Where a staff member is or is reasonably expected to be absent from work for four weeks or more, including any period of holiday, or where the staff member has been unable to sustain regular and efficient attendance due to a long-term condition, they will fall within the scope of the long-term sickness absence management procedure.

The school will maintain regular and supportive contact with the staff member, which may include:

- Regular review meetings to discuss their continuing absence.
- When they may be able to return to work.
- Any reasonable adjustments that the school may be able to make to assist them in returning to work.

It is a contractual requirement that the employee cooperate with the school during such period of absence.

Occupational health

The school will refer staff to an occupational health advisor where necessary. The advisor will outline:

- When the staff member will be able to return to their role.
- The staff member's ability to carry out their role.
- Whether any adjustments or modifications will be made to assist the staff member in carrying out their role.
- Whether the staff member is, or will soon be, unable to carry out their role or alternative duties within the school.
- Whether any adjustments or modifications could be made to assist the employee in carrying out such alternative duties.

The school will consider appropriate support options, including reasonable adjustments or phased returns to work.

For employees experiencing a psychological illness, e.g. stress, anxiety or depression, or a musculoskeletal complaint, e.g. a neck, shoulder or back condition, an immediate referral to occupational health will be made.

Ill-health retirement

Staff who are contributing to the Local Pensions or Teachers' Pensions (TP) will be considered for ill-health retirement where applicable.

7. Sick pay

Sick pay is based on length of service. For teachers, this is aggregated teaching service within any LA and any academy. For all other staff, it is continuous service within any public authority to which the Redundancy Payments Modification Order 1985 applies.

If the school is concerned that the reason given for staff absence is not genuine, it may commence action under the school's Disciplinary Policy and Procedure. The school reserves the right to withhold sick pay in circumstances which are described in the relevant paragraphs of the conditions of service for teachers and support staff.

Staff who are absent from work on sickness absence must not participate in any other form of work, paid or unpaid, during or outside of their normal working hours without the prior written authorisation of school. Staff will notify the school if they are undertaking therapeutic work whilst off sick and will consult with the school's occupational health service as to the advisability of such activity. If staff are found to be carrying out other work within their contracted hours at the school, sick pay may be withheld.

Time off for surgery that is not for medical reasons will ordinarily not be paid by the school.

Statutory sick pay (SSP)

In order to qualify for statutory sick pay (SSP), staff must:

- Be sick for at least four or more days in a row, including weekends and bank holidays, as SSP is not payable for the first three days of any period of absence; and
- Earn an average of no less than the Lower Earnings Limit for National Insurance Contributions (NIC).

SSP is paid by the school for up to a maximum of 28 weeks.

8. Returning to work

Where a healthcare professional advises a staff member that they are not fit for work, the healthcare professional will state the period for which this will be the case and whether they will need to assess the staff member again. If the healthcare professional has not stated that they need to assess the staff member again, the school will ordinarily assume that the employee will return to work on expiry of the fit note.

The school may ask the staff member to seek further advice from their healthcare professional regarding a return to work or to seek advice from an occupational health advisor before the employee is allowed to return to work. Staff will attend any additional appointments as reasonably instructed by the school.

During any additional period of assessment, the staff member will remain entitled to sick pay in accordance with the SSP or the employee's terms and conditions of service.

Staff will take on board any advice given by their doctor on how to return to work. Advice may include:

- A phased return to work.
- Flexible working.
- Amended duties.
- Workplace adaptations.

The school will consider any recommendations made by the staff member's doctor and implement additional measures to support the staff member's return to work where possible.

On their return to work, staff will contact their line manager and complete a sickness notification form as directed.

Following a period of sickness absence, staff will be required to attend a return to work interview with their line manager within three days of their return. The interview will:

- Welcome the staff member back to work.
- Inform the staff member of any changes during their absence.
- Seek assurance that the staff member is well enough to be at work.
- Establish if the staff member requires any additional support.
- Assess whether the staff member needs to be referred to occupational health.

During the interview, staff will be made aware of the following:

- Whether their absence may lead to a stage one absence meeting
- Any support the school will offer to avoid a stage one absence meeting
- Whether they have surpassed the trigger points for a stage one absence meeting and the implications of this, e.g. being invited to an absence meeting

If a staff member has already received an official warning over their attendance, they may be invited to a stage two or three absence meeting.

