

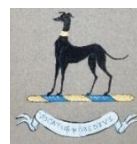
# DERBYSHIRE LA

## MANAGEMENT OF SICKNESS ABSENCE

Procedures and Guidance



**The Village Federation  
of Carsington & Hopton and  
Kirk Ireton Primary Schools**



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# 1. Preface

Before adoption of these procedures Governing Bodies need to consider the Staffing Regulations 2003 (<http://www.opsi.gov.uk/si/si2003/20031963.htm>), which provide for initial dismissal decisions normally to be made by Headteachers. In rare cases the application of the Absence Control Procedures can result in the consideration of an employee's dismissal, therefore it needs to be determined at what level such decisions will be made. Having consulted the regulations and made a decision as a Governing Body on the level of delegation to be given to the Headteacher on questions of recruitment and dismissal, this needs to be minuted.

The dismissal procedure in Section 5 provides for the delegation of initial decisions to the Headteacher or for this to be retained by Governors. In many schools it will be the Headteacher who conducts the absence control procedures with staff, particularly for smaller schools, in which case the Governing Body will find it more appropriate not to delegate the decision to dismiss.

## 2. Short-Term Intermittent Sickness / Absence Procedure

### Introduction

This policy and procedures associated apply to all staff at the school employed through the Governing Body. The aim of this procedure is to provide the Authority/School with a fair and consistent means of dealing with employees identified, as having a sickness or absence problem through appropriate three monthly monitoring reports. At all times appropriate Managers will need to ensure that all matters referred to in this procedure are handled sensitively and held confidential.

The Authority/School is fully committed to the health and welfare of all employees and it is not the intention of this procedure to deter those who are genuinely sick from taking appropriate sick leave. Management has a responsibility for the health and welfare of their employees while at work. After any absence on approach from the manager, to ascertain recovery and explore any follow-up action, presents an informal opportunity to exercise interest in the welfare of employees.

Three monthly monitoring reports will identify those employees with a level of absence which needs to be addressed.

## Formula for Determining Absence Level Points Score

N = Number of days absent

T = The number of separate incidences of absence (times)

The suggested trigger for initiating Absence Control Procedure is 35 points.

A score is reached by  $N \times T =$  in a 12 month rolling period

E.g .

<p>1. Absences of 4 days, 2 days, 1 day          Number of days = 7 number of incidences 3  <math>7 \times 3 = 21</math></p>	<p>Therefore no absence monitoring interview unless there are other contextual reasons</p>
<p>2. Absences of 4 days, 4 days, 4 days, 4 days          Number of days = 16 number of incidences 4  <math>16 \times 4 = 64</math></p>	<p>Absence monitoring interview triggered</p>
<p>3. Absences of 1 day, 1 day, 1 day, 1 day, 1 day, 1 day          Number of days = 6 number of incidences 6  <math>6 \times 6 = 36</math></p>	<p>Absence monitoring interview triggered</p>
<p>4. Absences of 1 day, 2 days, 7 days          Number of days = 10 number of incidences 3  <math>10 \times 3 = 30</math></p>	<p>No interview triggered, unless there are contextual reasons for meeting</p>

It is not intended that a points total of less than 35 should be taken as indicating that an employee's level of absence is wholly satisfactory. The score of 35 is intended to be used as a guide and attaining a lower score may still mean there is room for further reduction of absence, depending on the causes and context.

These absences will not normally include absences granted through the Leave of Absence Policy, but managers should be aware of the impact of a combination of both categories of absence. It is important that absences are correctly coded to ensure absences are dealt with appropriately.

Those employees identified by the three monthly report will be interviewed by the appropriate Manager. Employees will have the opportunity for a trade union representative, friend or colleague to be in attendance at all interviews.

The purpose of the interview may include and will be limited to:-

- (a) discussing the individual's absence record;
- (b) clarifying the reason for the periods of absence, and ascertaining whether or not there are related reasons e.g. domestic problems, demands of the post, etc. The following courses of action may be considered:-
  - (i) inform the employee that no further measures will be implemented as the manager is satisfied with the explanation of the necessary for the absence;
  - (ii) inform the employee that his/her absence may be monitored for the next three months;
  - (iii) requiring, for a period of three months, the production of a NHS medical certificate from the first day of each period of sickness absence. (Costs incurred will be reimbursed in full by the school).
  - (iv) dependent upon the circumstances consideration should also be given to referring the employee to the County Council's Occupational Health Physician or Welfare Service.

If there has been no significant improvement following the three monthly review, as soon as practically possible, a further counselling interview should be arranged. Detailed guidance on the conduct counselling interview is provided on page 32, in the Advice and Guidance Section.

Where relevant the purpose of this further interview will be to:

- (1) discuss with the employee his/her absence record;
- (2) ascertain what steps the employee has taken to improve his/her attendance;
- (3) consider current available medical and welfare information. If the employee's absence record suggests that a report from the Occupational Health Physician or Welfare Officer is warranted, suspend the interview and refer the employee. Where an employee refuses to undergo further medical examination he/she should be advised that a decision may be taken on the information already available;
- (4) reinforce the expectation regarding attendance at work and the operational effects of the absence.
- (5) At this stage management is required to make a decision on the basis of the above:-
  - (a) whether there is a genuine ill-health reason for the absences or whether this constitutes incapability at this stage (including whether adjustments under Disability Discrimination Act (DDA) should be made); or
  - (b) whether the possibility of redeployment (**in school**) should be considered
  - (c) whether the absences are not genuine and disciplinary action may be appropriate;

- (d) if none of the above are clear, consideration should be given to a further review period.

After the second review period the employee will transfer to Step 3 of the procedure for dealing with Long-term Absence, and

In dealing with matters referred to in this procedure, appropriate Managers should refer as necessary to the Advice, Guidance and Information for Managers/Governors section of this document. If there are any queries about the application of this procedure please contact the Children and Younger Adults Department HR Service.

## **4. LONG-TERM ABSENCE WITH SICKNESS**

### **Introduction and Considerations**

Employees are sometimes off work for significant periods of time due to ill health. The procedures outlined in the Absence Control Management Guidelines and this Appendix are intended to enable a school to address these situations in a supportive way while recognising they cannot be prolonged indefinitely. Following a period of support and review the Governors may feel they wish to consider dismissing an employee on the grounds of ill-health capability. There may be a number of reasons for this, including the need to attract a permanent replacement and minimise ongoing disruption to classes. While there are no specific rules about the length of time that should elapse before Governors consider dismissal on the grounds of ill-health capability, the key consideration is whether, in the circumstances, the Governors could reasonably be expected to wait any longer. Governors should note they do not have to wait until any sick pay entitlement has been exhausted, to consider dismissal. It must also be emphasised that dismissal is not obligatory once any sick pay entitlement has been exhausted. In any case the Absence Control Management Guidelines indicate that dismissal on grounds of ill-health, following a long-term absence would only take place before the expiry of sick pay where there is a clear diagnosis that sufficient improvement for a sustained return to work will not occur within the foreseeable future. Paid sickness leave is intended to provide for a period of recovery.

Governors need to be aware that when dealing with possible problems relating to absence due to the ill-health of an employee they must have regard to their obligations under the Disability and Discrimination Act of 1995 and 2005. The Acts place a duty on LAs and Governing Bodies not to discriminate against current employees on grounds of disability. To enable a disabled person to do their job, Governing Bodies may have to make reasonable adjustments to employment arrangements on their premises. The definition of disability under the Acts includes people with progressive conditions such as cancer, multiple sclerosis and HIV infection. All of these could lead to long-term absence on the part of staff. Governing Bodies may have to make reasonable adjustments to their employment arrangements or premises if substantial disadvantage to a disabled person exists. Governors can seek advice from the CAYA HR Service. Guidance on managing disability in schools and promoting disability equality is available on teachernet. (<http://www.teachernet.gov.uk/wholeschool/disability/disabilityandthedda/>).

Dismissal on any grounds will have a significant effect on the individual concerned, not least of which is potential future employment in a similar capacity. It is therefore important that all options are explored and governors give serious consideration as to the appropriateness and consequences of their actions relating to long-term sickness. Advice should be sought from the Strategic Director for Children and Younger Adults, or representative, in all cases. Governors should be aware that individual employees may take their cases to Employment Tribunal and where the advice of the Strategic Director Children and Younger Adults has not been sought or followed, the Authority may not be able to support a Governing Body. In such circumstances, any costs agreed by the Tribunal may fall to the individual school.

All employees may wish to be represented by a Trade Union or Professional Association representative, or friend, at any or all stages of the procedure. Employees should be advised to contact their representative and be made aware of their right of representation, should dismissal be a consideration.

There are a number of factors Governors must take into account when considering whether dismissal on grounds of ill-health capability is appropriate. These include:-

- a) The nature, length and effect of the illness or disability.
- b) The employee's past and likely future length of service with the organisation.
- c) The importance of the job and the feasibility of employing a temporary replacement.
- d) The effect continued absence or illness is having or might have on pupils' education and attainment and the effect on other employees.
- e) The general effect on the organisation.
- f) Whether sick pay is being provided, although it would be unfair to dismiss only because the sick pay entitlement has expired.

Governors must also ensure that there has been:-

- i) A fair review by the employer of the employee's attendance record, prognosis and potential return to duties.
- ii) An opportunity for the employee to make representations.
- iii) Appropriate warnings of potential outcomes, including dismissal on grounds of ill-health capability, if there have been no significant changes in circumstances or the situation.

