



# **Managing Sickness Absence Policy and Procedure**

**Date Adopted: 28th April 2021**  
**Date Reviewed: 8<sup>th</sup> February 2023**  
**Author/owner: Board of Trustees**  
**Review: Triennial**

**NB.** 'Trustees' means the Directors referred to in the Trust's Articles of Association

## History of most recent policy changes

Version	Date	Page	Change	Origin of Change e.g. TU request, Change in legislation
V1.0	April 2021		New policy introduced for the Tarka Learning Partnership Central Trust Team and Schools within the Trust	Requirement for central policy to explain the approach to managing sickness absence of staff in the Trust and Schools within the Trust.
V2.0	January 2023		Review of the policy to ensure it is current and complies with legislation. In addition it has been updated with the new Governance Structure.	

## Contents

History of most recent policy changes .....	2
POLICY.....	5
1. Principles .....	5
2. Purpose .....	5
3. Scope.....	5
4. Employees with a disability.....	5
5. Specific long-term, serious or life threatening illness.....	6
6. Pregnancy and maternity-related absence.....	6
7. Absence arising from accidents, injury or assault at work .....	6
8. Absence due to contact with infectious diseases.....	6
9. Absence related to stress or mental health.....	7
10. Absence related to cosmetic surgery.....	7
11. Medical suspension/Fitness to work .....	7
12. Roles and responsibilities .....	7
12.1 Employee’s responsibilities.....	8
12.2 Line Manager’s responsibilities.....	8
12.3 Who will manage sickness absence matters.....	8
13. Contact with absent employee .....	9
14. Return to work meetings.....	9
15. Phased return to work arrangements.....	10
16. Occupational health.....	11
17. Ill health retirement.....	11
18. Sick pay schemes.....	12

18.1	Support staff.....	12
18.2	Teachers .....	12
18.3	Non-payment of sick pay.....	12
19.	Sickness absence indicators/trigger points .....	12
	POLICY.....	13
20.	Reporting and monitoring sickness absence .....	13
21.	Absence of more than 7 days.....	14
21.1	Statement of fitness for work/Fit note .....	14
21.2	Employee responsibilities in relation to absences of more than seven days .....	15
21.3	Manager responsibilities in relation to absence of more than seven days.....	15
22.	Time Limits.....	15
23.	Being accompanied.....	15
24.	Non attendance.....	16
25.	First absence meeting (short-term absences).....	16
26.	Second absence meeting (short-term absences) .....	16
27.	Formal absence decision hearing (short-term absences).....	17
28.	Appeal.....	18
29.	Managing long-term sickness absence .....	19
30.	Long-term absence – informal discussion(s).....	19
31.	Long-term absence – formal meeting.....	20
32.	Formal absence decision hearing (long-term absence) .....	22
33.	Recording of information .....	22
34.	Raising a grievance during the application of this policy .....	22
35.	Confidentiality.....	23
	APPENDIX 1 – SHORT-TERM ABENCE MANAGEMENT – FLOWCHART.....	24
	APPENDIX 2 – LONG-TERM ABENCE MANAGEMENT – FLOWCHART.....	25



## POLICY

### 1. Principles

The Tarka Learning Partnership recognises that the staff team are its most important asset. Whilst regular, punctual attendance is an implied term of every employee's contract of employment, supporting an employee to return to work as soon as possible after a period of illness or injury can not only maintain their health and wellbeing, but also help to improve the effectiveness of the school and the Tarka Learning Partnership.

### 2. Purpose

This policy is intended to support all staff and enable managers to manage sickness absence in a way which is fair and consistent and complies with employment legislation.

This policy is for managing employee's absence from work due to ill health and/or where an employee does not attend work regularly and reliably due to ill health. This policy should be applied when dealing with an employee's sickness absence and includes long-term sickness absence, frequent short-term absence or a combination of both. Long-term sickness absence is defined as four continuous weeks or more. Frequent short-term sickness absence takes the form of minor absences that occur more regularly.

### 3. Scope

This policy applies to all Tarka Learning Partnership employees.

The policy does not apply to personnel who work in a Tarka Learning Partnership school but are employed on another organisation's terms and conditions of employment.

This policy does not apply to trainees, casual workers or volunteers.

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

If absence is alleged to be fraudulent or is unauthorised, the absence will be treated as a conduct issues and be managed under the Tarka Learning Partnership Disciplinary Policy and Procedure.

### 4. Employees with a disability

The Equality Act 2010, defines a person with a disability as a person with physical impairment that has a "substantial" and "long-term" negative effect on their ability to undertake normal daily activities. People who might be defined as disabled will be entitled to protection against discriminatory treatment, and the employer is required to make reasonable adjustments. If the recommended or requested adjustments are not considered reasonable, this should be discussed with the employee and an explanation provided. Alternatives for the employee, if adjustments cannot be accommodated, may include alternative employment, and/or an agreed temporary or permanent reduction in hours.

It may be reasonable to disregard periods of absence in the short-term where an employee has recently developed a disability and needs time to learn to manage the condition. In this case, medical advice will be sought and a process will be agreed for monitoring and recording the duration and reasons for the absence. It may also be a reasonable adjustment not to record related to the individual's disability as sickness but instead as authorised absence.