A record of a return to work interview will be signed by both the staff member and their line manager, and a copy will be kept and stored securely in line with the Records Management Policy.

Redeployment of staff

Staff who are fit to return to work, but not in their original role, will be transferred into an alternative role which they are able to undertake with or without reasonable adjustments or training.

If there is no suitable alternative post in school, staff may be reassigned within the LA. It will be the decision of the LA redeployment unit as to whether a school employee will be accepted onto the redeployment register.

9. Persistent absence

If a staff member is persistently absent and their attendance levels have not improved to a satisfactory level following informal action through the return to work interviews, and having taken into consideration the trigger points, their line manager may choose to obtain medical advice from occupational health if appropriate, or may proceed to a stage one absence meeting.

Where there is a history of formal absence warnings that result in a successful monitoring period which is then immediately followed by further absences, the school may not recommence the informal attendance monitoring process but move instead to the next stage in the formal procedure.

All sickness absence hearings relating to the headteacher's sickness absence will be conducted by a nominated governor and any subsequent appeal will be held by the chair of governors.

Stage one absence meeting

If a staff member's sickness absence levels have not improved despite being addressed in their return to work meetings, and the employee has reached the trigger points, the line manager will invite the staff member to a stage one absence meeting. The staff member's line manager will provide at least three working days' notice, in writing, of the stage one absence meeting. They will communicate the following to the staff member:

- The time, date and place of the meeting
- The reason for the meeting
- Any evidence to be discussed at the meeting
- The staff member's right to be accompanied by a trade union representative or work colleague not involved in the case

The line manager will prepare for the meeting by ensuring that they have identified the employee's sickness absence levels and the support that has been provided via the return to work meetings. Any medical evidence or documentation that the staff member wishes the line manager to consider will be submitted prior to the meeting.

In the stage one absence meeting the line manager will:

- Explain the concern about the absence level and reasons for that concern, such as operational difficulties caused.
- Listen to reasons and respond appropriately.
- Consider whether to refer the case to occupational health if they have not already done so.
- State that sustained improvement in attendance is expected and set an appropriate monitoring period and targets for improvement.
- Identify any support required.

The potential outcomes of this meeting include:

- Giving the staff member a stage one warning, to remain on file for 6 to 12 months, and explaining that continued failure to improve attendance to the specified level may lead to a stage two absence meeting, which could lead to the staff member's employment being put at risk.
- An extension of informal monitoring.
- No further action.

Stage two absence meeting

If the staff member's attendance drops below the required level within the set monitoring period, their line manager will ask the employee to attend a stage two absence meeting. The line manager will provide at least three working days' notice of the stage two absence meeting in writing. They will communicate the following to the staff member:

- The time, date and place of the meeting

- The reason for the meeting
- Any evidence to be discussed at the meeting
- The staff member's right to be accompanied by a trade union representative or work colleague not involved in the case

In the stage two absence meeting, the line manager will:

- Explain the concern about the absence level and reasons for that concern, such as operational difficulties caused.
- Listen to reasons and respond appropriately.
- Consider whether to refer the case to occupational health if they have not already done so.
- State that sustained improvement in attendance is expected and set an appropriate monitoring period and targets for improvement.
- Identify any support required.

The potential outcomes of this meeting include:

- Give the employee a stage two warning, to remain on file for 9 to 12 months, and explaining that continued failure to improve attendance to the specified level will lead to a stage three absence hearing which could result in dismissal.
- An extension of monitoring and support within stage one of the formal process.
- No further action.

The staff member's line manager will fully record the details of the meeting and send a letter to the staff member confirming the details of this meeting.

If at any stage a staff member has reached a level of improvement acceptable to the school, monitoring will revert back to informal arrangements.

Stage three absence hearing

If the employee's attendance drops below the required level within the set monitoring period, their line manager will ask the staff member to attend a stage three absence meeting. The line manager will provide at least five working days' notice of the stage three absence meeting in writing. The notice will include:

- The purpose of the hearing.
- Details of the employee's attendance.
- The stage reached in the procedure.
- When and where the hearing will be conducted.
- The right to be accompanied by a trade union representative or work colleague not involved in the case.
- The requirement for the employee to provide, in at least two working days before the hearing, all documents that they intend to present at the hearing.

The stage three absence meeting will be conducted by the headteacher. Any medical evidence or documentation that the staff member wishes the headteacher to consider will be submitted at least two working days prior to the hearing.

