



London Borough
of Hounslow

Management of Absence & Employee Health Policy and Procedure for School Based Staff

Issued by Schools & Commercial HR Team
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1 Policy Statement

- 1.1 The Children’s and Adults Services Department (CAS) and schools within the London Borough of Hounslow are best served by a healthy and productive workforce. We aim to achieve this by providing a safe and healthy working environment and by implementing procedures which will maintain contact with absent employees and assist them in returning to work.
- 1.2 Staff absences, apart from having a direct effect on the quality of services provided, represent a significant cost. These resources could otherwise be used to improve education services. The School and the Governing Board is committed to providing and maintaining a high standard of education for all pupils in the school and requires good standards of attendance from all employees.
- 1.3 The school does not wish its staff to attend for work when they are too ill to do so but it does expect them to account for their absences and to meet their contractual obligations to work. **There are particular circumstances relating to teachers and their fitness to work, covered by the Education (Health Standards) (England) Regulations 2003, which are outlined in APPENDIX A.** This policy should be implemented taking these Regulations into account.
- 1.4 Prolonged or regular absence through ill health or other reasons can prevent the school from delivering an effective service. It is recognised that employees may experience periods of ill health and require sick leave from time to time. When this happens, the school will treat this sensitively and will be sympathetic, supportive and act in a fair, reasonable, and consistent manner.

2 Scope of the Policy/Procedure

- 2.1 This procedure applies to all teaching and support staff (with the exception of support staff on probation who will be subject to the support staff Probation Procedure), regardless of grade or position, hours worked per week or whether the contract is permanent, temporary or fixed term.
- 2.2 **Please note:** For schools who do not purchase the Local Authority HR Advisory Service, the decision to dismiss an employee must only be taken after advice has been sought from Schools & Commercial HR team. The decision to dismiss must be communicated to the Executive Director for Children’s and Adult Services.
- 2.3 Full records of any dismissals must be kept for a period of 6 years.

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3 General Principles

- 3.1 Employees are likely to stay away from work for one of two reasons; (a) they have to because they are ill or incapacitated, or (b) they choose to.
- 3.2 In either case it is part of the manager's job to understand what kind of absence is occurring and to try to devise effective methods for getting the employee back to work at the earliest date relevant to the circumstances. This procedure provides a framework within which a manager, by talking to an employee, can reach that understanding and act accordingly.
- 3.3 **This procedure should be used in all cases of sickness absence except where the following applies:**
- Failure to follow the school or service's procedure for the notification of sickness absences.
 - Failure to attend work or leaving the workplace without permission.
 - Refusal to explain the absence
 - Abuse of the sickness scheme thereby defrauding the School/Council.
 - Absence to pursue secondary employment or leisure activity.
- 3.4 Such cases will be dealt with under Disciplinary Procedures. Where an employee is, by her/his actions, preventing the implementation of the Management of Absence procedure, e.g., refusal to report absence or complete self-certification forms, action should also be taken under the Disciplinary Procedure. In these circumstances employees may disentitle themselves to Occupational Sick Pay.
- 3.5 Where the number of days of absence is under consideration, the absence of part-time and job share employees working less than 5 days a week will be considered on a pro-rata basis.
- 3.6 For the purpose of the formal stages of this procedure the Headteacher or Head of service will identify staff authorised to act as line managers.
- 3.7 If an employee fails to attend or is unable to attend an interview at any stage under this procedure the manager will decide, after considering the circumstances, whether the interview should be postponed to a new date or be continued in the employee's absence. Employees should be advised that it is in their best interests to attend the interview, that if they fail to attend it can be held in their absence and that action can still be taken appropriate to the circumstances of the case.
- 3.8 Account should be taken of the employee's right to be accompanied by a trade union or professional association representative or a workplace colleague and the availability of such representation. If an employee is unable to attend a meeting at any of the formal stages of the procedure, she/he will be allowed to authorise her/his representative to attend and participate at the meeting.

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4 Confidentiality

- 4.1 The need to maintain confidentiality by all parties is of paramount importance and should be adhered to at all stages set out in this procedure.
- 4.2 Confidentiality should be maintained in terms of verbal and written communication and documentation and should be handled in line with the Data Protection Act and GDPR Regulations (2018).
- 4.3 Disclosures of confidential information may result in disciplinary action being taken. This duty of confidentiality applies to all parties.

Please note: The use of the formal disciplinary procedure to deal with breaches of confidentiality may disclose to a larger number of people the very information that the policy is trying to protect. Generally, it should only be used when all other measures have failed.

5 Employees with a disability

- 5.1 As an equal opportunities' employer with a commitment to the employment of people with disabilities it is essential that managers and supervisors treat each case on its merits, taking account of all the circumstances, including the employee's known illness or disability at the time of employment. People with disabilities will not be unfairly treated and, where appropriate, procedures will be carried out with reference to the Equality Act 2010. Every effort will be made by headteachers, heads of service and governors to ensure that good and fair practices, as specified in this policy, are carried out.
- 5.2 The Equality Act 2010 makes it unlawful for the school to unjustifiably treat a person with a 'protected characteristic', such as a disability, less favourably than a person who does not have a disability for any reason related to the person's disability. Disability must not be equated with poor health.
- 5.3 Under the Equality Act 2010, the school has a positive duty to make reasonable adjustments where any aspects of working arrangements (including premises) place a disabled person at a substantial disadvantage. Within this policy, this is likely to arise in two respects:
 - a. Adjustments to the job itself or to the working environment may be required in order that the employee may return to work following a period of sickness absence.
 - b. It may be deemed a "**reasonable adjustment**" to accept that the disabled person will need some level of absence from their work.
- 5.4 It is important to distinguish between general sickness and disability related sickness absence.

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- 5.5 Where the effects of a person’s disability results in a need to be absent from work due to illness or where a disabled person requires leave which is directly associated with their disability this will need to be accommodated within the terms of the Equality Act 2010. A failure to acknowledge these needs could amount to a failure to make a “reasonable adjustment.”
- 5.6 Information received from the employee should be sufficient to enable the manager to classify the sickness absence appropriately. In applying this policy managers are encouraged not to delve into the medical cause or source of an employee’s sickness, as this may lead to unfounded judgements or an unsubstantiated prognosis. This should be left to advice from the Occupational Health Physician/Adviser.
- 5.7 Employees should be given the opportunity of requesting interpreters if English is not their first language. Equally, people with disabilities should be given the opportunity, time and support to request and receive any appropriate facilities they need in order to participate fully in formal interviews (e.g., sign language, interpreters, induction loop systems, information on tape or braille, etc.)