## **5. Specific long-term, serious or life threatening illness**

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

## **6. Pregnancy and maternity-related absence**

All pregnancy and maternity-related absence will be disregarded when monitoring and managing absence under this procedure, namely all management action up to and including dismissal. Pregnancy and/or maternity-related illness will be considered separately from other types of illness and it will not count towards an employee's overall attendance record. Sickness absence associated with a miscarriage will also be treated as pregnancy-related and be disregarded for the purposes of this procedure.

In these circumstances, the line manager will meet with the employee to discuss the reasons for their absence and their wellbeing as part of a return to work meeting. A risk assessment to determine whether reasonable adjustments are necessary may be carried out.

## **7. Absence arising from accidents, injury or assault at work**

If an employee considers their illness and/or sickness absence to have been caused by an accident, injury or assault at work, they must explain this when notifying the line manager of their absence (if known at the time). The usual arrangements for reporting and recording employee sickness absence is followed.

The line manager must take immediate action to satisfy health and safety requirements including recording and reporting the accident by completing an accident form, and consulting with the person in the school, or the Tarka Learning Partnership central team who is responsible for Health and Safety, HR and/or occupational health. The person responsible for Health and Safety will advise whether a RIDDOR referral will be required.

Necessary and proportionate actions need to be undertaken to prevent similar accidents in the future. There are special provisions in the sick pay schemes in relation to absences arising from accidents, injury or assault at work.

For teachers, further provisions may apply which are detailed in Section 4, paragraph 9 of the Conditions of Service for School Teachers in England and Wales document.

## **8. Absence due to contact with infectious diseases**

If an employee is advised not to attend school by a medical practitioner because of contact with an infectious disease, the line manager/Head Teacher must be informed immediately and the employee will be entitled to receive normal pay. Regarding teachers, the Conditions of Service for School Teachers document at clause 10.1 to 10.3 and the NJC National Agreement on Pay and Conditions document section 10.9, gives further information on absence due to contact with infectious diseases.

## **9. Absence related to stress or mental health**

As part of their duty of care, a line manager will endeavour to maintain reasonable contact with employees who are absent with stress or mental health issues. If a particular manager is identified as the cause, or contributing to the stress experienced by the employee, then an alternative manager will be allocated to maintain contact during the period of sickness absence. Depending on the circumstances of the case, it may be appropriate for contact to be made via a trade union representative.

The Tarka Learning Partnership has a duty under this procedure to establish whether an employee's stress is work-related, and/or personal and, where possible, to take measures to control that risk using appropriate risk assessments. Other early intervention strategies may be advisable such as referral to occupational health or counselling providers, agreed temporary or permanent reduction in working hours, additional support, training, temporary or permanent re-allocation of duties. The Trust HR Leader may be called upon to assist with these interventions.

## **10. Absence related to cosmetic surgery**

Cosmetic surgery is a surgical procedure for the purpose of improving appearance. It is known as elective surgery, meaning that the patient chooses to have it and it is not essential. Cosmetic surgery is different from plastic surgery, which is surgery to reconstruct or improve the appearance after injury or illness. Where an individual has plastic surgery for reconstruction or to improve their appearance due to disfigurement, or after injury or illness, sick pay will be paid. Generally, no paid leave will be granted where an individual elects to have cosmetic surgery to improve their appearance. The Head Teacher is entitled to ask for evidence of appointments, such as appointment cards, and letters that outline the expected recovery period to allow the school to plan accordingly.

Term time employees should apply for unpaid leave when they wish to have elective cosmetic surgery. This leave should cover the time in hospital and the planned recuperation period following surgery. For employees working 52 weeks per year it may be possible to take annual leave.

## **11. Medical suspension/Fitness to work**

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

## **12. Roles and responsibilities**



### 12.1 Employee's responsibilities

- a) To report promptly any sickness absence on the first day of absence.
- b) To provide a Statement of Fitness for Work (Fit Note) by the eighth day for absences over seven consecutive days.
- c) To provide consecutive Fit Notes to cover the whole period of absence prior to the previous Fit Note lapsing, where there is a continuing sickness absence, even if this covers periods of holidays or school closure.
- d) To maintain contact with their line manager, or agreed person, during any period of absence.
- e) To provide details and make every effort to attend meetings required under this procedure.
- f) To undertake any examination that the school or Tarka Learning Partnership may require by an approved medical practitioner nominated by the school or Trust, where prolonged or frequent absences occur.

### 12.2 Line Manager's responsibilities

- a) To ensure that each employee is aware of this policy, understands the attendance standards required of them and the consequences of not attaining and meeting these standards.
- b) To create a healthy and supportive work environment where employees feel valued, want to come to work and have a good work/life balance.
- c) To manage the process effectively, fairly and reasonably and to adopt this procedure for the effective management of attendance and ill-health.
- d) To consider early intervention and support strategies, such as an occupational health referral, regular welfare meetings, clear contact arrangements, counselling, physiotherapy and implementing reasonable adjustments where necessary.
- e) To ensure appropriate, on-going contact whilst the employee remains sick.
- f) To ensure that all sickness information will be reported to the relevant staff member to ensure all the relevant systems such as Bromcom and iTrent are accurate.
- g) To follow up all absences with a return to work meeting when the employee resumes work, regardless of the length of absence.
- h) To ensure that all sickness information will be kept confidential and managed in accordance with data protection legislation.