Governors should be aware that ACAS recommends that employers give careful consideration to the following factors, especially as they may have to satisfy an employment tribunal as to the fairness of their decision:-

1. The extent to which the school has been disrupted organisationally, educationally and financially by the long-term absence. Whether there is an immediate crisis or whether the school could continue for some time without a replacement, with temporary staff or some re-organisation,

2. The opinion of the employee's general practitioner and the Authority's Occupational Health Physician, as to if and when a return to work may be possible or probable and whether a full recovery is likely, or a return to the same work is inadvisable or impracticable.
3. Whether or not the employee could return if some assistance were provided.
4. Whether re-organisation or redefinition of duties would achieve an earlier return to work.
5. Whether alternative, reduced duties or less stressful work is available, with re-training if necessary.
6. Could rearrangement of duties within the staffing establishment produce a more suitable job?
7. The length of time the member of staff has been employed by the Authority?
8. Is early retirement, perhaps with an enhanced pension or an ex-gratia payment available and been considered by the Governors and employee? In the case of teachers, whether an application has been submitted and decided by the Teachers' Pension Agency.
9. Have all possibilities been discussed with the employee and his or her representative?

Ofsted Inspections occasionally identify a school as requiring Special Measures or serve them with a Notice to Improve. Also, the Local Authority may have concerns about a school. In these circumstances particular regard will be given to the impact absences have on the Governors' and Local Authority's strategy for improving standards at the school. If the continued absence of an employee is potentially impairing the ability of the Governing Body and the Local Authority to remove the school from the Causing Concern category, the priority given to any effect on pupils' education and on other employers, over other factors, is likely to be increased.

It is important that appropriate documentation is kept at all stages of the procedure, particularly the agreed outcomes of all meetings. The agreed outcomes of all review meetings will be communicated, in writing, to the employee as soon as practicable after the review meeting.

## **Long-term Sickness Absence and Persistent Short-term Intermittent Sickness Absence**

It is implicit within these procedures that the Governing Body will, in consultation and cooperation with the LA, do all it can to support any member of staff who is absent due to ill health.

### **Persistent Intermittent Sickness Absence**

Where the process for addressing short-term intermittent absences has been applied to a member of staff for two review periods there will be a transfer to Step 3 of the procedure, which is also utilised for addressing long-term absence.



This will follow consideration of the appropriateness of the other options detailed in the procedure for addressing short-term intermittent absences and determining that they are inappropriate or have not resulted in sufficient improvement in attendance. (As detailed starting on P35 Advice, Guidance and Information Section).

The minimum period between the step meetings will be 2 months, instead of the one month for long-term absence, and the priority of each meeting will be to identify and initiate practical steps to support the employee’s sustained attendance and to set expectations for improvement.

If, therefore, the relevant level of improvement in attendance is not met, and this is not the result of particular extenuating circumstances, then the procedure will move to the next step.

### Long-term Absence Procedure

Also the Governing Body will take, as far as is practicable, reasonable measures to assist a return to work at the earliest opportunity. In this respect progress from one step to the next is not seen as automatic. The first priority of each step is to agree an expected date for return and an appropriate work schedule. The Governing Body will, however, also be mindful of its responsibilities and obligations to pupils and other staff as well as its duty to ensure the effective and efficient management of the school. If, therefore, an expected date for return and appropriate work schedule is not agreed the procedure will move to the next step.

<b>STEP 1</b> (Refer to Absence Control Guidelines)	<b>Absence of 1 month identified:</b> <ul style="list-style-type: none"> <li>• Informal contact with employee.</li> <li>• Assessment of situation.</li> <li>• If work related issues may be contributing to absence early meeting to discuss may be appropriate.</li> <li>• If employee may be suffering from stress or mental health condition early referral to Employee Welfare Service should be considered.</li> </ul>	<b>→</b>	Agree expected date for return and appropriate work schedule.  No further action unless circumstances change.
	If an expected date of return is not agreed or met:  Agree further assessment in one month.		



**First Review Period**



<b>STEP 2</b> (Refer to Absence Control Guidelines)	<b>Absence of 2 months:</b> <ul style="list-style-type: none"> <li>• Informal contact with employee.</li> <li>• Assessment of situation.</li> </ul>	→ Agree expected date for return and appropriate work schedule.  No further action unless circumstances change.
	If an expected date of return is not agreed or met: <ul style="list-style-type: none"> <li>• Agree further assessment in one month.</li> <li>• Other agreed action <u>may</u> include:             <ul style="list-style-type: none"> <li>i) Referral to Employee Welfare Service.</li> <li>ii) Possible referral for In-Service Medical Examination.</li> </ul> </li> </ul>	



**Second Review Period**



**Any transfer from short-term intermittent absence will take place at this step.**

<p><b>STEP 3</b> (Refer to Absence Control Guidelines)</p>	<p>Continued absence of at least 3 months, <b>OR</b> transfer from short-term intermittent absence procedure:</p> <ul style="list-style-type: none"> <li>• First formal meeting of the Headteacher or relevant SLT member with the employee and/or their representative, to discuss contents of medical and/or other reports. A representative of the Governing Body and/or the LA may also be invited.</li> <li>• Assessment of situation.</li> </ul>	<p>➔ Agree expected date for return and appropriate work schedule.</p> <p>No further action unless circumstances change.</p>
	<p>&gt; If an expected date of return is not agreed or met (for those with continuous absence), <b>OR</b></p> <p>&gt; where pattern of persistent intermittent absence has not sufficiently improved:</p> <ul style="list-style-type: none"> <li>• Agree further assessment in at least one month or other appropriate time (2 months for intermittent absence).</li> <li>• Other agreed action <u>may</u> include: <ul style="list-style-type: none"> <li>i) Agree appropriate programme of support for timetabled improvement and anticipated return to work, or for sustaining of attendance, set target level of attendance to be achieved.</li> <li>ii) If appropriate, suspend from duties pending full medical clearance.</li> <li>iii) Arrange a further employee welfare service contact/visit and/or medical reports (Occupational Health Physician and General Practitioner).</li> <li>iv) Consideration of ill health retirement.</li> </ul> </li> </ul> <p>Letter warning that failure to attain/maintain the required level of attendance may lead to consideration by the Headteacher/Governing Body of whether the employee's continued employment at the school can be sustained.</p>	



**Third Review Period**



<b>STEP 4</b>	Continued Absence at least one month since step 3 meeting, <b>OR</b> <u>for persistent intermittent absence, minimum 2 months since Step 3 meeting.</u>	➔	Agreed expected date for return and appropriate work schedule.  No further action unless circumstances change.
	<ul style="list-style-type: none"> <li>• Second formal meeting of the Headteacher or relevant SLT member with employee, and/or their representative, and a representative of the LA. A representative of the Governing Body may also be invited.</li> <li>• Assessment of situation.</li> </ul>		
	<p>&gt; If an expected date of return is not agreed or met (for long-term continuous absence)</p> <p><b>OR</b></p> <p>&gt; where pattern of intermittent absence has not sufficiently improved:</p> <ul style="list-style-type: none"> <li>• Agree further assessment in at least one month (2 months for intermittent absences) or</li> <li>• Other agreed action may include: <ul style="list-style-type: none"> <li>i) Agree appropriate programme of support for timetabled improvement and anticipated return to work, or, for sustaining of attendance, set target level of attendance to be achieved.</li> <li>ii) If appropriate, suspend from duties pending full medical clearance.</li> <li>iii) Arrange a further employee welfare service contact/visit and/or medical reports (Occupational Health Physician and General Practitioner)</li> <li>iv) Consideration of ill health retirement.</li> <li>v) Issue formal warning letter.</li> </ul> </li> </ul>		



**Fourth Review Period**



<b>STEP 5</b>	<p>Continued absence of at least one month since step 4 meeting,  <b>OR</b>  <u>where a pattern of persistent intermittent absence has not sufficiently improved, a minimum of 2 months since Step 4 meeting.</u></p> <ul style="list-style-type: none"> <li>• Further formal meeting* of the Headteacher or relevant SLT member with employee, and/or their representative, and a representative of the LA. A representative of the Governing Body may also be invited.</li> <li>• Assessment of situation.</li> </ul>	<p>➔ Agree expected date for return and appropriate work schedule</p> <p>No further action unless circumstances change.</p>
	<p>&gt; If an expected date of return is not agreed or met (for long-term continuous absence)  <b>OR</b>  &gt; where pattern of intermittent absence has not significantly improved:</p> <ul style="list-style-type: none"> <li>• Agree further assessment in at least one month (2 months for intermittent absences) or other appropriate time.</li> <li>• Other agreed action <u>may</u> include: <ul style="list-style-type: none"> <li>i) Agree appropriate programme of support for timetabled improvement and anticipated return to work or for sustaining of attendance, set target level of attendance to be achieved.</li> <li>ii) If appropriate, suspend from duties pending full medical clearance.</li> <li>iii) Arrange a further employee welfare service contact/visit and/or medical reports (Occupational Health Physician and General Practitioner).</li> <li>iv) Consideration of ill health retirement.</li> <li>v) Issue formal warning letter.</li> </ul> </li> </ul>	

	<p>*If a formal warning was issued at the previous review this <u>may be</u> a final formal meeting of the Headteacher with the employee, their representative, and representative of the LA. A representative of the Governing Body may also be invited. In these circumstances if the absence continues, or an acceptable level of attendance is not maintained (intermittent absence cases), a further assessment period may not be set and the employee may be issued with a further (final) warning letter.</p> <p>They may be informed that the situation may be referred</p> <ul style="list-style-type: none"><li>a) to the Headteacher, where an SLT member has conducted the procedure to date.</li><li>b) To the Governing Body, where the Headteacher has conducted the procedure.</li></ul>	
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**Fifth Review Period**