The purpose of the stage three absence meeting will be to consider whether the staff member is capable of continuing employment with the school in the light of their health, their attendance and their ability to perform the role with reasonable effectiveness. The meeting will also consider whether the school can reasonably sustain the staff member's level of attendance.

The potential outcomes of this meeting include the following:

- An extension of monitoring and support within stage two of the formal process
- If the headteacher decides that the staff member's attendance is not acceptable and is unlikely to improve to an acceptable level, the employee may be dismissed with notice on the grounds of failure to sustain required levels of attendance

Prior to a decision to dismiss, consideration will be given to any alternative working arrangements or roles with the school. If the school decides to terminate the staff member's employment on the grounds of the above, the employee will be informed of the school's decision to dismiss in writing and the employee will be advised of their right of appeal.

A copy of the letter dismissing the staff member will be sent to the Director of Children's Services. The Director of Children's Services will then formally confirm dismissal by letter to the employee.

Appeals

Any appeal arising as a result of a warning or dismissal will be made in writing to the clerk to governors within five working days of receiving the outcome of the hearing.

If the staff member submits an appeal, they will be invited to an appeal hearing where their case will be heard by a more senior manager. In the event that a decision was taken by the headteacher, any appeal will be heard by the chair of the Management Committee. The outcome of the appeal hearing will be confirmed in writing to the employee. There is no further level of appeal.

An appeal following a stage three dismissal will be heard by a panel of up to three governors.

10. Medical suspension and capability

There are a number of circumstances where the school may medically suspend an employee. Reasons for such a decision include consideration for the protection of the person's own health, as well as the health and welfare of other staff and pupils who may be put at risk by the medical condition of an employee. Occupational health may recommend medical suspension to management.

Subject to LA arrangements, a referral to LADO may be recommended in cases where a staff member is suffering from or has suffered from suicidal thoughts. The school will undertake a full risk assessment on the risks posed to the employee or others before deciding on whether the employee is fit to be in work.

If, following advice from occupational health, it appears that the employee is likely to be unable to return to their role or to provide regular and efficient attendance within a reasonable period of time, the employee will be invited to attend a medical capability hearing.

Prior to a medical capability hearing, a preliminary meeting will be arranged in order to discuss the following:

- The history of the employee's absence, including the number of absences or duration of absences
- Any reasonable adjustments that have been made or considered
- If and when the employee may be able to return to work or to provide regular and efficient service
- Any redeployment options that have been considered within the school
- Up-to-date medical advice

The employee has the right to be accompanied at this meeting by a trade union representative or work colleague.

If, following the preliminary meeting, the staff member's line manager remains of the opinion that the employee is not able to return to work within a reasonable period of time and that their absence cannot be sustained or that the employee will not be able to provide regular and efficient service in accordance with their contract of employment, the employee will be invited to attend a medical capability hearing.

Medical capability hearing

The purpose of the medical capability hearing is to consider the viability of the employee's continuing employment. The employee will be given written notification of the meeting giving five working days' notice.

The medical capability hearing will be conducted by the headteacher. The headteacher will consider dismissal on the grounds of medical capability where having considered any medical advice and any representations by the employee the headteacher reasonably believes that:

- The employee is permanently unfit to work.
- They are unable to reasonably determine when the employee will be able to return to work or to provide regular and efficient service.
- The employee is unlikely to be able to provide regular and efficient service.

In the event that an employee has failed to attend appointments with occupational health and, therefore, there is no medical evidence to consider, the headteacher may make a decision based on the information at the hearing. Where an employee fails to attend the hearing, it may go ahead in their absence.

The employee has the right to be accompanied at the medical capability hearing by a colleague or a trade union representative.

Any documentation that the employee wishes the headteacher to consider should be submitted at least two working days prior to the hearing. In certain situations where medical

evidence from an employee is in conflict with the medical evidence from occupational health, the school will decide to obtain a further medical report or may prefer either report.

If the headteacher decides to terminate the employee's employment on the grounds of medical capability, the employee will be informed, in writing, of the decision to dismiss and their right of appeal.

Appeals against medical capability decisions

Any appeal arising as a result of a medical capability dismissal will be made in writing to the school within 10 working days of receipt of the outcome of the hearing.