### 12.3 Who will manage sickness absence matters

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

The Manager/Head Teacher will be responsible for arranging the meetings, sending appropriate correspondence and arranging a suitable person to take notes at any meeting.

Formal Absence Decision Hearings must be conducted and chaired by those that have delegated authority to dismiss an employee.

The Tarka Learning Partnership HR Leader will support all managers on the implementation and application of this policy and procedure.

### 13. Contact with absent employee

There is a shared responsibility between managers and employees to maintain reasonable contact during periods of sickness absence. If a sick employee fails to contact their manager, it is reasonable for the line manager (or another nominated manager) to get in touch, in line with the Tarka Learning Partnership's duty of care for its employees.

This is to prevent the employee from feeling isolated and may provide the opportunity to:

- a) discuss the employee's welfare and offer support as appropriate (e.g. referral to Occupational Health, risk assessments);
- b) find out about a likely return date (if known) so cover can be arranged;
- c) agree the method and frequency of on-going contact whilst the employee remains sick; and
- d) keep in touch and provide key work updates as necessary.

Any contact arrangements should be sensitive to the employee's needs and circumstances. In some cases, it may be appropriate for contact to be made via a trade union, work place colleague, close relative or family friend rather than direct contact by the line manager. The frequency of the contact can be flexible; however, weekly is encouraged. The frequency and method of communication should be discussed and mutually agreed between the manager and employee/employee representative.

It will not be assumed that an employee, whose sickness is described by the GP as stress or depression, is incapable of discussing their condition with a manager or occupational health. A referral to the Employee Assistance Programme or occupational health service may be necessary if the employee and their GP have stated that they are unfit to attend a meeting. Additionally, a referral may be requested by the employee or line manager if it is felt that it will aid their return to work.

The Chief Executive Officer of the Tarka Learning Partnership must also ensure that a school has appropriate arrangements for reporting and managing a Head Teacher's sickness absence, including maintaining reasonable contact.

### 14. Return to work meetings

A return to work meeting should be carried out after every period of absence regardless of the duration or the reason for the absence. Often, for short periods of absence, a brief, informal discussion will suffice. This includes absences related to pregnancy, disability, injury/accident at work or hospitalisation. When an employee is returning after a long period of absence or when other reasonable adjustments are under consideration, such as phased returns, the return to work meeting should take place before the return to work.

The line manager may combine the return to work meeting with an informal and supportive discussion about attendance. The purpose of the return to work meeting is to:

- a) welcome the employee back and discuss their fitness to return to work;
- b) clarify the reason(s) for the absence;
- c) ensure all relevant paperwork is complete (usually self-certificate and/or Fit Note);
- d) discuss any support or adjustments that may be appropriate;
- e) provide an update on work matters;
- f) where appropriate, discuss any previous absences (including any concerns about patterns or levels of attendance over the previous 6 months), ensure that the absence record is accurate and discuss any support or adjustments aimed at improving attendance.

If an informal discussion about patterns or levels of attendance is taking place at this meeting, the employee should be provided with an up to date record of their sickness absences prior to the meeting. Whilst employees do not have a statutory right to be accompanied by a workplace colleague or trade union representative at return to work meetings, this support may be beneficial to the parties in contentious or difficult cases and any request will not be unreasonably refused.

All return to work meetings should be confidential. A summary of the discussion should be made by the line manager, or a note taker, and notes provided to the employee afterwards.

If, during discussion with the employee, the line manager thinks the employee is not fit for work, they should instruct them to go home and help them make transport arrangements if necessary. The line manager should also advise the employee to see their GP as soon as possible. In these circumstances the employee will receive pay under their appropriate sick pay scheme. Where an employee feels uncomfortable discussing the nature of their absence with their line manager, they may ask to discuss the matter with another manager instead. Any such request will not be unreasonably refused.

## 15. Phased return to work arrangements

Depending on the nature and length of an employee's absence a phased return to work on full pay may be appropriate. Such an arrangement should be considered and discussed with the employee before they return to work and advice sought from occupational health where appropriate. This allows the employee to return to their hours of work, responsibilities and duties gradually. In these circumstances, a phased return would not normally last for more than four working weeks, although the line manager may agree with the employee to extend this period on a case by case basis and taking into consideration any other advice. A phased return may not be necessary or appropriate in every case.

The phrase "phased return" is also used by GPs when advising that an employee, whilst not fully fit, may be fit for some duties. During the first six months of an employee's absence a GP can recommend in a fit note that an employee may be fit to work if certain adjustments are made before the employee returns, including a phased return of up to three months. This provision is designed to help employees return to work sooner than might otherwise have been the case. Occupational health can also make recommendations about the type and duration of a phased return to work.

It may not be possible to accommodate the proposals made by a GP or by occupational health for a phased return to work, if this is the case, the employee remains on sick leave until they have fully recovered, or a convenient alternative such as a temporary reduction in hours with no reduction in pay, can be agreed.