<b>STEP 6</b>	<p>a) Where a member of the Senior Leadership team, other than the Headteacher, has been conducting the procedure to this point the SLT member will arrange a minuted meeting with the Headteacher and formally ask for a decision on the options (i) or (ii) below.</p> <p>b) Where the Headteacher has conducted the application of the procedure so far he/she will consult with the Governing Body to determine option (i) or (ii).</p> <p>Please see page 20 for advice on the conduct of the consultation</p> <p>a) by the SLT member with the Headteacher, or</p> <p>b) by the Headteacher with the Governing Body.</p> <p>The options to consider are:</p> <p>i) Further Review period. (Repeat Step 5).</p> <p>ii) Potential dismissal on grounds of Ill Health Capability.</p> <p>Advice should be sought from the Strategic Director, Children and Younger Adults Department or representative as to the appropriate course of action in the circumstances in all cases.</p>		
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**If the employee is an accredited TU Representative it is necessary to discuss/inform the full-time district or area official before action is taken.**

## 5. Dismissal Procedures

Where the case is referred for consideration of potential dismissal an agreed dismissal, procedure will be followed and will include:

### 1. Delegation of the responsibility for hearing the case to:-

- (a) the Headteacher to make the initial decision, if the procedure so far has been conducted by another SLT member. It is advised that even where the Governing Body has decided the Headteacher will make this decision at least one Governor is included in the process, if dismissal is a likely outcome, as allowed by the Staffing Regulations 2003  
<http://www.uk-legislation.hmsso.gov.uk/si/si2003/20031963.htm>.
- (b) a Governors' Committee, where the Headteacher has conducted the procedure to this point. The Committee should not include any governor who has been involved in any previous stage of the procedure.

At least ten working days' notice will be given for the hearing and documentary evidence will be provided at that time, or at least five working days before the hearing.

The Headteacher/SLT member or nominated representative will present the case.

The employee and their representative will have the opportunity to ask questions. The Headteacher/Committee will have the opportunity to ask questions.

The employee and/or representative will present their response.

The SLT member/Headteacher or nominated representative will have the opportunity to ask questions. The Headteacher/Committee will have the opportunity to ask questions.

The SLT member/Headteacher or nominated representative will sum up.

The employee and/or representative will sum up.

The person presenting the case, the employee and representative will withdraw.

The Headteacher/Committee will consider all the evidence and decide the outcome. The options will be:

- i) A further review period with any appropriate warning (repeat stage 5)
- ii) Dismissal.

The outcome of the hearing and their right of appeal will be communicated to the employee within twenty four hours.

## **2. The Right of Appeal to remaining Governors.**

The appeal will be heard by governors who were not members of the Governors' Committee and who have not been involved in any previous stages of the procedure. At least five working days' notice, or by mutual agreement, will be given for the appeal and all documentary evidence will be provided at that time. The employee must lodge an appeal within ten working days of receiving written notice of the outcome of the initial hearing and detail the grounds of the appeal.

The Governors will consider all the evidence and decide the outcome of the appeal. The options will be:

- i) To uphold the appeal and advise on a further review period with any appropriate warning.
- ii) Not to uphold the appeal and uphold the decision to dismiss the employee.

The decision of the appeal to governors will be final and communicated in writing to the employee within twenty-four hours.

If the decision is not to uphold the appeal, and agreed that the employee be dismissed, the governors will inform the LA within twenty-four hours.



**3. An appropriate notice period.**

The LA will dismiss the employee on the grounds of Ill-Health Capability, with an appropriate notice period, within 14 days.

**The advice of the Strategic Director Children and Younger Adults or representative will be provided at all stages of the dismissal procedure.**

## **Guidance for Headteacher on Consultation with the Governing Body and the Dismissal Procedure**

In supporting the Headteacher the HR Officer will provide:

- All standard letters required
- Draft timetable included on page 23
- Documentary evidence – advice on Statement of Case plus notes of the formal meetings, medical reports and timeline of events
- Support to the Headteacher in presenting the case.

In addition another member of CAYA HR team will be present to represent the Strategic Director, at both the hearing and appeal, to advise the Headteacher/Governors.

**All hearings held as part of this process should be minuted.** Governors need to make arrangements for a suitable person to be available to clerk these hearings.

### **Consultation with the Governing Body**

- a) The consultation with the Headteacher by the SLT member must be at a formal minuted meeting.
- b) The consultation with Governors needs to take place at a full meeting of the Governing Body.

The Headteacher/Governing Body should be informed by the SLT member/Headteacher of no more information than:

- An employee (the person should normally remain anonymous) has been absent since DATE due to illness.
- Step 5 of the Procedure for Dealing with Long-term Sickness and Ill-Health Capability has been reached without a date for a return to work being identified and appropriate warnings have been issued.
- The employee has received support from the Welfare Service as outlined in the procedure and reports from the Occupational Health Department obtained.

The options for the Headteacher/Governing Body to consider are:

- Refer back for a further review period. Repeat Step 5.
- Referral for consideration of potential dismissal on grounds of Ill-health Capability.

The SLT member/Headteacher should clarify that in referring the case to the Governing Body for a decision, their view is that there is no indication resolution to the absence will be reached in the predictable future and the impact of the absences on the functions of the organisation is of significant detriment.

If the decision taken is potential dismissal, either :-

- a) the SLT member will prepare the case to be determined initially by the Headteacher or
- b) the Headteacher will present the case and the responsibility will be delegated to a Governors' Committee. The Committee should not include any governor involved in a previous stage of the procedure (other than attendance at the full Governors' Meeting).

Please ensure that nominated Governors are available for the Hearing, as specified on the timetable.

### **Ill-Health Capability/Dismissal Hearing – Headteacher or Governors' Committee**

Where this is heard by a Governors' Committee, the Chair of this meeting will also need to be available for the potential Appeal Hearing (date on timetable).

The letter (model available) to the employee informing them of the meeting should:

- Give 10 clear working days' notice of the meeting.
- Have a copy of the draft timetable enclosed
- Have the documentary evidence enclosed (alternatively this can be forwarded separately, but no later than 5 working days before the meeting)
- Be signed by the SLT member/Headteacher

The Headteacher/Governors on the first Committee should be sent:

- The Procedure Dealing with Long-term Sickness and Ill Health Capability
- Documentary evidence and Statement of Case
- A copy of the letter to the employee.

Please note that if the decision is taken to dismiss, the Chair of the Governors' Committee will need to be available to sign the appropriate letter the day following the hearing.

### **Appeal Hearing**

In the event of the employee appealing against the initial decision, no Governor hearing the appeal should have been involved in a previous stage of the process (other than attending the full Governors' meeting).

All remaining available Governors (excluding those involved in the formal meetings or original hearing) should hear the appeal. (A decision may be taken that staff governors will not be included, if the Governing Body determine this is appropriate). There should be at least the same number as for the first Committee and preferably more.

The Headteacher/Chair of the first Committee also needs to attend the hearing in order to respond to any relevant questions.

Governors hearing the appeal should be sent:

- The procedure for dealing with Long-term Absence.
- Documentary evidence
- A copy of the letter to the employee
- Employee's statement of case (if available and with the employee's agreement).
- Minutes of the First Hearing.

The Chair of the Appeal Committee will need to be available the day following the appeal hearing to sign the appropriate letter.

The order of business in the appeal hearing may begin with the appellant stating their case, rather than the Headteacher, depending on the grounds of the appeal.

**Draft**

**Employee's Name**

**School**

**Capability Timetable (Appendix \_\_\_)**

	<b>Date</b>	<b>Action</b>
1	Notification of Hearing	Headteacher
2	Capability Hearing	Headteacher or 1 <sup>st</sup> Committee – this may be the Personnel Sub-Committee
3	Outcome of Meeting Notified	Chair of 1 <sup>st</sup> Headteacher Sub-Committee
	<i>If required</i>	
6	Appeal Lodged	Employee/Representative
7	Appeal Hearing	Committee of Governors
8	Outcome of Appeal Notified	Chair of Governors
	<i>If required</i>	
9	Notice issued	LA
10	Dismissal	

# ADVICE, GUIDANCE AND INFORMATION FOR MANAGERS/GOVERNORS

## 1. Introduction

The Authority, in consultation with the recognised Teaching and support staff Trade Unions, has agreed a number of measures that together constitute a comprehensive approach to controlling and reducing absence levels.

These general guidelines supplement advice in the Personnel Handbook and aim to provide practical support, advice and guidance to designated Managers, Supervisors and Governors within schools in implementing the Absence Control measures. In addition they seek to raise designated Managers'/Supervisors' awareness of issues relating to employee absence, in order that they will feel more confident in dealing with what is a very complex issue, sensitively, consistently, fairly and in a confidential manner. Further detailed advice and guidance is available from the HR Service, Children and Younger Adults (CAYA) Department.

Also included is some suggested standard documentation which may be used in conjunction with the procedures contained within this document.

## 2. Scope

These guidelines and the procedures can be applied to both teaching and support staff who are employed by the Governing Body. *DSO Catering and Cleaning* employees will be monitored by their Area Managers.