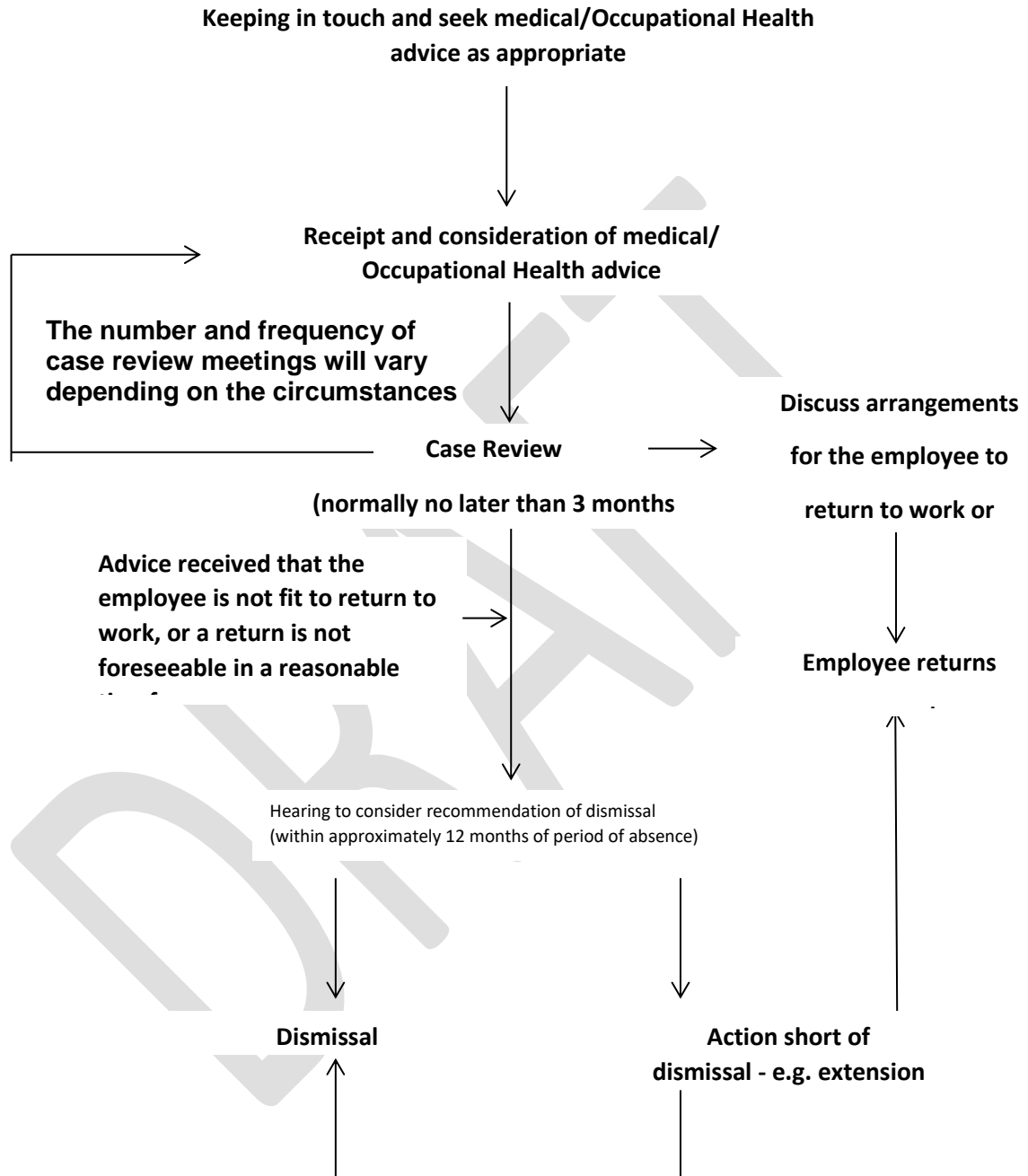
If the member of staff submits an appeal, they will be invited to an appeal hearing where their case will be heard by the governing board. The employee and the school will provide additional medical information for consideration at the appeal hearing.

The outcome of the appeal hearing will be confirmed in writing to the employee. There is no further level of appeal.

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Appendix 1:

LONG TERM SICKNESS ABSENCE FLOWCHART



Appendix 2

Procedure for a Hearing in relation to a proposed Dismissal

Where the relevant procedure has been exhausted and the Headteacher believes dismissal is appropriate, he/she should arrange for a hearing to consider recommendations for dismissal. HR Consultancy for Schools has the right to be represented at this meeting as adviser to the decision makers*. (A HR Consultant will attend as adviser to the decision maker(s) on behalf of HR Consultancy for Schools.)