A record of discussions with the employee about a phased return should be retained and a copy issued to

the employee. It may be helpful to include the employee's trade union representative or a work place colleague of their choice in these discussions although there's no obligation to do so. If a phased return is agreed, review meeting(s) should be arranged at appropriate points to ensure that the employee is coping.

## 16. Occupational health

Referrals to Occupational Health may be appropriate for a variety of reasons but are primarily obtained to:

- a) provide a manager with expert medical advice about how an employee's health is affecting their ability to carry out their responsibilities;
- b) support relevant pension schemes with requests for ill-health retirement;
- c) comply with requirements of the relevant sick pay scheme in cases of absence due to accidents at work.
- d) To see what adjustments the employer can make to aid the employee's return to work (e.g. phased return, temporary change in duties)

Advice and guidance on making the referral and dealing with the report once received can be provided from the Tarka Learning Partnership's HR Leader.

An Occupational Health referral can be made at any stage of the absence. An early referral is beneficial and it is advisable to seek a referral after twenty working days, or one calendar month's absence. An employee's consent must be obtained before a referral is made.

If an employee refuses to attend an Occupational Health appointment, they should be advised that any subsequent management decisions will be limited to available medical advice/sources, which may not relate directly to the employee's job, and their potential fitness to return to work.

Under the conditions of service for teachers (Conditions of Service for School Teachers), a teacher who has prolonged or frequent absence levels due to sickness is not entitled to be paid sick pay unless, at the Trust's request, they attend an examination by an approved medical practitioner, such as an occupational health provider. The NJC National Agreement on Pay and Conditions of Service requires support staff to attend a medical examination with a nominated medical practitioner, such as an Occupational Health provider, at any time.

The usefulness of the report provided by Occupational Health will depend greatly on the factual information provided by the manager and the specific questions that are asked. A report will usually provide advice on the underlying health issues, when the employee is likely to return to the workplace and whether any adjustments can be made to support that return.

## 17. Ill health retirement

The Tarka Learning Partnership will consider an employee's eligibility for ill health retirement before consideration is given to dismissing an employee for lack of capability due to ill health. In cases where it is believed an application will be successful the Trust will support such an application.

Ill health retirement for all employees in the Local Government Pension Scheme (LGPS) must be certified by an independent occupational health adviser. For teachers, applications are assessed by medical advisers appointed by the Department for Education.

If the employee has been granted ill-health retirement, either agreeing an end date, in the case of teachers, or explaining that their case will now need to be referred to a committee for lack of capability due to ill health, in the case of support staff. Support staff cannot access benefits under their pension scheme until they have been formally dismissed.

## 18. Sick pay schemes

### 18.1 Support staff

The terms and conditions for support staff employed within the Tarka Learning Partnership follow those of the NJC for Local Government Services National Agreement on Pay and Conditions of Service (commonly known as the 'Green Book'). This sets out the eligibility for sick leave and conditions where sick pay is payable. To receive sick pay, an employee must meet the conditions and eligibility detailed in the document and comply with the responsibilities listed in section 8 of this policy.

### 18.2 Teachers

To receive sick pay, an employee must meet the conditions and eligibility detailed in the Conditions of Service for School Teachers in England and Wales (commonly known as the "Burgundy Book") and must also comply with the responsibilities listed in section 8 of this policy.

### 18.3 Non-payment of sick pay

Sick pay for both support and teaching staff may not be paid if the manager has reason to believe that the absence of the employee is due to:

- misconduct or neglect
- non-compliance with the conditions and eligibility details referred to above
- conduct that is prejudicial to recovery
- active participation in sport as a professional, unless the school decides otherwise
- working for another employer

Sick pay may also be withheld or stopped if a manager has a belief that the employee's behaviour or conduct during a period of sickness absence contradicts the given reason of their absence.

In these circumstances, sick pay will be suspended and the Tarka Learning Partnership Disciplinary Policy and Procedure will be followed.

## 19. Sickness absence indicators/trigger points

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

Trigger point 1	3 or more single days of absence and/or 3 periods of absence in any rolling 3 month period
Trigger point 2	6 or more single days of absence and/or 6 periods of absence in any rolling 12 month period
Trigger point 3	8 or more days of absence in any rolling 12 month period
Trigger point 4	A discernible pattern e.g. regular absence on a particular day or certain weeks during the year (school holidays/term-time, Easter break, Christmas)

## POLICY

Most periods of sickness absence result in the employee being able to return to work. However, there are some occasions when the level and duration of an absence is such that this may ultimately result in the termination of an employee's contract of employment on the grounds of unsatisfactory attendance or ill-health capability, where long-term sickness absence is a concern.

Employee sickness absence is the day-to-day responsibility of the manager with support from the HR Leader, who will provide specialist advice and may attend any meeting held under the formal stages of this procedure. Dismissal will be a last resort and only by a Formal Absence Decision Hearing Chair or Committee. Alternatives to dismissal will be considered.

### 20. Reporting and monitoring sickness absence

These arrangements provide a clear and reasonable process for employees to notify the school about sickness absence and are communicated as part of the employee induction process.