6 Pregnancy related sickness

- 6.1 It is recognised that a pregnancy may result in various medical absences at different stages and the school will treat these sympathetically. No action under the provisions of this procedure will be taken against a female employee who is absent from work due to a pregnancy related illness.
- 6.2 However, absence levels will continue to be monitored and where the school has concern about the reasons or lengths of absence, they reserve the right to formally investigate the nature and causes of these absences.
- 6.3 Absence in the 4 weeks leading up to the start of maternity leave may result in maternity leave starting early at the request of the employer. For further details see the Policy for Maternity Leave.

7 Sick pay

- 7.1 All Schools operate an occupational sick pay scheme. The provision of sick pay that an employee is eligible is dependent on service, and whether an employee is teaching or support.
- 7.2 Details of sick pay entitlements are set out in **APPENDIX D**

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8 Annual leave during periods of sick leave

- 8.1 Where applicable, an employee may request or be required to take annual leave during a period of sickness absence, subject to line management approval.
- 8.2 Employees will continue to accrue annual leave during periods of sickness absence.

10 Occupational health referrals and employee support

- 10.1 All Schools reserve the right to refer employees to occupational health at any time during their employment, and at all stages of the formal process set out in sections 19 and 20 of this procedure and when there are concerns in relation to the health and wellbeing of the employee. Where employees refuse to attend, decisions will be made based on the facts that are available to the school at that time.
- 10.3 Referrals to qualified Occupational Health Service staff will only take place when it is necessary to obtain medical advice. Advice may be sought on a range of issues relating to the health of an employee, e.g., whether the employee is fit for work, if unfit the likely recovery period, the likelihood that the condition will lead to further absences in the future and the patterns these may take.
- 10.2 Occupational health will provide impartial medical advice as to whether an employee is medically fit to be able to undertake their role. Occupational health will also provide advice and recommendations on possible reasonable adjustments that can be made for an employee with a disability or who is returning to work after a period of long-term sick leave.
- 10.3 There may be occasions when occupational health will seek advice from a third party, including an employee's GP. The employee will be asked to give their permission for this. The request for information will then be handled in line with the Access to Medical Reports Act (1988), and the employee will be provided with the opportunity to see any draft reports which are sent to occupational health before they are sent to the school or decline for the information to be sent.
- 10.4 Employees will be fully advised of their rights under the Act, including that:
- Their consent is required for qualified Occupational Health Service staff to apply for a medical report from the employees GP/Consultant.
 - With certain exceptions, they have full access to the content of the report. However, it is the employee's responsibility, not the school's, to make the necessary arrangements to see the medical report.
 - They have the right not to agree to the medical report being requested. However, in these circumstances decisions will have to be made, and a report prepared giving advice on the state of the employee's health, on the facts known at that time.

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- 10.5 If an employee declines to be assessed by occupational health, their line manager, or a relevant member of management, following advice from the Schools & Commercial HR Team may take a balanced decision on the medical capability of the employee to remain in their role.
- 10.5 If there is disagreement between occupational health and an employee's GP, the advice provided by occupational health will be taken above that of the GP.
- 10.6 An employee may also request a referral to occupational health on their own volition if they take the view that they require support. Employees may also access the school's employee assistance provider, details of which should be made available.
- 10.7 It may be necessary, in certain circumstances, to refer an employee to the Occupational Health Service where it is considered that the employee's health or safety may be adversely affected by them continuing to undertake their normal duties. The Occupational Health Service staff will advise accordingly.
- 10.8 Employees should always be advised that support and advice may be obtained from their professional association or trade union.

11 Medical suspension

- 11.1 Medical suspension is considered when a manager and/ or occupational health has concerns in relation to an employee's fitness to be at work. In this circumstance, an employee on medical suspension will be required to remain at home on full pay whilst medical advice is sought.
- 11.2 Medical suspension should only occur in exceptional circumstances, and every effort should be made to limit the period of medical suspension.
- 11.3 Prior to a medical suspension, a manager must:
- Discuss their concerns with the employee.
 - Take advice from occupational health.
 - Take advice from HR.
 - Obtain permission from the Headteacher or relevant member of senior management.
 - Have considered alternative action/duties.
- 11.4 If medical advice is that an employee is not fit to be at work, they will be placed on sick leave and pay according to the entitlement in their terms and conditions of employment. The sick leave start date will also be backdated to the date of which the medical suspension took effect.
- 11.5 The employee should be advised either by the Headteacher or the relevant member of senior management that they are being placed on medical suspension. It should also be explained to the employee that this is not a punitive measure and that the purpose of their suspension is due to concerns in relation to their health and wellbeing and that they are being asked to remain away from work whilst medical advice is being sought to confirm whether they should be at work.

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12 Reporting Sickness absence

- 12.1 **Employees should make contact according to the agreed school or service procedure.** The procedures should clearly identify the person to be contacted when staff report their absence and the time by which absences should be reported as well as any other requirements the school consider necessary (e.g., to manage cover arrangements).
- 12.2 Where an employee has failed to report a sickness absence according to the correct procedure, the manager should consider factors such as the nature of the illness (when known), whether or not the person has a telephone, lives alone etc., before deciding what action to take. Where there are no mitigating circumstances the absence should be treated as unauthorised and dealt with accordingly.
- 12.3 Employees absent due to illness must maintain regular contact with the school during their absence. Failure to do so may result in action being taken under the Disciplinary Procedure. In these circumstances employees may disentitle themselves to Occupational and Statutory Sick Pay.
- 12.4 Sickness absence in excess of 7 calendar days will require the employee to submit a Fitness for Work note immediately or as soon as possible after issue to the school or service. From this point forwards Fitness for Work notes must be submitted to cover any further periods of the absence.
- 12.5 There are circumstances when the manager will require the employee to obtain a certificate from her/his doctor specifying that she/he is fit to return to work. Alternatively, the manager may require the employee to be seen by the Occupational Health Service prior to return.

13 Sickness whilst overseas

- 13.1 Should an employee become unwell whilst overseas, they should make every attempt to return to work by the end of the school holidays where this is possible. Where this is not possible, the employee should provide a medical certificate signed by a medical practitioner to the relevant person. A copy of the certificate should be forwarded to the Schools & Commercial HR Team who will verify its validity.
- 13.2 If sickness occurs during annual leave and an employee wishes for the time to be re-debited back into the annual leave entitlement, the same process as set out in 13.1 must be followed.
- 13.3 Whilst an employee is signed off sick, and is overseas, an occupational health referral should be made for them, so that a telephone assessment may be carried out. Employees who are on sickness absence whilst abroad are required to provide a contact telephone number for the location where they are based, so that occupational health may contact them.

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- 13.4 If an employee fails to stay in contact with the school whilst on sickness absence overseas, respond to attempts made by occupational health to make contact may lose their entitlement to occupational sick pay and disciplinary action be invoked under the school's disciplinary procedure.