The Headteacher/line manager ('Management') may be accompanied by a separate HR Consultant, who may speak on his/her behalf.

Although the decision maker(s) will take notes of the proceedings, there is no obligation on them to make these available to the employee. The employee and/or his/her representative is at liberty to make their own notes during the proceedings. The use of tape recorders, cameras, etc. for this purpose is not allowed.

Copies of any information/papers which it is proposed to present at the hearing should be circulated 5 working days in advance. Material not previously circulated or referred to will only be admitted with the agreement of both parties.

Adjournments may take place at any stage of the hearing before a decision is given. An adjournment allows for proper consideration of all matters raised. Further checking may take place if necessary, where facts are in dispute. If new facts emerge, consideration should be given to whether the hearing needs to be reconvened following further investigation.

The employee and his/her representative shall be given not less than 10 working days^{**} notice of the date, time and place of the hearing^{***} which shall take place in accordance with the following procedure:

- (a) The decision maker(s) to introduce those present, explain the purpose of the hearing, outline the order of business and remind those present of the confidential nature at the proceedings.
- (b) The decision maker(s) to clarify that it is not intended to make available notes of the hearing. No unreasonable restrictions will be placed on the employee or their representative if they wish to make notes for their own use.
- (c) Management shall put the case in the presence of the employee and his/her representative, calling any witnesses as appropriate.
- (d) The employee (or his/her representative) shall have the opportunity to ask questions of management and witnesses.

* depending on who has the delegated powers to dismiss, the decision maker(s) may be
(a) nominated Governor (or Governors), and/or
(b) the Headteacher (see Appendix 4).

** working days = days during which the school is open, including training days.

*** where the chosen representative cannot attend on the date proposed, the employee can offer an alternative time and date so long as it is reasonable

- (e) The decision maker(s) and officer adviser shall have the opportunity to ask questions of management and witnesses.
- (f) The employee (or his/her representative) shall put his/her case in the presence of the management, calling witnesses as appropriate.
- (g) The management shall have the opportunity to ask questions of the employee (or representative) and witnesses.
- (h) The decision maker(s) and officer adviser shall have the opportunity to ask questions of the employee (or representative) and witnesses.
- (i) The management and the employee (or his/her representative) shall have the opportunity to sum up their case in turn if they so wish but must not introduce any new factors.
- (j) The management, his/her adviser, the employee and his/her representative shall all withdraw.
- (k) The decision maker(s) and the HR Consultant representative shall deliberate in private, only recalling the management and the employee (and his/her representative) to clear points of uncertainty on information already given. If recall is necessary, both parties shall return even though only one is concerned with the point giving rise to doubt.
- (l) The decision maker(s) shall announce the decision to the management and the employee (and his/her representative) in person.

If the decision maker(s), after considering the information presented, determine that the employee should be dismissed, the employee shall be advised accordingly and the dismissal will take place with the notice prescribed by the employee's contract of employment.

The employee will be informed of their right of appeal against the decision to the Appeals Panel of the Governing Body. The decision of the panel will be notified to the employee in writing within 5 working days** of the hearing.

A copy of the letter shall at the same time be sent to School Employee Services with a covering letter requesting that the employee be dismissed following appropriate notice.

** Working days = days during which the school is open, including training days.

Appendix 3

Procedure for Appeals

Where an employee wishes to appeal against the decision to dismiss he/she must:

- (a) lodge the appeal in writing;
- (b) state his/her reasons for wanting to appeal*;
- (c) send this letter to the Clerk to the Governing Body within 10 working days** of receipt of the decision to dismiss.

If the employee appeals against the decision of the dismissal hearing the matter shall be dealt with by the Appeals Panel of the Governing Body. HR Consultancy for Schools has the right to be represented at the meeting as adviser to the panel. (A HR Consultant will normally attend as adviser to the panel on behalf of HR Consultancy for Schools.)

The Headteacher/line manager ('Management') may be accompanied by a separate HR Consultant, who may speak on his/her behalf where appropriate.

Although Governors will take notes of the proceedings, there is no obligation on the panel to make these available to the employee. Employees and/or their representative are at liberty to make their own notes during the proceedings. The use of tape recorders, cameras, etc. to record proceedings of the hearing is not allowed.