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

- confirm the reason for not attending work
- advise what date they were unable to attend work (even if it was not a normal working day)
- advise the likely return date, where possible.

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

The employee should attempt to personally telephone their manager. In exceptional circumstances and only if the employee is unable to telephone personally, they should arrange for someone else to telephone their manager on their behalf to explain why they cannot attend work as well as why they could not speak directly to their manager. Text messages, emails or messages left with colleagues will only be accepted where local agreements to do so allow.

In the case of short term absence, and particularly on the first day of absence, if the employee feels that they are very likely, or very unlikely, to be well enough to return to work the following day, the employee should telephone the school again before the end of the normal school day to advise the Head Teacher or Line Manager of their probable or unlikely return the following day. This is required so that the school can make appropriate cover arrangements as necessary.

Reporting sickness absence and providing appropriate medical certification is a requirement of the respective sick pay scheme. Consideration will be given to unforeseen personal circumstances which prevent an employee from complying with this requirement. Managers will take a reasonable and considerate approach.

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

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

Where an employee unexpectedly fails to report for duty, and no notification of absence is received, attempts will be made to contact the individual and, if necessary, their next-of-kin/emergency contact.

The manager is required to:

- record the first day of absence even if that was not a working day for the employee
- review the employee's absence against the trigger points and determine whether any action should be taken
- consider any health, safety or wellbeing issues associated with the absence
- where the absence is due to an accident or injury that occurred at work discuss with the appropriate Health and Safety lead for the school or the Tarka Learning Partnership
- ensure that an appropriate risk assessment is completed for any absence where the work environment may impact on the employee's well-being and consider what action may be taken.

## 21. Absence of more than 7 days

### 21.1 Statement of fitness for work/Fit note

If a Statement of Fitness for Work, or "Fit Note" has been issued by a medical professional (Doctor, nurse, occupational therapist, pharmacist or physiotherapist), there is an expectation that the illness and recovery will last more than seven calendar days. If the medical professional believes that the employee is fit for work, they will not be issued with a fit note.

A copy of a fit note must be submitted by the employee if the illness lasts more than seven calendar days and must cover sickness during school holiday periods as well as during term time. The medical professional will recommend that an employee is "not fit for work" or that an employee "may be fit for work subject to certain adjustments" such as a phased return to work, altered hours, amended duties or workplace adaptations.

If the fit note recommends that an employee is "not fit for work", the fit note is evidence for contractual sick pay. Employees do not need to be signed back to work and there is not option on the fit note to do so. It is assumed that the employee will be back at work unless a further fit note is issued.

If the fit note includes a recommendation that an employee "may be fit to return to work, subject to

certain adjustments”, the employee should contact their manager to discuss the medical professional’s recommendation before returning to work. Although there is statutory requirement to allow such



representation, requests for a Trade Union representative or work place colleague to be present at these discussions will not be unreasonably refused. After careful consideration and discussion with the employee, the manager needs to decide whether the medical professional's recommendations are feasible and reasonable to implement. If the line manager is unable to agree to the recommendations, then the fit note will be treated as if it says that the employee is "not fit for work" and the employee will remain on sick leave (and be entitled to any sick pay under the appropriate scheme).

If an employee fails to provide fit notes for their absences, the Tarka Learning Partnership may treat the absence as unauthorised and unpaid. The Trust may also seek disciplinary action.

### **21.2 Employee responsibilities in relation to absences of more than seven days**

The employee is required to:

- provide their manager with a Fit Note from a medical professional covering all of the days from the eighth day of the absence through to the last working day before they return to work, regardless of whether these are their working days or not.
- discuss with the manager any recommendations in the Fit Note that would enable them to return to work.
- attend any appointments made as a result of a referral to Occupational Health.
- maintain contact with and keep their manager informed about their progress and the likely return to work date; and attend any meetings if required to do so.

### **21.3 Manager responsibilities in relation to absence of more than seven days**

The manager is required to:

- consider any recommendations in the Fit Note and establish whether these are reasonable, taking advice where necessary
- maintain an appropriate level of contact with the employee, meeting as necessary to ensure that the employee's absence is managed and that appropriate support to help them return to work is available.
- refer the employee to Occupational Health as appropriate
- refer to the trigger points and determine appropriate course of action in accordance with this policy
- keep a record of all actions taken

## **22. Time Limits**

The time limits included in this policy may be varied by mutual agreement. The policy makes reference to a number of 'days' within which certain actions/events are to occur. A 'day' is defined as any Monday to Friday excluding public holidays as defined by ACAS.

## **23. Being accompanied**

The Employment Relations Act 1999 determines that an employee has a statutory right to request to be accompanied at any disciplinary or grievance hearing. The representative must be:

- a paid official from a recognised trade union/professional association

- an official of a trade union/professional association whom the union has reasonably certified in writing as having experience of, or as having received training in acting as an employee's companion at disciplinary or grievance hearings
- an appropriate work colleague.

Friends/family members are not permitted to accompany the employee.