14 Sickness caused by an activity at work

- 14.1 Where an illness, accident or injury is the result of a work-related activity, the following steps must be taken:
- The employee must report the incident to the Headteacher, or another appropriate manager, regardless of the severity, as soon as reasonably possible, but no later than 24 hours after the date of the incident.
 - The Headteacher/ manager must ensure that the details are recorded on the appropriate form.
 - The Headteacher/ manager must notify Health and Safety on the first date of absence (or when notification of this is received).
 - Health and Safety will seek confirmation from the Headteacher/manager if the absence is extended beyond 7 days.
- 14.2 Failure on the part of the employee to take the following actions may result in disciplinary action being taken against them under the schools' Disciplinary Procedure.
- 14.3 Not notifying the Headteacher/ manager of an incident leading to absence from work; Failure to provide the relevant details for the purpose of logging the incident may result in disciplinary action being taken.

15 Return to work meetings

- 15.1 Before returning to work, an employee on sick leave of a period longer than one day should contact the designated person at the school to advise of the date that they will return.
- 15.2 On the first day back to work, irrespective of the duration of sick leave, the employee is required to report to their manager or another designated manager. A return-to-work meeting should take place on the first day back, or as soon as possible after the return and a return-to-work form completed as **APPENDIX E**.
- 15.3 At the return-to-work meeting, the employee will be welcomed back to work, and briefed on any information that they may have missed.
- 15.4 Once an employee returns to work, their electronic personnel and pay record will need to be updated with the payroll provider to ensure their pay record reflects that the employee has returned to work from sick leave.

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15.5 Staff must report and sign the return-to-work form in accordance with school procedures. It is the manager's responsibility to ensure that the appropriate sickness absence form is signed and to be satisfied of the employee's fitness to return to work.

15.6 During this discussion the manager **will**:

- Confirm the reasons for the absence and
- Check that the employee is ready to work normally again.

Thereafter the manager should, **as appropriate**:

- Make the employee aware of any changes that have occurred during her/his absence.
- Establish whether the employee requires any further support (e.g., advice or counselling).
- Establish whether the absence is related to a disability or impairment and discuss whether reasonable adjustments are required.
- Find out if the illness is likely to recur and if further time-off (e.g., for treatment) is necessary.
- Try to establish at this stage whether a single underlying medical condition exists which is related to, or causing, the absence.
- Ensure the employee is aware of and understands the school's sickness absence procedures.
- Inform the employee of the details of absence over the previous 12 months and the possible action which may follow.

15.7 Where the manager feels that an employee is nearing the stage of formal action under the procedure may be used, she/he should draw it to the employee's attention, both verbally and in writing.

15.8 Where the Headteacher or manager is unclear on how to act, because of the nature of the employee's illness, advice and support should be sought from the Schools & Commercial HR Team and/or the Occupational Health Service.

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16 Phased Return to Work

- 16.1 In some circumstances following a long-term spell of sickness absence, an employee may return to work on a phased return. A phased return is intended to be a **temporary** supportive measure to assist the rehabilitation of the employee back into the workplace. Advice should be sought from occupational health and the Schools & Commercial HR Team. A phased return must also be agreed by both the relevant manager and the Headteacher.
- 16.2 A phased return to work can include one or more the following supportive measures:
- A temporary reduction in hours/days.
 - A temporary reduction in workload.
 - A temporary redeployment to an alternative role or alternative duties.
- 16.3 Phased return to work arrangements are intended to last for a duration of no longer than 4 to 6 weeks in most circumstances.
- 16.4 Time taken will not be classed as further sick leave that would contribute towards a breach in the trigger points for the purposes of invoking further action under this procedure.
- 16.5 Where it is agreed that an employee returns to work on a phased basis of reduced hours building up to full time the balance of their working hours will be treated as recuperative leave and will count against their occupational sick pay entitlement. The school's payroll should be notified of phased return arrangements, so that appropriate adjustments to the salary payments are made.

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17 Short Term Sickness Absence

- 17.1 These absences usually occur when there is no obvious evidence, from any source, of a single underlying medical condition (i.e., where the reasons for the absences appear unrelated).
- 17.2 **As a guideline** the following will **normally** be regarded as persistent short-term absences that may trigger this procedure. There may be exceptional cases where managers decide to delay implementing the formal stages. In such cases a record of this should be made.
- (a) Four or more periods of absence in a 12-month period.
 - (b) 12 working days absence in a 12-month period.

Where 12 days has been reached in less than three periods of sickness this would not normally be regarded as persistent short-term absence. For example, two periods of 6 working days would not normally be regarded as persistent short-term absence.

- (c) Regular absence on certain days, e.g., Mondays or Fridays, long shift days, known busy/pressure workdays etc.
 - (d) An employee may also be considered to have an unacceptable level of persistent short-term absence where a combination of odd days, longer periods and patterns of absence exists which causes the manager concern. This may be identified by the manager after consideration of patterns of absence over a period of longer than 12 months.
- 17.3 **The above are guidelines only and do not mean, for example, that employees are "allowed" 12 days of sickness absence before action can be taken. Equally the issue of a doctor's Fitness for Work note does not mean that action cannot be taken under this policy.**
- 17.4 Where absences are stress related and recurring advice should be sought from the Schools & Commercial HR Team before deciding what action to take.
- 17.5 The distinction between disability-related sickness absence and general sickness that is unrelated to the person's disability, must be considered when considering if the formal procedure should be applied. It is recognised that a disabled person may need to be absent from work for "rehabilitation, assessment, or treatment" which is directly related to their disability.
- 17.6 A flow chart showing an overview of the formal process is attached to this policy as **APPENDIX B.**

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18 Long Term Sickness Absence

- 18.1 Long term sickness absence is defined as a continuous spell of absence lasting for a period of **20 continuous working days (four weeks) or longer**.
- 18.2 Once an employee has been off work for a period of 20 working days, or if it is known before that they will be off for this duration or longer their line manager should make an occupational health referral for the employee in question.
- 18.3 There may be exceptional cases where managers decide to delay implementing the formal stages. In such cases a record of this should be made in accordance with school practice.
- 18.4 The school should keep in contact with the employee (either by telephone, email, letter or by home visit) **at least once a month** from the first stages of the absence and should record the content of any discussions. However, the employee should not be harassed, and home visits should only take place by prior arrangement with the employee. Such communication may be arranged through Professional Associations where this is helpful.