Adjournments may take place before a decision is given. An adjournment allows for proper consideration of all matters raised. Further checking may take place if necessary, where facts are in dispute, to decide which version is most probable. If new facts emerge, consideration should be given to whether the hearing needs to be reconvened following further investigation. Material not previously circulated or referred to will only be admitted with the agreement of both parties.

The employee and his/her representative shall be given not less than 10 working days** notice of the date, time and place of the meeting of the Appeals Panel at which the appeal is to be heard. The panel shall hear the case in accordance with the following procedure:

- (a) Chair of the panel to introduce those present, explain the purpose of the meeting, including the confidential nature of proceedings, and outline the order of business.
- (b) Chair of the panel to clarify that it is not intended to make available notes of the meeting. No unreasonable restrictions will be placed on the employee or their representative if they wish to make notes for their own use.
- (c) The Appellant shall give a short simple statement without any elaboration or explanation of the remedy being sought (if this is not already included in written submission).
- (d) The Management shall put the case in the presence of the Appellant and his/her representative, calling witnesses as appropriate.

* Where the appeal is against an opinion of permanent medical unfitness the Appellant may wish to introduce further medical evidence. If so, the Appellant must present this a minimum of 5 working days **in advance** of the appeal hearing so that further advice can be sought if required.

** Working days = days during which the school is open, including training days.

- (e) The Appellant (or his/her representative) shall have the opportunity to ask questions of the Headteacher and witnesses on the information given by them.
- (f) The panel and HR Consultant shall have the opportunity to ask questions of the Headteacher and witnesses.
- (g) The Appellant (or his/her representative) shall put his case in the presence of the Management, calling witnesses as appropriate.
- (h) The Management shall have the opportunity to ask questions of the Appellant (or representative) and witnesses.
- (i) The panel and HR Consultant shall have the opportunity to ask questions of the Appellant (or representative) and witnesses.
- (j) The Management and the Appellant (or his/her representative) shall have the opportunity to sum up their cases in turn if they so wish but must not introduce any new factors.
- (k) The Headteacher, his/her adviser and the Appellant and his/her representative shall all withdraw.
- (l) The panel and HR Consultancy for Schools (or representative) shall deliberate in private only recalling the Management and the Appellant (and his/her representative) to clear points of uncertainty on information already given. If recall is necessary, both parties shall return even though only one is concerned with the point giving rise to doubt.
- (m) The panel shall announce the decision to the Headteacher and the Appellant (and his/her representative) in person.

The decision of the Appeals Panel shall be notified in writing to the Appellant within 5 working days^{**}. There shall be no further right of appeal under this procedure. However, nothing in this procedure shall be construed to limit an employee's rights under the Employment Rights Act 1996 or any other enactment.

Where the appeal is upheld, a copy of the letter shall at the same time be sent to School Employee Services with a covering letter requesting that the employee be reinstated.

^{**} Working days = days during which the school is open, including training days.

Appendix 4 - Delegation of Authority to Dismiss

Dismissal of Staff other than Headteacher

Under the School Staffing (England) Regulations 2009 the Governing Body may delegate its power to determine that any person employed or engaged by Worcestershire County Council to work at the school should cease to work there (Community, Voluntary Controlled, Community Special and Maintained Nursery) or to dismiss its staff (Foundation, Voluntary Aided, Foundation Special) to:

- (a) one or more Governors and the Headteacher (which may be called a Staff Dismissal Committee)
- (b) one or more Governors
- (c) the Headteacher.

For the purposes of Appeal rights, the Governing Body must appoint a Dismissal Appeal Panel. This should be a panel of three Governors, other than in exceptional circumstances. No Governor to whom the power to dismiss was delegated may sit on the Dismissal Appeal Panel. The Headteacher may not sit on the Dismissal Appeal Panel.

Dismissal of the Headteacher

Under the School Staffing (England) Regulations 2009 the Governing Body may delegate its power to determine that the Headteacher should cease to work at the school or be dismissed to one or more Governors.

For the purposes of Appeal rights, the Governing Body must appoint a Dismissal Appeal Panel. This should be a panel of three Governors, other than in exceptional circumstances. No Governor to whom the power to dismiss was delegated may sit on the Dismissal Appeal Panel.

For ease of understanding, those who have the delegated authority to dismiss will be referred to in these proceedings as 'Decision-Makers'.