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

#### 24. Non attendance

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

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

#### 25. First absence meeting (short-term absences)

When a trigger point has been reached, the manager/Head Teacher will convene a First Absence Meeting with the employee. The employee may be back at work or still absent at this time. The purpose of the meeting is for the manager to:

- clarify the reason(s) the employee was absent from work or is still absent from work
- ensure the criteria under the relevant sick pay scheme have been met, where the employee is eligible
- ensure that the employee and manager have been keeping in contact
- if the employee is still absent, determine the likely date for a return to work
- discuss what steps the employee has taken to reduce their level of absence
- discuss the impact the employee's absence has on the pupils, the school/service and colleagues and what arrangements might be put in place to cover work etc.
- consider a referral to Occupational Health. This may include a referral to seek advice on the suitability of ill health redeployment
- set targets for reducing absence levels
- if it is determined that the employee has a disability covered by the Equality Act (see Section 4), agree whether any reasonable adjustments could be considered or reviewed to reduce absence
- discuss whether the employee could access any support through specialist groups e.g. counselling
- at the discretion of the manager (after review of the employee's normal attendance pattern) arrange a date within the following 6-12 weeks for a Second Absence Meeting.

#### 26. Second absence meeting (short-term absences)

The Second Absence Meeting will be convened by the manager on the date agreed at the First Absence Meeting. If the employee's absence(s) has reduced, there may be no need for the Second Absence Meeting to go ahead if it was pre-arranged. The agenda followed at the Second Absence Meeting will

be similar to that followed at the First Absence Meeting but in addition may also include the following points:

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

## 27. Formal absence decision hearing (short-term absences)

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

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

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

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

Where it is determined that a Formal Absence Decision Hearing is to be convened, the manager, will notify the employee in writing giving at least five days' notice, stating the details of the Formal Absence Decision Hearing, the possible outcomes of the hearing, the employee's right to request to be accompanied and that the hearing may take

place in the employee's absence if they fail to attend without providing a satisfactory explanation. A copy of the summary report and a copy of this policy must be included with the letter.

The manager is responsible for presenting the summary report at the hearing and they may be accompanied by the Tarka Learning Partnership HR Leader.

At least five days prior to the hearing, the employee will provide any relevant information that they wish to be considered at the hearing to the Head Teacher. The employee will be given an opportunity to address the hearing whether or not they wish to submit any relevant information.

At the hearing, the employee will be given the opportunity to address the hearing, question any witnesses and present their case to the Head Teacher.

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

- to issue a final written warning with a review period of up to 12 months with further unacceptable levels of absence during the review period resulting in a further Formal Absence Decision Hearing.
- adjournment while further medical information/reasonable adjustments are looked into with a date set to reconvene.
- dismissal with notice on full contractual pay, pro rata to the hours worked, with adjustments as necessary for any national benefits received such as Statutory Sick Pay.

The Head Teacher will reconvene the hearing and confirm their decision verbally, unless valid reasons exist not to do so, and will write to the employee within five days to confirm their decision.

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

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

## 28. Appeal

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

An employee may appeal on the following grounds:

- the sanction given was too harsh given the circumstances
- the procedure was not fairly or correctly applied
- new information has come to light that would directly affect the decision made at the hearing.

The appeal should be sent to Tarka Learning Partnership Chief Executive Officer. The CEO will then determine who would be best to hear the Appeal i.e. a member of Tarka Learning Partnership central team, or a panel of Trustees, who will then arrange for the appeal to take place.

The appeal should be heard without unreasonable delay. A minimum of five days' notice will be given to the employee to allow for preparation.

The outcome of the appeal hearing may be to:

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

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

## 29. Managing long-term sickness absence

An employee with a terminal or life-threatening degenerative illness where the employee's medical condition is known and will not improve will not be asked to attend sickness absence monitoring interviews. The school will provide support to individuals in these circumstances and this could well mean that other meetings, interviews etc. are held at reasonable intervals. However, such action does not form part of a management initiative to reduce sickness absence.

Sickness absence will be considered long-term if an employee has been absent for four continuous weeks or 28 days or more (including non-working days and weekends).

Where employees know in advance that they are going to be absent from work, for example for a planned operation, the line manager and employee will meet beforehand to discuss:

- a) the reason for the absence;
- b) the likely length of the absence;
- c) whether support and counselling should be offered;
- d) the level of support that the employee may need on their return to work;
- e) any potential phased return;
- f) any cover arrangements;
- g) keeping in touch arrangements;
- h) a referral to Occupational Health, where and when appropriate.

## 30. Long-term absence – informal discussion(s)

If an absence has lasted for four continuous weeks or more and there is no likelihood of an early return to

work, a welfare meeting should be arranged with the employee either at the school, at their home or at a neutral location with the employee's agreement. For home visits, these must take place during school hours with a second colleague in attendance (this could be the Trust HR Leader) and all details left with the school office. The employee can request to be accompanied by a trade union representative or workplace colleague at such meetings. The employee should be invited to provide any further documents that would aid the discussion, including medical evidence. In cases of stress and mental health, the principles outline in section 9 of this policy regarding contact arrangements will apply.