19 Formal process: Stage 1 and Stage 2 meetings

- 19.1 The following procedure will be followed in sequence except in cases when the written opinion of the Occupational Health Service is received stating that the employee is permanently unfit. In these cases, the procedure for permanent ill health will be followed as set out in **Paragraph 22**.
- 19.2 If an employee reaches one or more of the trigger points set out in Paragraph 17 of this procedure, or if they remain on long term sick leave, the Headteacher or relevant line manager can request that the employee attends a formal Stage 1 meeting. A flow chart showing an overview of the formal process is attached to this policy as **APPENDIX D**.
- 19.3 An employee has the right to be accompanied to all meetings under the formal stage of the procedure by either a trade union representative or workplace colleague. It is the responsibility of the employee to arrange this.
- 19.4 The employee will be given at least **5 working days' notice** of a Stage 1/2 meeting. Meetings will not normally be postponed, except for good reason. Should a request for a postponement be made due to a trade union representative or work colleague being unavailable, a date not exceeding 5 days after the initial date should be given as an alternative. An employee will be advised that failure to attend a formal meeting or hearing may result in it taking place in their absence.
- 19.5 Before an employee is requested to attend a formal Stage 1 or a Stage 2 meeting, consideration should be given as to whether they should be referred to occupational health prior to the meeting. An occupational health report can be useful for the provision of medical advice which can be reviewed at the meeting.

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- 19.6 At Stage 1 or Stage 2 meetings, the following should be reviewed and recorded:
- *The employee's absence record and provide them with the opportunity to explain the reasons for their absence and provide any mitigation.*
 - *If applicable, occupational health report and medical information.*
 - *Any previous efforts made by management and the school to assist the employee in maintaining their attendance*
 - *Any assistance that will be put in place to assist the employee with managing their attendance.*
 - *Set a review period of a **minimum** of four weeks*
 - *Advise the employee that failure to make the necessary improvements in their attendance may result in them being progressed to the next stage (stage 2 or contractual review hearing) of this procedure.*
 - *Set a review meeting date near or at the end of the review period.*
 - *An outcome letter detailing a summary of the meeting, what was discussed, and the next steps should be confirmed in writing to the employee within **5 working days**. Where possible, it should also set out the date and arrangements for the review meeting.*
- 19.7 A review meeting should take place by the end of the review process. The purpose of the review meeting is to assess whether the employee's attendance has improved.
- 19.8 An employee will be provided with at least **5 working days'** notice of a review meeting which will have been set out in the outcome letter from the last meeting. The employee also has the right to be accompanied by a trade union representative or workplace colleague.
- 19.9 If the attendance has improved, the employee will be advised of this, verbally. The employee should be thanked for their attempts to improve their attendance, however, be advised that should their attendance deteriorate, this may result in this procedure being re-invoked.
- 19.10 Should attendance deteriorate within 12 months of the date of the review meeting, they may be placed onto the next stage of this procedure. This meeting should be followed up by a letter.
- 19.11 If the attendance continues to deteriorate, the employee will be advised of this at the review meeting. The employee will be asked to provide mitigation for this reason.
- 19.12 If the Headteacher/ manager decides that there is a good mitigation as to the reason for the employee failing to improve their attendance, they can decide to extend the review period by a further 4 to 6 weeks (depending upon the circumstances).
- 19.13 If attendance has not improved at the end of the review period following a Stage 2 meeting, the Headteacher/ manager should refer the employee to occupational health.

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19.14 The purposes of the referral are to:

- *Seek advice if the employee in question should be considered for ill health retirement if they are in the relevant pension scheme.*
- *Seek advice for their fitness for their role, and the probability of them being fit for their role and able to provide regular and reliable attendance in the future.*

19.15 If ill health retirement is not supported by occupational health, and the Headteacher/Manager is not satisfied that the attendance has improved, having given due consideration to any mitigation given or further information provided, the employee should be advised that they will progress to the next stage of this procedure. (Either Stage 2 if at the end of a Stage 1 review period, or to Contractual Review Hearing if at the end of a Stage 2 review period). This should be confirmed in writing.

20 Stage 3 Contractual Review Hearing

- 20.1 The manager will prepare a report recommending the termination of the employee's contract of employment (all relevant correspondence should be attached including letters confirming the outcome of the Formal Meetings at Stages 1 and 2 of the process).
- 20.2 The report will be submitted to a panel established by the Governing Board in respect of schools, or to the Executive Director of Children's and Adult Services for a teacher employed centrally. For centrally employed teachers the Executive Director will appoint a panel of 2 senior managers to consider the report. The panel will convene for a contractual review meeting. The members of the panel will not have had prior involvement in dealing with the case.
- 20.3 A copy of the report and associated documents will also be provided to the employee who will be invited to attend the contractual review meeting. The employee must be given at least **10 working days** written notice of the meeting and advised of her/his right to be accompanied at the meeting by a Professional Association/Trade Union representative or workplace colleague.
- 20.4 Where the employee is an accredited trade union representative the manager should notify a full time official of the union concerned. The employee and the manager should also be advised of who and where to send any papers she/he wishes to be considered at the contractual review meeting. These papers should be received by the addressee at least **3 working days** prior to the meeting. The addressee will distribute the papers to the members of the panel and ensure that the presenting manager and employee have copies of all papers presented by the deadline.
- 20.5 The employee should confirm her/his intention to attend the meeting **at least 3 working days** prior to the meeting. The panel will reserve the right to proceed with the meeting in the employee's absence.

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- 20.6 In terms of employee absences at hearings, an employee will be advised on the invitation letter that failure to attend a hearing without providing good reason may result in the hearing taking place in their absence. Employees who do not wish to attend in person may confirm in writing to the panel chair that they wish for a trade union representative or workplace colleague to attend on their behalf. In such cases, the employee may also wish to make written submissions. Any written submissions must be provided by the employee within **3 working days** of the date of the hearing.
- 20.7 Contractual Review hearings are not usually postponed except in extenuating circumstances. The panel chair reserves the right to make any decisions as to whether a request for a postponement is to be agreed or declined. In cases where a hearing has been rescheduled to take place on a date that a trade union representative is unavailable, a new date will be set within **5 working days** of the initial date.
- 20.8 A representative from the Schools & Commercial HR Team representing the Executive Director for Children’s and Adult Services will also be present in an advisory capacity.
- 20.9 The Governors Panel/Director’s Panel should be satisfied that all the appropriate procedures have been followed before a decision to dismiss is reached, including that all stages of the process have been followed, the employee has been advised that her/his employment with the school/service could be terminated and has been referred to the Occupational Health Service within the previous four months.
(N.B. It should be noted that a decision to dismiss an employee is not a medical question but an employment question relating to the employee’s contractual obligation to work).
- 20.10 If the panel decides to terminate the employment of an employee this decision must be communicated in writing to the Executive Director for Children’s and Adult Services. The employee should be given notice in accordance with her/his contract of employment, or a minimum period of notice under employment legislation, whichever is the greater.
- 20.11 A decision to dismiss an employee should not be communicated to the full Governing Board until the Appeals process has been exhausted.
- 20.12 This stage of the process should be invoked in the following circumstances:
- If an employee has failed to meet the required levels of attendance at Stage 2 of the process or
 - In cases where an employee has been on long term sick leave, and there is medical evidence which confirm that the employee in question is medically unfit to return to work long term or permanently and is not eligible for ill health retirement.
- 20.13 **The format of the hearing will be as follows:**
- The case manager will present their case.
 - The panel, and then the employee and their representative may ask questions or seek clarification on any points.
 - The employee presents their case, and they may provide mitigation.