## 3. How Much Does Absence Cost?

Statistics compiled in 2009 showed that around 5¼ working days were lost per year for each Derbyshire County Council school employee. These figures include days lost through sickness, accident or industrial injury related absence. This rate compared favourably with all but one department within Derbyshire County Council and very favourably with the average level of sickness absence in the public sector in 2008/09 of 9.7 days per employee. Although comparisons between survey findings should be treated with caution, as the ways in which absence levels are expressed can vary, these statistics show that sickness absence remains a national problem and that the approaches and procedures adopted by schools in the county have been effective in sustaining a lower rate of sickness absence than these comparators. Nevertheless, managers will be aware of the impact of absence on the school community and are recommended to apply the Management of Absence procedures to address each situation as effectively as possible, for the benefit of the individual and the school.

The potential 'costs' of absence can be listed as follows:-

- a) Disruption to pupils' education – potential fall in standards.
- b) Costs of replacement/temporary staff.
- c) Reduced range or standard of service/job performance, as absent employee's work is covered by others.

- d) Increased premiums and reduced 'pay out' from any sickness absence insurance scheme.
- e) Low morale and increased demand on other staff to maintain the quality of provision and support temporary staff.
- f) Difficulty retaining staff.
- g) Deterioration in reputation of the school with parents, pupils.

#### **4. The Comprehensive Approach**

The following measures can assist in the monitoring of absences:-

- a) A Leave of Absence Procedure for teaching and support staff is included in the Authority's 'Leave of Absence' document in the Personnel Handbook [http://www.dnfl.org.uk/for\\_index/schools/organisation\\_and\\_management/staffman/personnel\\_handbook/personnel\\_handbook.asp](http://www.dnfl.org.uk/for_index/schools/organisation_and_management/staffman/personnel_handbook/personnel_handbook.asp).

It must be recognised that while procedures are important, in themselves they are not sufficient to control absence levels, accordingly a number of complementary measures are also recommended.

- b) The responsibility for the managing of absence control being devolved as far down the management structure as practical.
- c) The training and briefing of designated staff and the production of these guidelines to ensure that management apply the procedures fairly and consistently.
- d) That absence level statistics should be a regular agenda item at Management meetings.

#### **5. Trade Union Consultations**

(The recognised Trade Unions and Teacher Associations have been consulted and have contributed to the formulation).

The Trade Unions and Teacher Associations recognise that levels of absence cannot be regarded purely as a management problem because of the wide ranging effects that high absence levels have, not just on the school curriculum but also on employee morale. Accordingly, management, Trade Unions, and employees have a joint responsibility in ensuring that absent employees do not jeopardise their shared interests.

School management, in consultation with local Trade Union/Association representatives, should, if required, review the current work situation to ensure that:

- Good physical working conditions are provided.
- Health and safety standards are rigorously maintained.

- New starters receive particular attention during the induction process, so that they recognise the need for good attendance habits.
- Supervisory training is adequate, and that supervisors take an interest in staff's health and welfare.

Any member of staff subject to the procedures contained within this document has the right at any stage to consult with their Trade Union/Association representative.

## **6. Disability and Sickness Absence**

There is now a statutory framework to provide legal protection for disabled people against discrimination. The Disability Discrimination Act (DDA) ([http://www.opsi.gov.uk/acts/acts1995/Ukpga\\_19950050\\_en\\_1](http://www.opsi.gov.uk/acts/acts1995/Ukpga_19950050_en_1) and [http://www.opsi.gov.uk/Acts/acts2005/ukpga\\_20050013\\_en\\_1](http://www.opsi.gov.uk/Acts/acts2005/ukpga_20050013_en_1)) came into effect on 2 December 1996. The DDA is a major piece of employment legislation, and has significant and wide-ranging implications for employees in general, but particular in relation to sickness absence. Full details of the implications for employers are contained in the Policy Document : The Disability Discrimination Act 1995 issued as part of the Personnel Handbook in 2003. There is also guidance available on teachernet concerning the schools' duties in relation to employment.

## **7. Role of School Management**

Lowest possible levels of absence are crucial to the success of any organisation. Absence levels reflect management expertise in providing conditions which motivate employees and engender a feeling of commitment from them.

The Health and Safety at Work Act 1974 requires that employers are responsible "so far as is reasonably practicable" for the health, safety and welfare at work of all their employees. Therefore management, as well as providing a safe and practicable system of work, information and training, etc, also has a responsibility to keep abreast of the health and welfare of employees. The short-term intermittent sickness procedure and the "trigger" it contains are designed to identify those employees whose absence record requires close examination and ensures that designated Managers/Supervisors take the appropriate action.

The procedure includes the expectation that Managers/Supervisors should, on the return to work of an individual, enquire about the absence. This presents an informal opportunity to establish the cause of absence and indicate interest in the welfare of the individual employees.

In such cases the discussion should be carried out sympathetically and in private. These discussions are outside of the formal procedures contained within the short-term intermittent/sickness absence procedure. Care will need to be exercised to ensure that the interviews do provide and continue to provide a useful means to assist in the reduction of sickness absence levels. The opposite could easily become the case if the interviews are seen as an empty formality without having any real purpose, or a threat to employees, overriding the formal policy. A suggested recording form for this discussion is included in the last section of this document (page 46). The production of a short, simple record is recommended to ensure clarity about the nature of the discussion and that the perceptions of both parties, as to any conclusions, are understood.



The Governing Body and Headteachers have a particular statutory responsibility to enable staff to maintain a reasonable work/life balance and to both monitor and seek to reduce the incidence of workplace stress. The HSE has produced management standards and a range of guidance which school leaders are advised to consult <http://www.hse.gov.uk/workers/index.htm>.

## **8. Role of the Authority's Occupational Health Service (OHS) in Sickness Absence**

The Authority's Occupational Health Service (OHS) is available to schools. The OHS is able to give clear advice to management about individual cases which have been referred to it, based on factual evidence obtained from recent OHS assessment and/or the employee's GP/Consultant(s) as to whether or not there are significant medical aspects to the employee's absence problems. OHS staff will also provide advice and help to the individual, in liaison with the employee's GP/Consultant and, when necessary, advise management on how modifications to the job, and possibly the workplace, might help to resolve or control the employee's problem. If the problem is serious and intractable then advice may be given regarding consideration of redeployment or early retirement on medical grounds.

The In-Service Medical Form is included at Appendix 2 (page 53) and includes the following:

1. Employee details
2. Dates of absence during last 2 years with details
3. The reasons for the referral
4. Background information

It is the school management's responsibility to decide on appropriate action following receipt of the Occupational Health Physician's report. The Children and Younger Adults Department HR Service is available to offer advice and guidance on this issue if required.

For the Occupational Health Physician's report to be meaningful as much background information as possible should be included on the In-Service Medical Form. Your HR Officer may ask you to complete the form, if additional information is only available at school. The content of the referral will be discussed with the employee during the In-Service Medical.

Advice and support will be provided by HR staff following receipt of the Occupational Health Physician's report.

## **9. Access to Medical Reports Act 1988**

The intention of this Act is to provide employees with access to medical reports relating to themselves provided by their Doctors for employment on insurance purposes.

The Act does not apply to advice given to management by the Authority's Occupational

Health Physician relating to individual employees.

In summary, the employee's rights are as follows:

1. To give or withhold his/her consent for application to be made to a doctor, who is, or has been, responsible for their clinical care.
2. To make arrangements to see the medical report before it is supplied to the Authority, within 21 days.
3. To request the Doctor, in writing, to amend any part of the report which the employee considers to be misleading or inaccurate; or
4. If the Doctor declines to amend the report, to attach a written statement giving the employee's views on its content; or
5. The employee can withhold his/her consent to the report being supplied to the Authority.

(The Doctor also has the right to withhold any sections of the report which in his/her opinion would seriously harm the employee if he/she saw it.)

In seeking the employee's consent to request a medical report from their Doctor, employees must also be informed of the consequences of refusal, which in the context of the procedures contained in this document, means that a decision will be taken on the basis of the available medical information. This could mean that the Headteacher or Governing Body make a decision, up to and including the dismissal of an employee, on the grounds of ill health capability without medical information from the employee's doctor.

The Authority's Occupational Health Service has procedures in place for dealing with such requests. Accordingly, the Occupational Health Service in its report, will inform the Headteacher of any refusal by an employee to grant his/her consent, and that the Occupational Health Physician's recommendation is based solely upon the employee's medical examination.

## **10. The Role of the Welfare Service**

The Welfare Service is available to all school employees. The Schools' Welfare Officer can offer advice and support and counselling in the following areas:

- SSP
- Sick Pay Entitlements
- DWP (Department for Work and Pensions) Benefits for Individual and Family
- Industrial Injury
- Explain the Authority's In-Service Medical Procedures

- Discuss Phased Return to Work
- Ill-Health Retirement
- Personal Problems

## 11. Short-Term Intermittent Sickness/Absence Procedures

The aim of this procedure is to:

- identify what will be regarded as unacceptable levels of absence;
- take action that will promote the highest possible levels of attendance and maintain that level;
- identify who is responsible for taking action;
- communicate to employees, management and trade unions, the rules to be applied to employee absence.

### (a) Absence Monitoring

The successful implementation of the procedure rests on the information available to managers and supervisors. The DSAS system enables schools to produce reports in order to monitor their own levels of sickness absence.

There are two main measures used in the measuring of absence levels - lost time rate and frequency rates.

A "lost time rate" report is most useful as a means of providing a measure of the overall problem and in order to make comparison, establish targets, measure performance.