During the welfare meeting, the employee will be invited to discuss all or some of the following according to the circumstances:

- a) the cause of the absence and relevant details of the diagnosed illness if known;
- b) how long the absence is likely to last, if known;
- c) any other factors at work or at home which might be contributing to the absence;
- d) suggestions of support/actions/reasonable adjustments/risk assessments that could be put in place by the employee or the school to help the employee return to work, including ergonomic assessments from other external agencies where appropriate;
- e) the benefits of referral to occupational health and review of referral paperwork if the school has prepared this in advance;
- f) where appropriate, possible alternatives if the employee is unable to return to work e.g. mutually agreed reduction in working hours by a temporary or permanent variation in contract and/or stepping down of responsibilities;
- g) date for future meetings/contact.

The possibility of ill-health retirement or otherwise leaving employment, may also be discussed.

After the initial welfare meeting, further informal meetings may be arranged with the employee to discuss and re-evaluate the situation. The latest medical information, whether from a fit note, occupational health report or other relevant consultants/medical specialists as appropriate will be essential to discuss appropriate action and should form the basis of regular communication between the employee and the line manager.

If the latest fit note states that the employee is fully fit to return or that they may be fit to return, subject to specific adaptations such as a phased return to work, a return to work meeting should be arranged by the manager prior to the return to work to discuss any support that can be offered and/or updates on work matters.

### 31. Long-term absence – formal meeting

If it is apparent from an occupational health report, or from other relevant medical evidence, that the prognosis for an employee's return to work is uncertain or unknown, consideration should be given to inviting the employee to a Formal Absence Hearing.

The employee should be informed in writing, at least five working days prior to the meeting, of the meeting date and of their right to be accompanied by their trade union representative or work colleague and given time to arrange this. If an employee is uncomfortable with a particular manager undertaking the meeting, then an alternative can be requested. Any such request will not be unreasonably refused.

The purpose of the meeting will be to determine:

- a) whether there have been any changes since the last meeting regarding a possible return to work or

opportunities for return or redeployment;

- b) the prognosis for recovery after considering the up to date medical evidence available (including the Occupational Health report) and the medical treatment that the employee is receiving;
- c) whether there is a likelihood of the employee returning to work in the reasonably foreseeable future;

If medical information is available that indicates that the employee may be unable to resume in their current job early consideration should be given to alternatives such as redeployment, ill health retirement etc. The employee should be provided with information regarding these options and advised to seek advice from their trade union representative and pension scheme;

- a) the employee's view on how much longer they will be off work and their expectation of being able to return to work (the employee should not feel pressured to return to work before they feel fit to, or before their GP considers them fit for work);
- b) what additional adjustments or supportive measures the Tarka Learning Partnership could put in place to facilitate their return to work;
- c) any additional available support for the employee;
- d) to advise the employee that, as a last resort, and once all other possible suggestions have been considered, e.g. mutually agreed reduction in working hours by a temporary or permanent reduction in working hours, stepping down of responsibilities, that their case may be referred to the Head Teacher, and that the outcome may be dismissal due to ill-health capability.

Following the discussions, the manager will adjourn to consider the evidence and the options available, which may include:

- a) Setting up a date for a return to work meeting with the employee as a return to work is now possible within a specific reasonable timescale;
- b) Setting a further reasonable period, but no more than three months, to allow for additional management support and/or recovery. During this period, the line manager will continue to consult with the employee and to review appropriate medical advice. This option will be supported with a warning that if the employee is unable to guarantee a return to work date within a reasonable defined period, then they may still need to be referred to a committee for the consideration of their future employment;
- c) Issue a formal warning

If the employee has been granted ill-health retirement, either agreeing an end date, in the case of teachers, or explaining that their case will now need to be referred to a committee for lack of capability due to ill health, in the case of support staff. Support staff cannot access benefits under their pension scheme until they have been formally dismissed.

The manager, should confirm in writing within five working days the outcome of the Long-Term Absence Formal Meeting, including a summary of the key points discussed/action points, confirmation of outcome reached and next steps. The point at which dismissal on grounds of ill-health may be considered will vary

depending on the individual circumstances of a case. Dismissal should always be a last resort once all reasonable alternatives have been considered. Each case will be considered on an individual basis and early advice should be sought from the Tarka Learning Partnership HR Leader before an employee is invited to a hearing as outlined below where a decision will be taken.

### **32. Formal absence decision hearing (long-term absence)**

Following the Long-Term Absence Formal Meeting, if the manager has established that a return to work date remains unknown or uncertain, the employee will be invited to a Formal Absence Decision Hearing with the Head Teacher for the school.

Normally, this meeting will be held on a school's premises, however it may be appropriate for the meeting to be held at a neutral venue with the employee's consent.

The purpose of the meeting will be to review all of the evidence and to gauge if, and when, the employee is in a position to return to work based on latest medical advice and/or the employee's own views. Following the discussions, the Head Teacher will adjourn to consider the options available. These may include:

- Setting up a date for a return to work meeting with the employee as a return to work is now possible within a specific reasonable timescale;
- Setting a further period to allow for additional management support. This option to be supported with a warning that if the employee is unable to guarantee a return to work date within a reasonable defined period, then the case may be referred back to the same Chair for the consideration of future employment;
- Dismissal with notice on full contractual pay, pro rata to the hours worked, with adjustments as necessary for any national benefits received such as Statutory Sick Pay.

If the decision is to dismiss the employee, they have a right to appeal the decision (refer to section 28 above).