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- The panel and then the presenting case manager may ask questions and then seek clarification on any points.
- The panel will adjourn to consider all information presented at the hearing and decide on an outcome.
- The panel will give a decision.

20.14 The outcomes of the hearing will be either:

- A further review period to be set with attendance targets.
- Dismissal with paid notice.

20.15 The outcome will either be given on the day of the hearing, where possible. If this is not possible, the decision will be provided within **5 working days** in writing. In some cases, the panel chair may take the decision that it is appropriate to reconvene a hearing within the five working day period to advise on the outcome of the hearing.

20.16 If an employee is dismissed on the grounds of medical capability, they will be dismissed with paid notice and will be in line with the entitlements set out in their terms and conditions of employment.

20.17 At any point during the notice period following a dismissal decision taken at the Contractual Review stage, the employee may submit further information to the school/service to be forwarded for the consideration of the Occupational Health Service. If the OHS decides that in the light of the new information the employee is permanently unfit for work, then the procedures outlined under **Paragraph 22** will be followed.

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22 Ill Health Retirement

- 22.1 If Occupational Health advises that an employee is permanently unfit to undertake the duties of their current role, the employee in question will be invited to an ill health retirement meeting.
- 22.2 This advice will be made following the occupational health referral made following the Stage 2 review meeting or can be made at any point in this procedure if there are concerns that an employee has become medically unfit to be able to discharge the duties of their current post. Although this is a formal meeting, it should be conducted with sensitivity.
- 22.3 The definitions of 'Permanent Ill Health' and 'Ill Health Retirement' for the purposes of this procedure are as follows:
- Support staff (i.e., those employed in accordance with the NJC Green Book): This will only occur when OH has certified **that the employee in question is permanently unfit to carry out the duties of their current post**. This diagnosis will automatically lead to the termination of employment on the grounds of medical capability pending completion of the processes outlined in sections 22 to 23 of this procedure. If the employee is a member of the Local Government Pension Scheme, (LGPS) certification of permanent ill health by an occupational health physician would give early access to retirement benefits subject to their length of service.
 - **Teaching staff** (i.e., those employed in accordance with the Burgundy Book): The diagnosis of permanent ill health by an occupational health physician would not automatically trigger the early release of pension benefits if the teacher is in the Teacher's Pension Scheme. **It is the responsibility of the employee to apply for their own ill health retirement benefits, and to provide a copy of the certification from the occupational health physician along with their application.**
- 22.4 The meeting should be chaired either by the Headteacher or a relevant manager. As the outcome of this meeting is the potential termination of contract of employment the manager chairing the meeting should either have the authority to dismiss, or have this authority delegated to them by the headteacher or governing body in writing. The Panel Chair will be supported by a member of the Schools and Commercial HR Team. The employee has the right to be accompanied either by a trade union representative or workplace colleague. The employee must arrange their own representation.
- 22.5 The employee should be provided with a **minimum of 5 working days'** notice of the ill health retirement meeting in writing. **APPENDIX G**. A Retirement on the Grounds of Ill Health Declaration Form should be enclosed with the invitation letter. **APPENDIX F**

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22.6 The Ill Health Retirement meeting should take the following format:

- Seek confirmation from the employee that they understand the terms set out in this procedure and the 'Retirement on the Grounds of Ill Health' declaration form and that they have a full understanding of their current situation.
- The options set out on the form 'Retirement on the Grounds of Ill Health' will be discussed with the employee.
- The employee should be advised about the redeployment process and how it works.
- The employee should be provided with a copy of an estimate of pension benefits based on their service and early release date should they take ill health retirement.

22.7 Whilst it is recommended that an employee should attend an Ill Health Retirement meeting in person, it is recognised that there are instances where this may not be possible, or that an employee may not wish to attend. A trade union representative or colleague may attend in place to represent the employee provided the employee confirms that they agree to this in writing.

22.8 Alternatively, an employee can consider the options set out on the Retirement on the grounds of Ill Health Retirement Form, complete the form remotely and submit this, provided they confirm in writing that they understand that they have understood the terms set out in the form.

22.9 Following the written advice to the employee that they are being retired on the grounds of ill health, they will be issued formal paid notice in line with the length of service.

23 Redeployment on health grounds

23.1 An employee may be redeployed if they are medically unfit for their current post but may be medically fit to undertake another suitable role. Following medical confirmation that an employee is unfit for their current post; the employee can indicate that they wish to be considered for redeployment either before or following a capability hearing.

23.2 The redeployment period should run concurrently with the notice period. The headteacher/ relevant manager should, assess which opportunities may potentially be available in the school, other schools and across the service that could be suitable alternative employment. It should be made clear to the employee that whilst endeavours will be made to assist the employee in identifying suitable alternative employment, this cannot be guaranteed.

23.3 If a potential alternative role is identified, the employee will be required to attend an interview process for the role to assess their suitability for the role. Provided that they meet all the minimum criteria for the role, they will be appointed to the role on the salary and terms of conditions applicable to that role.

23.4 If the alternative post was identified following an employee being dismissed from their current post on the grounds of ill health and their being in redeployment, they will automatically go into the new role. Should the alternative role be identified ahead of a capability hearing, the hearing is still required to take place so as to allow for the

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formal dismissal of the employee from their current role and to confirm their commencing employment into the role that they have obtained through the medical redeployment process.

24 Right of Appeal

Appeals against the dismissal on the grounds of ill health

- 24.1 An employee who is dismissed with notice on the grounds of ill health will also have the right of appeal. Appeals must be lodged in writing within **5 working days** of the date of the decision to dismiss. The Appeal must be sent to the Chair of the Governing Board. An appeal is not an opportunity for a case to be re-run.
- 24.2 For a request for an appeal to be agreed, the appeal must meet the following criteria:
- The employee is of the view that the process was not followed correctly.
 - The decision taken was not correct.
 - There is new evidence available which was not available at the time that the original contractual review hearing was held which may have influenced the decision taken by the panel.
- 24.3 Provided the appeal criteria in has been met, an appeal panel will be convened. The panel will be set up as per the guidelines in para. 20.3, and will consist of members who have had no prior involvement in the case. A member of HR who has not been involved may be present to provide advice and guidance to the Appeal panel. The school should also provide a notetaker.
- 24.4 As with the initial hearing, the format for the arrangement and running of the hearing as set out in paras. 20.15 – 20.17 will apply.
- 24.5 The response will be provided to the employee within 5 working days of the date of the hearing. The response will be final and there will be no further stages of appeal.