However, lost time rates are open to distortion, as a few prolonged absences can make the rate appear alarmingly high when there may be no real cause for concern.

Therefore a "frequency rate" and "number of employees rate" is also required as these are much more useful measures for absence control purposes. As statistics produced by such measures reflect the incidence of absence and show whether or not a large proportion of the total time loss is caused by a large number of separate absences or only a few, and whether a small number of employees are responsible or whether absence is spread amongst a wide group of employees.

### **Formula for Determining Absence Level Points Score**

N = Number of days absent

T = The number of separate incidences of absence (times)

The suggested trigger for initiating the Absence Control Procedure is 35 points.  
 A score is reached by  $N \times T =$  in a 12 month rolling period  
 E.g .

1. Absences of 4 days, 2 days, 1 day Number of days = 7 number of incidences 3 $7 \times 3 = 21$	Therefore no absence monitoring interview unless there are other contextual reasons
2. Absences of 4 days, 4 days, 4 days, 4 days Number of days = 16 number of Incidences 4 $16 \times 4 = 64$	Absence monitoring interview triggered
5. Absences of 1 day, 1 day, 1 day, 1 day, 1 day, 1 day Number of days = 6 number of incidences 6 $6 \times 6 = 36$	Absence monitoring interview triggered
4. Absences of 1 day, 2 days, 7 days Number of days = 10 number of incidences 3 $10 \times 3 = 30$	No interview triggered, unless there are contextual reasons for meeting

These "triggers" are included in the procedure. However, to avoid establishing undesirable "norms" of absence levels it is suggested that the "triggers" be reviewed on an annual basis with a view to reducing the general levels of absence within the school. Such variations should be agreed with the appropriate Trade Unions.

(b) Implementation of the Procedure

As the designated Manager/Supervisor of an individual who has been identified as triggering the Absence Control Procedure, the first step is to ascertain the circumstances of the individual's absence. To do this check the reason for the absences given on the self-certification forms, or Doctor's Certificates submitted by the individual, over the period or throughout their employment, if appropriate.

The purpose is looking to establish whether there are any common themes, persistent or continuing illness, or whether it is merely an unrepresentative period with no underlying cause or pattern.

In considering an employee's reasons for absence, it is necessary to be aware that in some cases the medical reason given on a self-certification form or Doctor's certificate may not indicate the underlying reason, e.g. job satisfaction. Therefore, in brief, attached at Appendix C are possible non-medical reasons for absence of employees.

**IF THE INDIVIDUAL HAS BEEN ABSENT FOR A CONTINUOUS THREE MONTH PERIOD YOU SHOULD REFER TO THE SECTION ON LONG-TERM SICKNESS.**

Once the above information is ascertained, whether or not there are grounds to warrant calling the individual to a counselling interview should be considered. In the majority of cases, where employees meet the 'trigger' within the procedure, there will be sufficient grounds for concern to make a review interview necessary. However, it is possible to have one spell of absence exceeding the 'triggers' as set out in the procedure, which is unlikely to reoccur, e.g. a broken leg, etc. A review interview in such circumstances may serve no purpose. Designated Managers should be aware that there may, on occasions, be an individual who is not prepared to discuss his/her absences with them. In such circumstances the individual's wish should be respected and alternative arrangements made, e.g. another designated Manager.

(c) Counselling Interviews

THE COUNSELLING INTERVIEW SHOULD ONLY TAKE PLACE AT WORK, THEREFORE YOU SHOULD AWAIT THE RETURN OF AN EMPLOYEE WHO IS ABSENT.

The procedure gives some indication of the issues that need to be discussed with the individual, although how you undertake the interview is also crucial. Included in (page 47) is a model letter inviting an employee to a counselling interview, plus examples of standard follow up letters. The purpose of the interview letter is to ensure that the employee takes the matter seriously, reassure them that it is not a disciplinary interview and to inform them that they have the right to be accompanied by a trade union representative, friend or colleague.

The major points to be considered when carrying out such an interview are given below. It is recommended that the contents of the interview are recorded. For that purpose attached at Appendix 2 is an employee counselling record sheet. This should be completed in full immediately following the interview. A copy should be forwarded to the individual for their information, with a second copy retained on the personal file. If possible, records should be an agreed version. If, however, agreement cannot be reached, the employee does have the right to append a note of disagreement to the counselling record sheet.

The Counselling Interview

(i) *Environment*

Arrange for the interview to take place in normal circumstances at the employee's place of work in a quiet, comfortable and, where possible, an informal room or setting. Ensure that there will be no interruptions either by colleagues or by the telephone. Arrange for the interview to take place at a time that is convenient for the employee. Set a time limit on the interview (normally not more than an hour). This will help you to keep to the issues.

(ii) *Note taking and Employee Counselling Record Sheet*

Come to an agreement with the employee as to whether notes are to be taken or not. (Taking notes during an interview can be off putting for both employee

and manager/supervisor. Try to write down key words during the interview). However, write up the counselling record sheet as soon as the interview has finished while the interview is still fresh in your mind. Employee Counselling Record Sheets (Appendix 2) are confidential and should be kept in the individual's personal file.

(iii) *Questioning*

Use open-ended questions which will encourage the employee to speak. Encourage the employee to speak freely, do not use your preconceived ideas to follow a line of questioning. Encourage the employee to give their opinions. Do not be judgemental, as this may cause the employee to withdraw and no longer want to participate in the problem solving process.

(iv) *Listening*

Be non-judgemental (i.e. avoid negative body language). Listen to the employee but be aware that there might be an underlying problem, to which reference is not made.

Repeating back - this ensures that you clarify any points that are unclear and that the employee feels confident that he/she has been understood. Paraphrasing ensures that the same points of reference are being used by both the employee and the manager/supervisor.

Do not be afraid of silence. Allow space to encourage the employee to expand on a point.

(v) *Supporting*

Encourage a trusting/confidential atmosphere, in which the employee feels that they can be open, not threatened but reassured. Try not to be directive but offer information about sources of specialist advice.

Do not give your opinion of the employee's personal problems. Advice is available from the Welfare Service on a variety of subjects, i.e. alcohol, drugs, personal problems, etc.

Encourage the employee to take ownership of the issues affecting them and identifying their own situations.

(vi) *Further Action*

Agree where possible with the employee on the next step to be taken. (See (d) below).

(d) Further Action

At both the initial review and the second review stage you are required, at the conclusion of the interview, to consider what, if any, further action is required.

If you are happy with the reasons given for the absences, no further action is

necessary. However, if there is still some cause for concern you should remind the employee that their absence will be monitored for a further period. If appropriate, indicate what the implications may be if the employee does not reach the required improvement in levels of attendance. The expectations for levels of improvement should be clearly set out. Particular consideration should be given in instances where the DDA applies. The following courses of action are available to you:

(i) *Initial Review*

The production of a first day NHS sick note for a three month period. Charges incurred by the employee are reimbursable by the school. This course of action is most applicable where there are reasonable grounds to suspect that the sickness notification or self-certification rules are being abused.

If you are concerned that there is an underlying medical/welfare problem you should refer the employee to the Welfare Service for subsequent referral, if necessary, to the Occupational Health Service for medical advice. If the employee refuses to attend an appointment with the Authority's Medical Adviser for medication examination, you can insist. If the refusal is sustained you should inform the employee that his/her refusal can be regarded as misconduct and that disciplinary action may result.

(ii) *Second Review*

In addition to the course of action in (d)(i) above, the following courses of action are also available. However, you should seek advice from the Children and Younger Adults (CAYA) Department HR Service.

(a) Referral to the Occupational Health Physician

Guidance may be sought from the Occupational Health Physician. The advice given, following medical examination of the employee, will generally be in one of the following categories:

- that the employee is presently fit and well. (A period of monitoring and support for sustaining attendance will follow.)
- that the employee has ongoing medical problems which may necessitate further absence; (in which case the monitoring process will continue.)
- provision of reasonable adjustments for employees, whose medical condition means that the Disability Discrimination Act applies, will be assessed.
- that the employee is permanently incapable of continuing in their present post, but that redeployment should be considered;
- that the employee is permanently incapable of continuing in their present post and ill-health retirement may be appropriate.

(b) Redeployment on Non-Medical Grounds

Consideration of this will be appropriate in a minority of cases where, through the Counselling Interview, the employee has identified that the reason for his/her absence relates to his/her current employment (note - see Appendix 1 - Causes of Absence page 42). Issues of conduct of the employee or colleague(s) and performance should be addressed through the appropriate procedures. It may, of course, be difficult to arrange redeployment within the school. Schools should consult with the Children and Younger Adults (CAYA) Department HR Service in such cases.

(c) Disciplinary Action

If the Manager/Supervisor is not satisfied that the reasons for absence are genuine, the appropriate disciplinary procedure should be invoked.

If the employee is an accredited trade union representative it is necessary to discuss/inform the full-time district or area official of the union concerned before any action is taken.

(d) Persistent Intermittent Absences

Where the process for addressing short-term intermittent absences has been applied for 2 review periods and where (a), (b), (c), and (e) above have either been applied, without significant and sustained improvement, or are inappropriate, then transfer to the process utilised in the Long-term Absence procedure will be implemented.

In cases where the procedure has been applied for two review periods without satisfactory improving trend established, the employee will transfer to an adaptation of the stepped absence procedure, utilised for long-term absences. This includes the option of dismissal on the grounds of ill health. Firstly, the other alternatives should be considered and discussed, where appropriate, at the counselling interview. The judgement on the relevance of alternative actions will be recorded (i.e. ill health retirement, redeployment within the school, reasonable adjustments, disciplinary action and the continuing of further monitoring periods). When each of these has been considered, and either determined as addressed or not appropriate, the process will transfer to the procedure used for long-term sickness.