Rights of Attendance/Advisory Rights

Where the Governing Body has delegated dismissal powers of staff other than the Headteacher to one or more Governors, the Headteacher has a right under the 2009 Regulations to attend at and give advice to all relevant meetings/hearings held by those Governors and they must consider that advice in coming to their decisions. That advice shall be given by the Headteacher in the course of the presentation of the case against the employee.

For community, voluntary controlled, community special and maintained nursery schools, Worcestershire County Council has a statutory entitlement to send a representative and offer advice to all proceedings relating to dismissal and those to whom the function has been delegated must consider that advice in coming to their decision.

Note: Reserves will only be used in emergencies and following consultation with HR Consultancy for Schools and the recognised trade unions. In the event of the Clerk to the Committee being unavailable a HR Consultant may act as Clerk at a particular meeting.

Appendix 5 - Local Government Pension Scheme (LGPS) Appeal Procedure

Decisions and Applications for Adjudication of Disagreements

BACKGROUND

This procedure is in accordance with The Local Government Pension Scheme Regulations 2013 (as amended) Part 2, Regulation 72 Decisions.

All pension schemes are required to have a formal Internal Disputes Resolution Procedure (IDRP) and ours is called LGPS Appeal Procedure (here within known as the appeal procedure).

This procedure provides a guide to how the appeal procedure operates within the Local Government Pension Scheme and is provided for general information only. It does not cover every aspect of the Regulations. It is not an interpretation of the scheme regulations. In the event of any unintentional differences, the scheme regulations will prevail. This procedure does not confer any contractual or statutory rights.

FIRST INSTANCE DECISIONS

From the day a person becomes a member of the LGPS, to the day when benefits or dependant's benefits are paid, the employer (known as the Scheme employer) and the Pension Fund (known as the administering authority) have to make decisions under the Pension Scheme rules that affect you (or your dependants).

The Administering Authority must decide any question concerning:

- (a) a person's previous service or employment;
- (b) the crediting of additional pension under regulation 16 (additional pension); and
- (c) the amount of any benefit, or return of contributions, a person is or may become entitled to out of a pension fund.

A person's Scheme employer must decide any question concerning any other matter relating to the person's rights or liabilities under the Scheme.

NOTIFICATION OF DECISIONS

When you (this includes dependants) are notified of a decision you should check, as far as you can, that it is based on the correct details and that you agree with the decision.

The decision should be confirmed in writing to you as soon as is reasonably practicable. Where the decision is confirming that you are not entitled to a benefit the letter must contain the grounds for the decision. If the decision is about the amount of benefit it must contain a statement showing how it is calculated.

Every decision letter must provide:

1. contact details where further information about the decision can be obtained;
2. information about the appeal process;
3. time limits within which the member can appeal; and
4. the job title and address to whom appeals may be made.

ENQUIRIES

If you have any queries about the content of a letter you have received, or you are not sure which pension benefits you are entitled to, or you have a problem with your pension benefits, please contact the person who has written to you, be that your employer or the Worcestershire Pension Fund*. They will try to deal with the problem as quickly and efficiently as possible.

Many problems that members of the LGPS have are resolved in this way. They may be caused by misunderstandings or wrong information, which can be explained or put right easily. An informal enquiry of this kind may save you a lot of time and trouble.

COMPLAINTS

If you are not satisfied with any decision affecting you, made in relation to the Pension Scheme, you have the right to ask for it to be looked at again under a formal appeal procedure. You should also use the appeal procedure if a decision should have been made by your employer or administering authority but it hasn't been.

There are also a number of other regulatory bodies, such as The Pensions Advisory Service (TPAS), which may be able to help you. They are described in the 'Additional Help' section below.

The appeal procedure has two stages. Many complaints are resolved at Stage One. Any complaint you make under this procedure will be treated seriously, and considered thoroughly and fairly.

You can ask someone to take your complaint forward on your behalf. This could be, for instance, a trade union official, your husband, wife or partner, or a friend.

No charge is made at any stage for investigating a complaint under the procedure however you are responsible for any expenses that you incur, e.g. your own (and/or your representative's) time, stationery, postage and where incurred, travel expenses.

Please remember that, before going to the trouble of submitting a formal appeal, your employer and/or Pension Fund welcomes the opportunity to try to resolve the matter about which you are dissatisfied in an informal way. It may be worth checking that they know you are concerned, and why.

* The Worcestershire Pension Fund is the administering authority that looks after the pension fund.