Appeals against any decisions in relation to ill health retirement

- 24.6 In circumstances where an application for ill health retirement has been declined, an employee or the school may wish to challenge this decision if they were of the view that this should have been advised by occupational health.
- 24.7 For the decision to be reviewed, the employee in question may submit any further medical evidence to the school to provide to occupational health for the application for ill health retirement to be reconsidered. This can be done at any stage of the process set out in this procedure. In circumstances where a contractual review hearing has already taken place, and an employee dismissed with notice, the reversal of a decision for an employee not to be retired early on health grounds will supersede a dismissal on grounds of inability to undertake their contractual duties.

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- 24.8 Employees who wish to appeal against the decision that they are permanently unfit for work should submit an appeal in writing to the Chair of Governors, along with a fit note from their GP if their GP concurs with the appeal. The fit note should state that the GP is in dispute with the opinion of the occupational health physician.
- 24.9 The appeal and fit note must be submitted **within 15 days** of the date of the ill health retirement meeting. The Schools and Commercial HR Team should be advised of all appeals. The appeal will run concurrently with the notice period.
- 24.10 The fit note, occupational health report and all other documentation should then be submitted to an independent medical referee. For schools with a delegated budget, this will be nominated by the Governing Board. The independent medical referee will then take a decision as to whether the opinion of the occupational health physician or the GP is to be upheld. The decision made by the independent referee is final, and there are no other stages of appeal.
- 24.11 If the appeal is upheld, it will be the expectation that the employee will return to work soon after the decision. Should the employee's health and/or attendance deteriorate in the 12-month period following this decision, the case will be reviewed, and the employee will be required to be assessed by occupational health to confirm their fitness for their role.
- 24.12 If the independent medical referee upholds the advice from occupational health that the employee is permanently unfit for their role, this will be conveyed to the employee in writing and the view of the occupational health physician will stand.

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APPENDIX A

THE EDUCATION (HEALTH STANDARDS) (ENGLAND) REGULATIONS 2003 (SI 2003 No. 3139)

Paragraph 7: Health standards – procedures

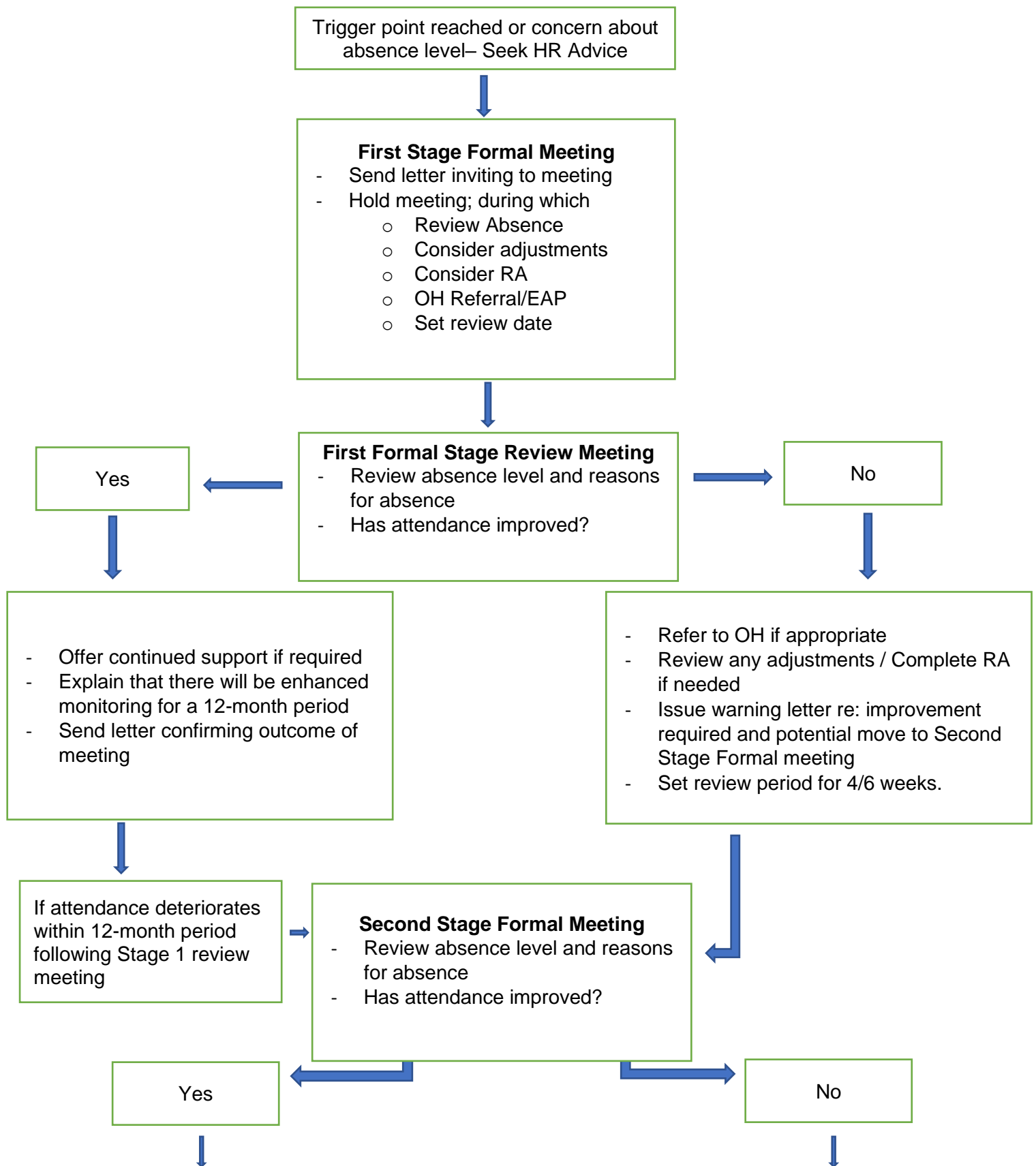
- 1) If it appears to an employer that a person may no longer have the health or physical capacity to carry out a relevant activity, the employer—
 - (a) must afford the person an opportunity to submit medical evidence and make representations to him.
 - (b) must consider such evidence and representations and any other medical evidence available to him/her, including such evidence which has been furnished in confidence on the ground that it would not be in the best interests of the person concerned to see it; and
 - (c) may require the person, or at his/her request must arrange for him/her, to submit him/herself for examination by a qualified medical practitioner appointed by the employer and, if the person fails to submit himself for such examination without good reason or refuses to make available medical evidence or information sought by the medical practitioner, the employer may reach a conclusion in the matter, including a conclusion that the person no longer has the health or physical capacity to carry out that relevant activity, on such evidence and information as is available to him, notwithstanding that further medical evidence may be desirable.
- 2) At any time before such medical examination as is referred to in paragraph (1)(c) is **undertaken, the employer or the person himself may submit to the appointed medical practitioner a statement containing evidence or other matter relevant to the examination: and the examination may be attended by a qualified medical practitioner appointed by the person being examined.**