In these circumstances the six step procedure will be entered at Step 3.

At each stage the arrangement of a meeting at the next step of the procedure, (rather than any review at the same step), will be dependent on the level of absence during the review period. Judgements will be made on the basis of "reasonableness" taking into consideration the target for attendance set and any relevant contextual factors.

a) If the expected level of attendance has been met the meeting should:

- review progress
- identify any relevant strategies and actions that may support sustained



improvement in attendance.

This meeting should take place as a further dialogue at the step of the procedure already reached.

- b) If a further improvement in attendance is still required the meeting should also consider whether a new 'target' for attendance should now be set in order for the employee to achieve a level of attendance within the usual expectations for the school's employees.

The measure of achieving absences with a points total of 35, or less, is a goal. In particular cases an interim target may be set for reasons relating to the individual's situation/condition.

**It is also permissible to set a target which takes account of the pattern of absence and that makes specific reference to the reduction in incidences of absence and/or the total number of days. It will also arise from consideration of any identifiable causes of the absences and what is being done to address these.** If a repeated pattern where the stepped procedure is triggered but then the attendance target is met is identified, then the person's total absences over the current and previous academic years should be considered. The target set should include sustaining the required level of attendance for a longer period.

At the review meetings it will be important to consider the particular circumstances before determining whether to move to the next step in the procedure. The reasonable and significant level of improvement in attendance, that was identified at the previous review, may not have been met owing to a type of absence that is unlikely to reoccur and does not fit the usual pattern of employee's absences (e.g. broken leg, bad case of flu).

In applying a 'target' for improvement in attendance to individual employees it is also important to treat all staff fairly balancing:

- i. The individual circumstances and any medical condition of the employee, particularly if DDA applies.
- ii. The need to be equitable to all employees and not to discriminate.
- iii. The effect of the absences on the quality of education delivered to pupils.
- iv. The impact on other staff of the absences and the overall efficient running of the organisation.

After Step 5 the headteacher will consider whether to refer the matter to the governing body. (If an SLT member has been conducting the procedure he/she will consider whether to refer the matter to the headteacher).

In cases where :

- there is a pattern of significant absence over 1 academic year or more,
- there is little or no sign of an appropriate improving trend,

- the employee has not met his/her targets for attendance, following application of the stepped procedure, not maintained a points total of less than 35 for 6 months. (Targets for individual attendance will take account of the application of DDA).
- there is little or no information, from the GP and occupational health physician, to indicate that there are reasons why attendance is likely to improve sufficiently in the future,
- the headteacher has identified contextual circumstances in the school (for instance, effects on students' education, on colleagues and/or on the school's budget/resources),

the likelihood of referral to a Governing Body Committee for consideration increases.

(e) Ill Health Retirement

Referral to the Occupational Health Physician will provide an assessment whether an application by the employee for ill health retirement is appropriate.

## 12. Long-Term Sickness

The important factors here are that the sickness is continuous and ongoing. Long-term absence through sickness, or the inability to attend work regularly and consistently because of chronic ill-health, are amongst the most difficult problems for management to tackle.

ACAS have suggested some of the issues to be considered in such cases are:-

- Just how much damage is being caused by this absence? Is there an immediate crisis; or could the organisation afford to continue for some time without a replacement, for example, with some reorganisation?
- In the view of the individual's General Practitioner, or of the Occupational Health Physician, when will a return to work be possible? Will there be a full recovery or will a return to the same work be inadvisable?
- Could the employee return if some assistance were provided? Could some reorganisation or redesign of the job speed up a return to work?
- Is alternative, lighter or less stressful work available, with retraining if necessary?
- Could reorganisation of the work group produce a more suitable job?
- How long has he/she been employed by the Authority?
- What costs are being incurred by the school as a result of this absence?

The Authority has a long established procedure for dealing with employees on long-term sickness, which is as follows:-

## **Support Staff**

Where an employee is absent from duty for a lengthy period owing to certificated ill-health or injury and regardless of sickness or injury pay entitlement, the situation should be reviewed once the position is known, at early and regular intervals. This is to ensure that any assistance required by an employee can be offered promptly and consideration given to possibilities of return to suitable alternative employment.

To this end, employees absent owing to sickness or injury shall be referred by the school for medical advice from the County Council's Medical Adviser, within a three month period from when the absence started.

## **Teachers**

A teacher who is absent for a lengthy period of certificated absence (over 2 months) should be referred to the Occupational Health Physician.

In accordance with DfES Circular 4/99 if a teacher is suffering from an illness referred to in the Circular e.g. a stress related disorder such as anxiety or depression, Governing Bodies and Headteachers have the power to suspend a teacher from duty, on full pay, but only on the advice of an appropriately qualified medical adviser. The advice of the CAYA HR Service should be sought before this course of action.

Both teachers and other members of staff may also be referred to the Welfare Officer during long periods of absence.

## **13. Self-Certification**

If an employee returns to work within seven days they are required to complete part 2 of Form ESC12 (Employee Self-Certification Statement), a copy of which they can obtain from the Governing Body or its representative. If the employee is still absent after seven days, the Governing Body or its representative will send them a copy of the form to be completed and returned to the normal administrative base. The information contained in the Employee Self-Certification Statement is confidential and should therefore be treated appropriately.

It is essential that the form is completed in full and that the nature of the illness or injury is stated, otherwise payment of sick pay may be withheld. (Comments such as "feeling poorly" should not be accepted). If the employee feels unable to divulge on the form the nature of their illness, they should speak to their designated manager who can endorse the form to the effect that he/she is satisfied with their explanation, and in these circumstances it will not be necessary to give the nature of illness or injury on the form.

After the employee has been absent for more than seven calendar days they will be required to provide a Doctor's Statement (Med. 3 form) and this should be forwarded to the appropriate Personnel/Administration officer at the school after they have filled in those parts of the Statement which may require completion.

If there are any queries on DWP benefits at any stage of absence, the employee should be encouraged to seek help from the Welfare Service.

If the employee is entitled to claim DWP benefits, they should collect a claim form. These

can be obtained from a Doctor's surgery, hospital or local DWP office. The completed form should be sent direct to the DWP office.

The employee should be reminded that if their doctor has given them a Doctor's Statement certifying that they are unfit to work, they must not return to duty whilst still covered by a Doctor's Statement.

The appropriate conditions of service contain further guidance on certification of absence, e.g. during annual holidays, etc.

#### **14. Absence Reporting Scheme**

Employees are required to notify the school of any absence caused by sickness or injury.

##### (a) Day 1

- (1) The employee should ensure that the school is notified of their absence. The information necessary to complete Part 1 of the Self-Certification Form will be required. The employee should endeavour to ensure that his/her absence is reported before the start of the working day on the first day of absence.
- (2) All employees should be aware of the name of the person to be contacted to report their absence. Ideally, this should be one person although this will not always be possible.

The practice of asking a colleague to ring the contact officer on his/her behalf should be discouraged as it can result in late notification, incomplete or distorted information and /or, at worst, a failure to report absences.

##### Day 4

If the absence continues after the third day, the employee will ensure further notification is provided as to the nature and the probable duration of the illness.

The contact officer should inform the employee of the need to produce a medical certificate if the absence continues beyond seven days.

##### (b) Return to Work

The employee will be required to complete Part 2 of the Self-Certification Form on his/her return.

##### (c) Day 8

If the employee is still absent on, or after, Day 8, he/she will require a doctor's certificate. A certificate covering the absence from Day 8 must be sent at the earliest opportunity to the employee's normal administrative base. The school will, by return, send the employee the Self-Certification Form, Part 2 of which he/she must complete and return at their earliest convenience.

#### **15. Maintaining Contact**

The manager has a responsibility to maintain contact throughout an employee's absence in order to provide a supportive framework to facilitate a successful return to work.

The employee also has a duty to keep his/her manager informed of any development whilst absent from work and should indicate, where possible, when he/she is likely to return to work.

In some circumstances it may be preferable for contact to be maintained via third parties.

## **16. Confidentiality**

Schools should review their administrative systems to ensure that personal information relating to individual employees is treated confidentially. Therefore access to medical records, including medical certificates, reports, individuals' absence records and counselling interview records will be restricted to those employees who require such access to carry out their legitimate and authorised duties necessary for effective management. Accordingly, designated managers who have access to an individual's medical and absence records have the responsibility to ensure that such information remains confidential and is only disclosed to those who have a genuine need for such information.

APPENDIX 1

## **CAUSES OF ABSENCE**

The pattern of absence within organisations, including Derbyshire County Council, is influenced not just by levels of health, but also by other factors such as management style, working conditions, traditions of behaviour and personal circumstances.

However, it must be stressed that the reasons for absence suggested below have been inferred as the most likely explanations for some statistical relationship found between particular factors and absence returns. There is unlikely to be one single cause explaining why an employee is absent from work, and even stated causes of absence may not represent the true reason. For

example, both employees and managers will recognise that some individuals will be absent from work, sometimes giving sickness as the reason, when other reasons may be the real cause.

(a) **Job Satisfaction**

The impact of the job and the employee's attitude to work has been found to be important in affecting absence levels. The job in this context refers to the type of working conditions under which it is performed and the responsibilities towards other employees inherent in the job.