### **33. Recording of information**

A written record must be made of all meetings held during the application of this policy. Those involved in each meeting will be provided with a copy of any records made.

The manager will ensure there is a record of the process which should include all statements, records and evidence. All records will be retained confidentially, securely and in accordance with the data protection legislation.

### **34. Raising a grievance during the application of this policy**

If an employee is currently being managed under this policy and has a complaint related to either the person applying it and/or its application, the employee will raise a complaint under this policy which will be investigated. It may be necessary to suspend the application of the policy while the complaint is being looked into. Any delay to the application of this policy to deal with an employee's complaint should not exceed 10 days.

If an employee has an unrelated complaint, then the employee should use the Grievance Policy and Procedure. As the matter is unrelated, there will be no need to put any absence process currently being



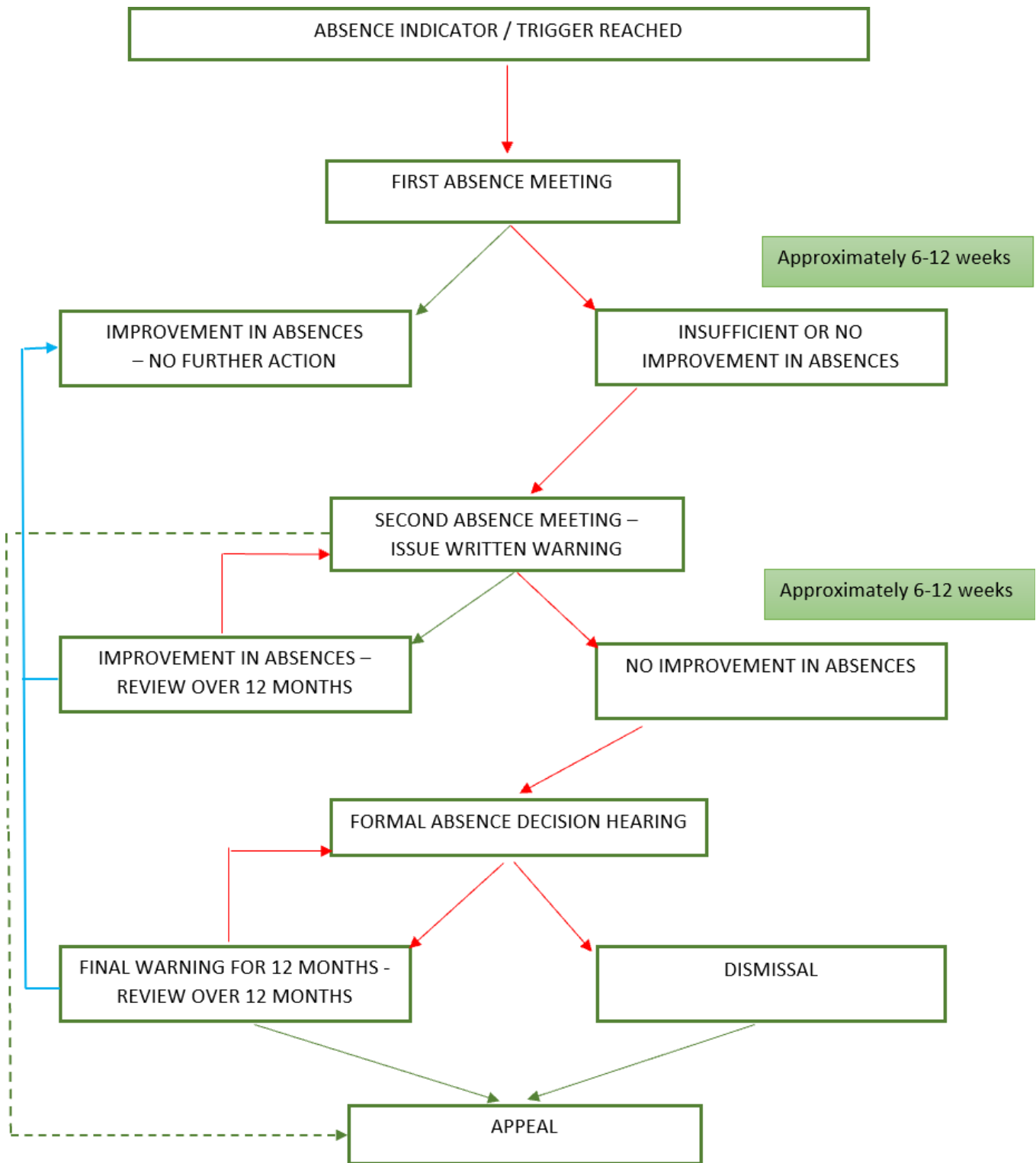
applied on hold as the complaint can be dealt with in parallel.

### **35. Confidentiality**

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

Disclosure of information may also be a breach of data protection legislation and may lead to action being taken under the provisions of this legislation, in addition to actions being taken under the Disciplinary Policy and Procedure.

**APPENDIX 1 – SHORT-TERM ABSENCE MANAGEMENT – FLOWCHART**



**APPENDIX 2 – LONG-TERM ABSENCE MANAGEMENT – FLOWCHART**