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APPENDIX B

MANAGEMENT OF ABSENCE PROCESS FLOW CHART - SHORT TERM ABSENCE



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- Offer continued support if required
- Explain that there will be enhanced monitoring for a 12-month period
- Send letter confirming outcome of meeting

- Re-refer to OH if appropriate
- Review any adjustments / Complete RA if needed
- Issue 2nd warning letter re: improvement required and possible move to Contractual Review meeting
- Set review period for 4/6 weeks.



If attendance deteriorates further within 12 months from date of Stage 2 meeting

Second Formal Review Meeting

- Review absence level and reasons for absence
- Has attendance improved?



Yes

No



- Offer continued support if required
- Explain that there will be enhanced monitoring for a 12-month period
- Send letter confirming outcome of meeting and warning that procedure will re-commence from Stage 2 if absence deteriorates.

- Re-refer to OH if appropriate
- Send letter confirming move to Contractual Review Meeting

Contractual Review Hearing
Convened with Panel of Governors and HR



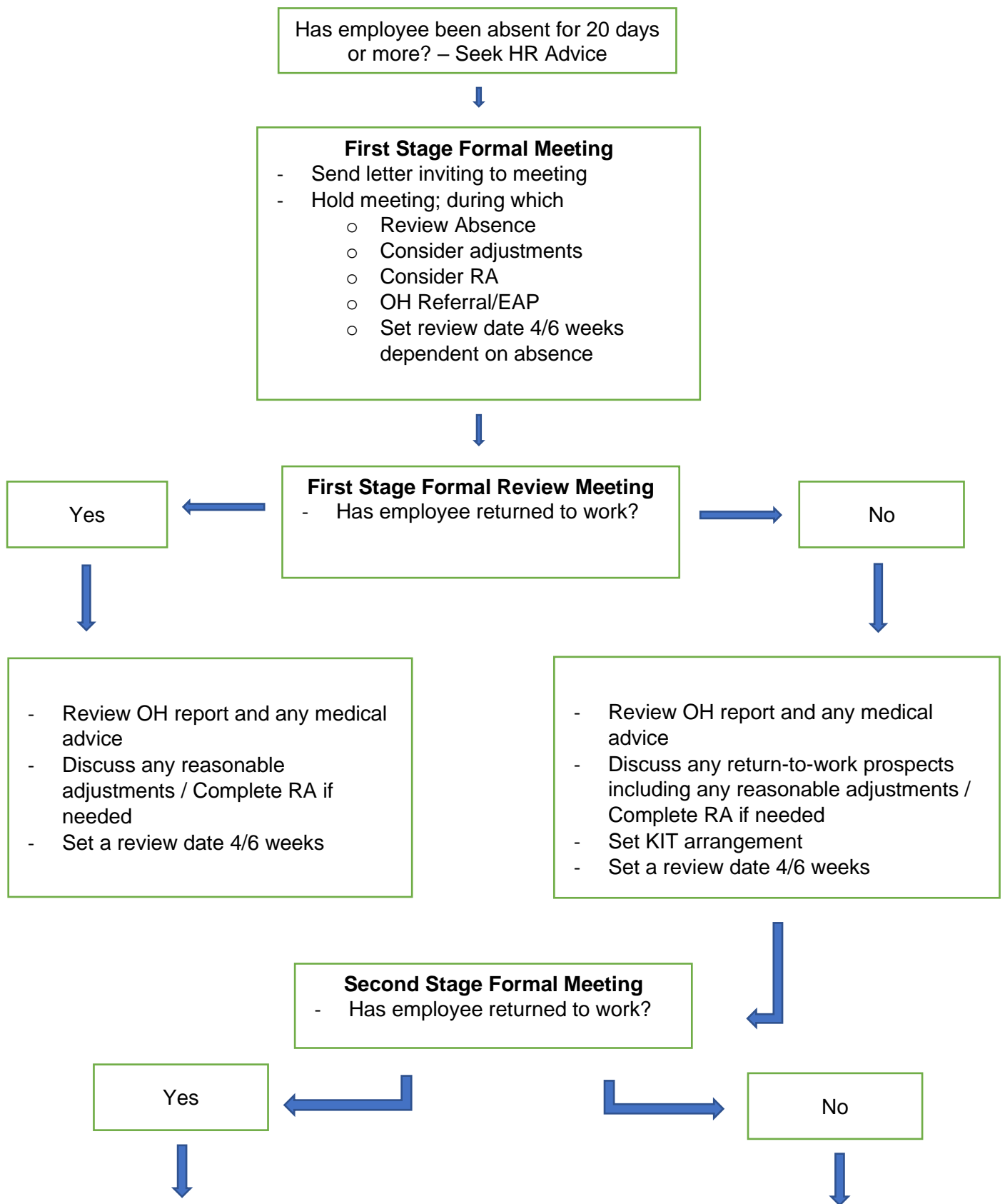
Note: The process outlined above may be extended or reduced dependent on the nature and reasons of the ill health of the employee.

Headteachers/Line managers should ensure that individual circumstances, medical advice or any underlying conditions are given due consideration throughout the process.

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APPENDIX C

MANAGEMENT OF ABSENCE PROCESS FLOW CHART - LONG TERM ABSENCE



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- Offer continued support if required
- Review OH report and any medical advice
- Discuss any return-to-work prospects including any reasonable adjustments / Complete RA if needed
- Set a review date 4/6 weeks

- Review absence and any further information
- Review any subsequent medical advice
- Discuss return to work prospects /phased return
- Consider IHR / Fitness for role
- Set a review date
- Send warning letter re: potential Contractual Review Hearing
- Set review period for 4/6 weeks.

Second Stage Formal Review Meeting

- Review absence level and reasons for absence
- Has employee returned to work?

Yes

No

- Offer continued support if required
- Explain that there will be enhanced monitoring for a 12-month period
- Send letter confirming outcome of meeting and warning that procedure will commence if absence deteriorates.