An explanation often given of why absence levels are higher amongst unskilled manual workers than craft and clerical workers, with the lowest rates being amongst managerial and professional workers, is that there is a greater sense of personal involvement in the work, and of responsibility to other employees in the organisation or work group, and generally more interesting varied and challenging work.

(b) **Management Attitudes/Behaviour**

Studies have shown that the job satisfaction of employees experiencing a "democratic" management style is associated with low absence and labour turnover. Important attributes of a "Democratic Manager" are, showing an appreciation of good work, having the time and the inclination to help subordinates in their work and consulting with employees before decisions are made. Other important aspects of supervisory behaviour are for Managers to set specific standards of performance, be consistent in their action and explain to employees what their job is and how it fits in with the work of the Department and organisation. Employees who work with a difficult and unpleasant manager/supervisor will not be inclined to co-operate with him/her or to come to work unless necessary.

(c) **Financial Considerations**

Evidence concerning the effect of income level on absence rates is conflicting. Absence is less in the higher earning occupations, but within the same occupation there is evidence to support the view that the higher the earnings, the more likely that employees are to be absent - why work five days when you can earn the same amount in four days. This is particularly the case when an employee can influence his earnings through a bonus scheme or by the amount of overtime worked.

(d) **Stress**

See *Management of Stress Policy*

[http://www.dnfl.org.uk/for\\_index/schools/organisation\\_and\\_management/staffman/per\\_sonnel\\_handbook/stress.doc](http://www.dnfl.org.uk/for_index/schools/organisation_and_management/staffman/per_sonnel_handbook/stress.doc).

It is estimated that stress accounts for between 30-40 per cent of employee absence and can be caused either by situations at the workplace or at home.

Stress at work can be caused by:-

**Excess Workload** - a never ending backlog of work which can affect all levels of staff and which can lead to feelings of frustration, failure and futility.

**Tight Deadlines** - supervisors wanting work completed in unrealistically short periods of time which can only be achieved if the employee either takes work home or works excessively long hours. Although tight deadlines do motivate some employees, many employees will feel put upon and as though they are being thwarted in producing good work which leads many to feel demoralised.

**Personality clashes between colleagues and supervisors** - employees who are experiencing personality clashes may experience feelings of fear, anxiety, frustration and low morale. Personality clashes, as well as affecting the people immediately concerned, can also cause feelings of worry and unhappiness to fellow colleagues.

**Introduction of new working practices** - the introduction of new working methods brought about by the introduction of new technology, and systems. A more competitive way of working necessitated by CCT may cause staff to feel pressurised, under threat and generally anxious about the service they are providing. New technology, which is seen as an exciting addition to the office environment for some members of staff, will be viewed as a whole new area of potential failure to others.

**Poor Management** - managers who are unable to offer the correct level of guidance and direction to communicate effectively with staff cause the staff they supervise to feel poorly motivated, resentful and lacking in self-worth.

**Lack of control and/or involvement in work activities** - employees who do not feel either part of a team, or who feel overlooked when information is being distributed, or who do not feel that their views, ideas and opinions are being considered suffer from feelings of inadequacy, resentment and suspicion.

Stress at home can be caused by:-

**Financial difficulties** - caused by many different factors, all of which may result in an employee's inattentiveness at work which leads to feelings of inadequacy and failure. Feelings that they are unable to confide in colleagues puts extra pressure on work relationships.

**Marital difficulties** - this may cover divorce, separations, violence, neglect and arguments and will often involve the employee in immense feelings of failure, incompetence and anger. However, it may be that after divorce or separation some people will experience feelings of relief and feel that their life has a new purpose and meaning.

**Bereavement** - an enormously harrowing time for those concerned resulting in a fall in productivity at work leading to feelings of inadequacy and failure.

**Moving house** - employees may feel very anxious about the move causing inattentiveness and irritability which affects their own work productivity and that of their colleagues.

**Conflict between commitment to home and job** - can cause resentment towards the job and feelings of guilt towards the family resulting in inattentiveness and a feeling of unsuitability.

**Childcare difficulties** - often affect women more than men. Women often have to take time off when their childcare arrangements break down and rather than use up annual leave they may take time off sick. This causes feelings of guilt and inadequacy.

**Caring for sick and/or aged relatives** - members of staff who are unpaid carers will often have extreme anxieties and worries that will impinge on their work time. Tiredness, worry and guilt all help their work productivity to fall and for feelings of failure and inability to cope to rise.

**Drink and/or drug problems** - employees with an addiction will suffer a drop in efficiency and work output - this coupled with the added pressure of trying to keep the addiction a secret results in feelings of failure, guilt and often anger. Some addictions will cause employees to steal from colleagues at work which causes tension and a bad working environment.

**Social expectations** - peer group and family pressures on employees to succeed can lead to feelings of anger and breakdown.

**Low pay/low status** - employees in low paid and low status jobs have very little influence or power in the decision and policy making process. This leads to feelings of frustration, inadequacy and low morale.

The stress experienced by minority groups can be heightened by:-

**Stereotyping** - the view that members of a minority group have only reached positions of responsibility by tokenism may cause them to experience anger and resentment.

**Sexual harassment** - although mainly a problem for women,,sexual harassment, has been experienced by men and can lead to feelings of fear, frustration, humiliation and powerlessness.



## Model Forms and Letters Return to Work Discussion Form- Confidential

NAME:	<input type="text"/>	EMPLOYEE NO.	<input type="text"/>																		
POST:	<input type="text"/>																				
DATE OF DISCUSSION:	<input type="text"/>																				
REASON FOR RECORDED ABSENCE :	<input type="text"/>																				
ABSENCE PERIOD FROM	<input type="text"/>	TO	<input type="text"/>																		
		NO. OF DAYS	<input type="text"/>																		
ACTION/MONITORING																					
<table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <td style="width: 70%;"></td> <td style="width: 30%;">Welcome back</td> <td style="width: 10%;"></td> </tr> <tr> <td></td> <td>Ascertain full recovery</td> <td></td> </tr> <tr> <td></td> <td>Need for any adjustments</td> <td></td> </tr> <tr> <td></td> <td>General update</td> <td></td> </tr> <tr> <td></td> <td>4th day contact established</td> <td></td> </tr> <tr> <td></td> <td>Need for Employee Review Meeting</td> <td></td> </tr> </table>					Welcome back			Ascertain full recovery			Need for any adjustments			General update			4th day contact established			Need for Employee Review Meeting	
	Welcome back																				
	Ascertain full recovery																				
	Need for any adjustments																				
	General update																				
	4th day contact established																				
	Need for Employee Review Meeting																				
NAME OF PERSON CONDUCTING DISCUSSION:																					
POSITION:	<input type="text"/>	SIGNATURE:	<input type="text"/>																		
TRADE UNION REPRESENTATION		YES	<input type="text"/>																		
		NO	<input type="text"/>																		
NAME:	<input type="text"/>	UNION:	<input type="text"/>																		

Copy to: Employee

## STANDARD LETTER (Ref I)

Dear

### **Employee Counselling Interview - Re: Sickness Absence**

You will be aware that the Governing Body has agreed to operate a scheme to monitor staff absence.

According to my records, your absences over the last 12 months have been as follows:-

In accordance with the provisions of the scheme, I have arranged a counselling interview for you with \_\_\_\_\_ to be held on \_\_\_\_\_ at \_\_\_\_\_.

I would like to emphasise that this is not a disciplinary interview and has merely been arranged in order to discuss your absences further. However, you may bring a trade union representative, friend or colleague if you so wish.

The health and welfare of the workforce is a matter of concern to both myself and the Governing Body, therefore if an employee is absent from duty due to sickness, it is important that I am sure that everything is being done to help you.

If you cannot attend the appointment, please contact \_\_\_\_\_ to arrange a more convenient time.

Yours sincerely

**STANDARD LETTER (Ref II)**

(Letter calling to second and subsequent interview up to but not including formal disciplinary state)

Dear

**Employee Counselling Interview - Re: Sickness Absence**

Further to our discussion on \_\_\_\_\_, I would like to see you again on \_\_\_\_\_ at \_\_\_\_\_ in \_\_\_\_\_ office. Please let me know as early as possible if for any reason this is inconvenient.

Whilst discussion will be purely of a counselling nature, there is no objection to you involving your union representative, friend or colleague if you so wish.

Since our last discussion you have been absent from work on the following occasions:-

Yours sincerely

**STANDARD LETTER (Ref III)**

(Letter following interview when explanation given was not satisfactory)

Dear

**Employee Counselling Interview:- Re Sickness Absence**

Further to our discussion on \_\_\_\_\_, I am writing to confirm that I am concerned about your current level of absence, which has exceeded the trigger set in (or not met the interim target set in accordance with) the school's Absence Control Procedures. I am hopeful that as a result of our discussion your attendance will now improve.

If your level of absence does not improve within three months, (add detail of any target set) I will arrange to see you again. Attached for your information is a copy of a record of the counselling interview; a copy has been retained on your personal file.

If you wish to discuss this matter further, please contact

\_\_\_\_\_ Ext. \_\_\_\_\_

Yours sincerely

**STANDARD LETTER (Ref IV)**

(Letter requiring first day doctor's certification)

Dear

**Employee Counselling Interview:- Re Sickness Absence**

Further to our discussion on \_\_\_\_\_, I am writing to confirm I am still concerned with your current level of absence from work.

Accordingly, from the date of this letter, I require you to submit a Doctor's Medical Certificate for each and every day of absence for a period of three months.