THE PROCEDURE

Stage One

If you need to make a formal complaint under this procedure, you should make it:

1. in writing, using the application form below; and
2. within 6 months of the date when you were told of the decision you want to appeal about.

Your complaint will be considered carefully by the person specified by the body that took the decision against which you wish to complain. This guide calls them the 'adjudicator'.

The adjudicator is required to give you their decision in writing, within two months from when they received your complaint. If they are unable to respond within this timeframe the specified person can send you an interim reply setting out the reason(s) for the delay and an expected date to be able to give a decision.

You can refer your complaint for reconsideration to the administering authority adjudicator, i.e. the Worcestershire Pension Fund, in the following circumstances.

Please note the timeframes as these are important for the adjudicator to take into account in determining whether your request for reconsideration is received in time to be actioned:

1. you are not satisfied with the adjudicator's Stage One decision, and you are within 6 months from the date the decision letter (notice) was received; or
2. you have received an interim letter from the adjudicator, but no decision letter (notice) has been given, 7 months from the expected decision date; or
3. you have not received a decision letter (notice) and no interim reply has been sent, 9 months from the date on which your appeal was made.

Stage Two

You can ask the pension scheme administering authority to take a fresh look at your complaint in the circumstances described above. This review would be undertaken by a person not involved in the original decision or the Stage One decision.

You will need to send the administering authority your appeal in writing. The time limits for requesting a reconsideration are provided above. The administering authority adjudicator will consider your complaint and give you their decision in writing, within two months from when they received your completed appeal form. If they are unable to respond within this timeframe the adjudicator can send you an interim reply setting out the reason(s) for the delay and an expected date to be able to give a decision.

If you are still unhappy following the administering authority's adjudicator's Stage Two decision, you can ask the Pensions Ombudsman to investigate and determine any complaint or dispute of fact or law in relation to the Scheme.

ADDITIONAL HELP

At any time if you are having difficulties in sorting out your complaint you may wish to contact:

The Pensions Advisory Service (TPAS)

TPAS can provide free advice and information to explain your rights and responsibilities. To get information or guidance, you can look at the website:

www.pensionsadvisoryservice.org.uk or you can contact TPAS by phone or post.

The **Pensions Helpline phone number** is 0300 123 1047. Lines are manned Monday to Friday 9:00am to 5:00pm (excluding public holidays). Alternatively you can write to:

The Pensions Advisory Service (TPAS)
11 Belgrave Road
London
SW1V 1RB

If you have received a Stage Two decision and are not satisfied with that decision, and still think your complaint is well-founded, TPAS may be able to help to resolve your pensions appeal, complaint or dispute. Before asking for TPAS' help you must have already tried to settle it using the LGPS appeal procedure described above.

A TPAS adviser cannot force a pension scheme to take a particular step but, if they think your complaint is justified, they will try to resolve the problem through conciliation and mediation. TPAS would need copies of all relevant documents, including the correspondence about your appeal and how it was dealt with.

The Pensions Ombudsman Service

The Pensions Ombudsman Service investigates complaints and settles disputes about pension schemes. However, before contacting the Ombudsman, the Pensions Ombudsman Service would normally expect you to have:

- been given a Stage One and Two decision under the above procedure; and
- asked for the help of TPAS.

The Pensions Ombudsman Service is completely independent and acts as an impartial adjudicator. The Ombudsman role and powers have been decided by Parliament. There is no charge for using the Pensions Ombudsman Services.

The Ombudsman cannot investigate matters where legal proceedings have already started but, subject to that, the Ombudsman can settle disputes about matters of fact or law as they affect occupational pension schemes.

The Ombudsman can also investigate and decide any appeal, complaint or dispute about the maladministration of a pension scheme. 'Maladministration' is about the way that a decision is taken, rather than about the merits of the decision. Examples of maladministration would be unreasonable delay, neglect, giving wrong information and discrimination.

The Ombudsman's decision is final and binding on all the parties, subject to any appeal made to the High Court on a point of law.

To get information or guidance, you can look at the website: www.pensions-ombudsman.org.uk. You can contact by telephone: 020 7630 2200 Monday to Friday (excluding public holidays) 9:00am to 5:00pm or email: enquiries@pensions-ombudsman.org.uk

The Ombudsman is at the same address as TPAS:

The Pensions Ombudsman Service
11 Belgrave Road
London
SW1V 1RB

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