- Review continued absence and any further information
- Review any subsequent medical advice
- Discuss return to work prospects
- Re-refer to OH
- Confirm movement to Contractual Review Hearing

Contractual Review Hearing

Convened with Panel of Governors and HR

Note: The process outlined above may be extended or reduced dependent on the nature of the ill health experienced by the employee and any medical advice received regarding recovery and should serve as a guideline to the process only.

Headteachers/Line Managers should give due consideration to individual cases and seek advice from the Schools and Commercial HR Team at each stage of the process.

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APPENDIX D

SICK PAY ENTITLEMENTS

Teaching Staff

Teachers' national occupational sick pay entitlements, set out in the Burgundy Book, give a sliding scale entitlement according to aggregated length of service, as follows:

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:	Full pay for 100 working days and half pay for 100 working days

It should also be noted that the Burgundy Book scheme operates on the basis of working days. It is only those **working** days for which the teacher is absent that count against the above sliding scale entitlements. Holidays and weekends do not count against these entitlements.

The sick leave year normally runs from 1 April to 31 March, and a new entitlement starts each year on 1 April. However, teachers absent due to illness on 31 March in any year will not be entitled to the subsequent year's allowance until they are recovered and are back at work. Instead, sick leave will continue to be counted against the previous year's entitlement.

Support Staff

The Green Book sickness scheme for staff employed under NJC terms and conditions are as follows:

During the 1st year of service:	1 month's full pay and 2 months half pay* (*if completed 4 months service)
During 2 nd year of service:	2 months full pay and 2 months half pay
During 3 rd year of service:	4 months full pay and four months half pay
During 4 th and 5 th year of service	5 months full pay and 5 months half pay
After 5 years' service	6 months full pay and 6 months half pay

Unlike teachers where the sickness absence year is fixed and runs from 1 April – 31 March so that from 1 April, sickness absence reverts to 0 (unless the teacher is on sick leave), support staff have a "rolling year" which means that at the start of any absence the employer will look back over the previous 12 months and add any previous sickness days to the current entitlement

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APPENDIX E

RETURN TO WORK DISCUSSION FORM

NAME OF EMPLOYEE		
SCHOOL ROLE		
DATE OF INTERVIEW		
NAME OF MANAGER CONDUCTING INTERVIEW		
PERIOD OF ABSENCE	From	To
NO. of DAYS ABSENCE in last 12 months		
REASON FOR ABSENCE	Illness <input type="checkbox"/>	Family <input type="checkbox"/> Emergency <input type="checkbox"/> Other <input type="checkbox"/>

Please provide details if absent for any reason other than illness:

Does this absence fall under the Parental Leave guidelines Yes No

If yes, please ensure the member of staff completes a Parental Leave request form

Have you requested Leave of Absence to cover this absence Yes No

If yes, please ensure the member of staff completes a Special Leave request form

This period of absence is to be paid Yes No

This period of absence is to be unpaid Yes No

Headteacher's signature:

Please provide reason for sickness absence:

Did you seek advice from your GP or a Hospital in respect of this absence?

If yes, please provide the following information

Advice/Medication given

Was a Fit Note issued?

If yes, please attach the Fit Note to this form

Has a follow up appointment been arranged?

If yes, please insert date of appointment.....

Is the member of staff fit to resume work?

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<i>The following section is to be completed by the line manager conducting the interview</i>	Yes	No
Is there any reason to suspect an underlying problem or welfare need?		
Is this illness likely to recur?		
Is there a need for the staff member to be referred to Occupational Health?		
Is there a need for the staff member to be referred to the Employee Counselling Service?		
Has the individual a pattern of sickness which causes you concern and been warned that further absences may result in a first formal interview? You have had or more periods of sickness in the last 12 months (attached) which may trigger a formal meeting. You have had or more working days absence in a 12-month period (attached) which may trigger a formal meeting for persistent short term absence.		
Has the individual had a level of absence in the last 12 months that should initiate the formal procedure? Has the individual a formal procedure in place, and is being monitored? If yes, then if absence deteriorates this may result in a second formal warning.		
Is the absence due to an industrial injury? (If yes, ensure the appropriate forms are completed and submitted)		
Is there a need to consider alternative duties/hours upon the return to work? (If yes, speak to the HR Advisory team)		
Does an Individual Risk Assessment/Stress Risk Assessment need to be completed		
Any other information		

Headteacher/Line Manager signature: _____ **Date:** _____

Employee signature: _____ **Date:** _____

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APPENDIX F

**RETIREMENT ON THE GROUNDS OF ILL HEALTH
DECLARATION FORM**

Full name

School

Staff/Payroll number

Please read the statements below then sign the statement that you agree with and delete the one you do not agree with.

Either a)	I ACCEPT the proposal to terminate my employment on the grounds of ill health following a medical assessment that I am unable to carry out the full normal duties of the post of <i>insert post at insert name of school</i>
	Signature..... Date.....
or b)	I DO NOT ACCEPT the proposal to terminate my employment on the grounds of ill health following a medical assessment that I am unable to carry out the full normal duties of the post of <i>insert post at insert name of school</i>
	Please give reasons below:
	Signature..... Date.....

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APPENDIX G

Dear

I am writing to you following the meeting/discussion on ***insert date***. As confirmed in the meeting, following an assessment by an independent Occupational Health Physician, it is proposed to terminate your employment as ***insert post title*** at ***insert name of school*** on the grounds of your ill health.

This proposal relates to your incapacity to carry out the full normal duties of the post. I attach a copy of the letter of confirmation completed by the Independent Occupational Health Physician for your records, which clarifies that you are permanently unfit to undertake your duties at the school and that you be granted retirement on the grounds of ill health.

I attach the declaration form which you will need to sign and return to confirm your acceptance of the proposal.

As per the terms of your contract of employment, you are entitled to ***(insert number of weeks according to years of service)*** weeks' notice of the termination of your employment, which commenced on ***insert date***, which means that you will be paid up to and including the ***insert date***. It is proposed that your last day of service with ***insert name of school*** will be ***insert date*** and you will be paid a lump sum in lieu of the remainder of your notice period in your final salary. ***(delete if not applicable)***

If you are eligible to receive pension benefits, the detailed information will be provided to you by the London Borough of Hounslow's pension provider, West Yorkshire Pension Fund, who can be contacted via email at pensions@wypf.org.uk or via telephone 01274 434999.

This action is taken in accordance with your terms and conditions of your employment contract and is no indication that the school accepts liability of any kind in relation to your condition. The termination of your contract of employment, therefore, does not constitute any admission by the School of responsibility or liability on its part and is given entirely without prejudice to the legal position of the School.

I would like to take this opportunity to thank you for your service to the pupils of ***insert name of school***.

If you have any queries on this matter, please contact me via the school.

Yours sincerely

Insert name
Headteacher

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