If your level of sickness absence does not improve (insert any detail on target set) within the above period I will arrange to see you again.

I must warn you that a failure to provide a Doctor's Medical Certificate may result in loss of pay during the period of absence. The school will reimburse the cost of the Doctor's Medical Certificate. Please present a receipt to my Administration Officer.

Yours sincerely

**STANDARD LETTER (Ref V)**

(Letter confirming improvement to acceptance standard)

Dear

**Employee Counselling Interview:- Re Sickness Absence**

Further to our discussion on \_\_\_\_\_, I confirm that your attendance has shown a marked improvement. In accordance with the agreed procedure your absence will continue to be monitored in the normal way.

Yours sincerely

**STANDARD LETTER (Ref VI)**

(Letter confirming referral to Welfare Service following a counselling interview)

Dear

**Employee Counselling Interview:- Re Sickness Absence**

Further to our meeting on \_\_\_\_\_ when we discussed the reasons for your recent level of absence.

As agreed, I have requested that the Employee Welfare Service contact you to arrange a suitable meeting. Enclosed is a copy of the Counselling Interview Record Sheet for your retention. A copy has also been forwarded to the Employee Welfare Service for their information and a copy has been retained on your personal file.

If you wish to discuss this matter or if I can be of any further assistance, please contact \_\_\_\_\_ on Ext \_\_\_\_\_.

Yours sincerely

**ABSENCE CONTROL PROCEDURE  
EMPLOYEE COUNSELLING RECORD**

**(for use where level of absence has met the trigger,  
and formal meeting has been arranged)**

NAME:

POST:

DATE OF COUNSELLING:

NAME OF COUNSELLOR:

POSITION:

RECORDED ABSENCES

COUNSELLING

(Please continue overleaf if required)

ACTION/MONITORING

SIGNED  Counsellor

SIGNED AS AGREED  Employee

TRADE UNION REPRESENTATION YES  NO

A copy of this form is to be sent to the individual for their retention.

**DERBYSHIRE LOCAL**



**AUTHORITY REQUEST FOR AN  
IN-SERVICE MEDICAL EXAMINATION  
SCHOOL EMPLOYEES  
(TEACHING AND NON-TEACHING)  
(excluding catering and cleaning DSO employees)**

Please arrange to have the employee named below medically examined and report to the Headteacher your findings as to whether s/he is fit for the duties for which employed.

Signed Headteacher \_\_\_\_\_

Signed Chair of Governors \_\_\_\_\_

Date \_\_\_\_\_

**CONFIDENTIAL**

Occupational Health Unit  
Personnel Division  
Derbyshire County Council  
County Offices  
Matlock  
Derbyshire  
DE4 3AG

**OCCUPATIONAL HEALTH REFERRAL**

**DEPARTMENTAL DETAILS**

Name of Officer to whom report has to be sent back to:  
Tel No:            Ext.

**EMPLOYEE DETAILS**

N.I. No.		Date of Birth	
Name		Occupation	
Home Address		Telephone No. Home: (contact)	
Department		Starting Date	
Place of Employment		Working Hours/Week	
		Tel No:	

**PERIODS OF ABSENCE DURING AT LAST THE LAST TWO YEARS WITH OR WITHOUT A  
MEDICAL CERTIFICATE (To be completed in ALL cases)**

DATES		Reasons and state whether Certified/Non Certified/Self Certification	DATES		Reasons and state whether Certified/Non Certified/Self Certification
FROM	TO		FROM	TO	

--	--	--	--	--	--

1 (a). Please state **in detail** the reason(s) for your referral request.

(b). Please give all relevant background information available. Also ensure that copies of the job description and job profile are attached with a copy of the relevant form if the referral may be related to an injury at work or a prescribed industrial disease.

**When was the employee informed of the reason(s) for this referral?**

**NOTE. IT IS IMPORTANT THAT ALL SECTIONS OF THE FORM ARE COMPLETED.**

NOTE: Please ensure that all sections of the form are completed. When completed this form should be returned to the CAYA Department Personnel Service.

**FORM EW1**

**DERBYSHIRE LOCAL**

# AUTHORITY REFERRAL TO THE EMPLOYEE WELFARE OFFICER - SCHOOL EMPLOYEES

Please can the employee named below be referred to the Welfare Officer in order that a home visit can be made.

Name & Address of School	<input style="width: 95%;" type="text"/>
	<input style="width: 95%;" type="text"/>
	<input style="width: 95%;" type="text"/>
Signed: Headteacher	<input style="width: 60%;" type="text"/>
Date:	<input style="width: 20%;" type="text"/>
Name of Employee:	<input style="width: 95%;" type="text"/>
Occupation:	<input style="width: 95%;" type="text"/>
	<input style="width: 95%;" type="text"/>
Date of Birth:	<input style="width: 25%;" type="text"/>
Home Address:	<input style="width: 95%;" type="text"/>
	<input style="width: 95%;" type="text"/>
	<input style="width: 95%;" type="text"/>
Home Telephone No:	<input style="width: 20%;" type="text"/>
Reason for Referral:	<input style="width: 95%;" type="text"/>
	<input style="width: 95%;" type="text"/>
	<input style="width: 95%;" type="text"/>
Has the employee been informed of referral?	<input style="width: 30%;" type="text"/>

Return this form to the CAYA Department Personnel Service.

# SICKNESS ENTITLEMENT

## 1. Teachers

- a) Subject to the provisions of this scheme a teacher absent from duty owing to his illness (which term is deemed to include injury or other disability) accordance with the following scale:

During the first year of service – full pay for 25 working days and after completing four calendar months' service, half pay for 50 working days.

During the second year of service – full pay for 50 working days and half pay for 50 working days.

During the third year of service – full pay for 75 working days and half pay for 75 working days.

During the fourth and successive years of service – full pay for 100 working days and half pay for 100 working days.

This scale is to be regarded as a minimum and the Authority may extend its application in any individual case.

- b) Extensions of the allowances in (a) above for teachers with long service (full and half pay not to exceed 200 working days in total):
- I. 10 years full-time service but less than 20 years – additional 23 working days at full pay (less deductions as in Regulation 3).
  - II. 20 years' full-time service but less than 30 years – additional 46 working days at full pay (less deductions as in Regulation 3).
  - III. 30 years' full-time service and over – additional 69 working days at full pay (less deductions as in Regulation 3).

## 2. Support Staff

Your entitlement to sickness leave with pay is calculated as follows:

During first year of service 1 months' full pay and (after 4 months' service) 2 months' half pay.

During second year of service 2 months' full pay and 2 months' half pay.

During third year of service 4 months' full pay and 4 months' half pay.

During fourth and fifth year's' service 5 months' full pay and 5 month's half pay.

After 5 years' service 6 months' full pay and 6 months half pay.

Calculations of Continuity of Service for purposes of sick pay entitlement

If there is less than a 6 week break from a previous employment with Derbyshire County Council this shall be counted as continuous service. The payment of sick pay to those below the minimum earnings level for National Insurance Contributions will be made where applicable.

## Guidelines on Phased Returns to Work

### Reasonable Adjustments/Full Duties

An employer has a duty to make reasonable adjustments to the workplace or to working conditions for employees who are covered by the Disability Discrimination Act. See the Personnel Handbook on Derbyshire extranet for full details of the provisions of the Act.

However an employer may also make temporary adjustments to the workplace or working conditions for employees who are not covered by the Act, but who require some modifications to be made on a temporary basis in order to enable them to return to work. These may include the provision of specialist equipment, a temporary reduction in additional responsibilities or a temporary transfer to a more convenient working location. Occupational Health Service staff are able to carry out workplace assessments and provide appropriate advice to schools.

In recent years Occupational Health professionals have also identified that, in some circumstances, phased returns to work are a useful way of assisting employees to return to work. A phased return can help employees adjust to a working routine, whilst at the same time ensuring that they are, in fact, fit enough to return. Pursuing this option often enables employees to return to work earlier than if they had been allowed to return only when they were capable of performing the full duties of the post. However, cases should be considered on an individual basis and discussion and agreement should take place with the employee, before a phased return is implemented. The following are recommended guidelines:-

- A phased return should be on the recommendation of Occupational Health practitioners.
- The GP or Consultant must provide a medical certificate which states that the employee "is fit to return on a phased basis over .... weeks."
- Phased returns are, in most cases, for a relatively short period - usually 4 weeks but may, in some circumstances, be extended to more than 4 weeks.
- The working pattern should be agreed by the headteacher acting with the approval of the governing body of the school, the employee and usually a personnel officer, prior to implementation.

- Common work pattern:-
  - 1<sup>st</sup> week - 2 days working
  - 2<sup>nd</sup>/3<sup>rd</sup> weeks - 3 days working
  - 4<sup>th</sup> week - 4 days working

Equivalent part days may also be considered and in secondary schools a different working pattern linked to year groups, may be preferable.

- Employees receive full pay for time/days worked and occupational sick pay for non-working time/days. Guidance on sick pay entitlements should be sought from Schools' Personnel.
- The County Treasurer will need full details of the phased return including the hours worked, and notification if the phased return will continue into the next pay period.
- Towards the end of the agreed phasing period the employee should confirm their intention to return to full-time working. In some exceptional circumstances, and on the advice of their GP and Occupational Health, the agreed phasing period may be extended, subject to the agreement of the headteacher. An alternative option would be to reduce to a part-time contract for a temporary period.
- It is good practice to review the progress of employees on phased returns. This can be done on a formal or informal basis during, and at the end of, the process.