HCAT

Supporting Attendance Policy

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Version Number	Version Description	Date of Revision
1	HCAT Supporting Attendance Policy	June 2024

HCAT Supporting Attendance Policy

1. Introduction

1.1 This policy has been developed in consultation with Trade Unions and Professional Associations who are recognised by HCAT.

1.2 The purpose of this Supporting Attendance Policy is to provide a framework to support employees who are unable to work due to illness and assist them back to work as quickly as possible; to give employees appropriate support to improve attendance where necessary; to reduce the impact on other colleagues when covering for colleagues absent due to illness and to secure the attendance of employees in order to minimise the cost and effects of sickness absence on educational delivery.

1.3 **Line Manager will be used throughout to refer to the (Executive) Principal/Principal/Head of School/Headteacher/Line Manager - to be determined as appropriate to the Academy/setting.**

1.4 This policy does not form part of any employees' contract of employment, and it may be amended at any time.

2. Scope

2.1 This policy applies to all employees of HCAT (the Trust) including those employed by Academies within the Trust with the exception of those employees within their Probationary Period for whom absence issues will be dealt with under the relevant Probationary Policy. It does not apply to agency workers, contractors or volunteers. This policy does not cover absence for personal, family or compassionate leave **(refer to Leave of Absence Policy).**

3. Principles

3.1 The Trust is committed to promoting the health, safety and wellbeing of its entire staff and will support and assist individuals who may have health difficulties. As part of this aim, it is essential that throughout the Trust, all employees are committed to achieving the lowest possible level of absence.

3.2 The Trust recognises the benefits of a healthy workforce and value the contribution employees make through regular attendance which ensures the effective running of our Academies.

3.3 The Trust values the contribution employees make and this policy provides a framework for a positive, pro-active and consistent approach to the management of attendance. Absences will be dealt with in a sensitive, fair and confidential manner, with decisions made based on the information available at the time.

3.4 Formal action under this procedure in respect of a pregnant employee, an employee whose absence is directly attributable to an accident or injury at work, or an employee who is known to have a condition as defined as a disability under the Equality Act should not be taken without first seeking advice from Human Resources.

3.5 Where an employee attends work, but is sent home due to illness, the exact hours of absence will be recorded. For example, if an employees' normal working day is 6 hours and they leave after 2 hours, 4 hours absence will be recorded. For the purposes of absence monitoring, once a half day is reached, this will count towards triggers, for example, if someone has two half days this will count as one day.

3.6 Employees have the right to be accompanied at all formal meetings, hearings and appeals by their trade union representative or a work colleague. It is the employees' responsibility to make the necessary arrangements for representation. This right does not extend to family/friends or professionals such as solicitors and barristers.

3.7 Absence data will be monitored to help deliver supportive strategies to tackle any underlying causes of staff absence.

3.8 All documentation relating to any absence matters will remain confidential and will be retained on the employees' personal file.

3.9 Failure of any employee to comply with this policy including providing continuous 'fit notes' without reasonable cause, non-attendance at absence monitoring meetings or occupational health meetings may be deemed as a contravention of the terms and conditions of the National Joint Council for Local Government Services (Part 2, paragraph 10.10, Part 3, paragraph 4.2) and the Conditions of Service for School Teachers in England and Wales (Section 4, paragraph 8.1); and may result in suspension of Occupational Sick Pay. It may also be construed as a breach of contract and disciplinary action may also be taken if it is determined that an employee has abused the scheme.

4. Authority to Act Under the Procedure

	Informal discussions on sickness absence and returning to work	**Stage One, Stage Two Meetings and formal Long term Ill Health meetings**	**Stage Three and formal long term ill health review meetings** **Dismissal Hearing**	**Appeal against dismissal**
All Academy based employees except those listed below	(Executive) Principal/Headteacher / Head of School/Line Manager (who may delegate responsibility to line managers, or another appropriate person within their Academy).	(Executive) Principal/Headteacher / Head of School/Line Manager (who may delegate to responsibility to a colleague)	(Executive) Principal/Headteacher / Head of School/Line Manager where responsibility has been delegated by Chair of Governors), or panel of three Governors (from the LGB or drawn from across the Trust). Whilst Heads/Head of School have the authority to hear a case for dismissal alone (if this has been delegated by the LGB) they may decide to form a panel of themselves and two Governors.	Panel of three Governors (from the LGB or drawn from across the Trust). NB Wherever possible at least 2 of the Governors should be from the LGB.
(Executive) Principal/Headteacher /	Chair of Governors and/or CEO of the Trust	Chair of Governors and/or CEO of the Trust, or panel of three	Panel of three from the Trust Board	Panel of three from the Trust Board who have

Head of School		Governors (from the LGB or drawn from across the Trust).		not heard the initial case.
CEO of the Trust	Chair of the Trust Board (or nominated delegate)	Chair of the Trust Board (or nominated delegate)	Panel of three from the Trust Board	Panel of three from the Trust Board who have not heard the initial case.

5. Responsibilities and Expectations

5.1 (Executive) Principals/Headteachers/Heads of School/Line Managers *(referred to throughout as Line Manager).*

5.1.1 Line Managers have primary responsibility for the health and wellbeing of staff and the day to day management of attendance. Key responsibilities include:

- Ensuring that absence is managed in accordance with this policy, and with advice from Human Resources, Occupational Health or other appropriate services where required.
- Ensuring that there are robust systems in place for monitoring absence levels.
- Ensuring staff are aware of this policy.
- Managing attendance on a day to day basis, and that ensuring sickness absence is recorded accurately, and that appropriate information is sent to payroll.
- Handling absence promptly and sensitively, intervening at an early stage to actively support a member of staff showing signs of ill health, to prevent deterioration of their health and a long-term absence.
- Signposting staff to other appropriate services such as Access to Work or Occupational Health.
- Encouraging and supporting employees to maintain good attendance levels through good management practice.
- Ensuring return to work discussions take place as soon as possible on an employees' return to work after absence.
- Maintaining regular contact with an employee during their absence.
- Making reasonable adjustments to an individual's job or workplace to help then to remain at or return to work, particularly for employees with any identified disability.
- Present managements case in the final stage of this procedure for both intermittent and long-term absence.
- Line Managers may, however, choose to delegate some of these responsibilities where appropriate.

5.2 Employee Responsibilities

5.2.1 All employees have an obligation to attend work during the hours agreed in the terms of their contract of employment.

5.2.2 All employees should take care of their own physical and emotional health and safety to achieve the highest possible levels of attendance. It is important that employees seek help and support whenever they need it, however we understand that not everyone recognises that they need help. The employee's Line Manager, HR, Occupational Health and Trade Union Representatives are all available to provide help and advice.

5.2.3 All employees should inform their Line Manager (or Trust HR if the employee feels they are unable to share the reason for their absence with their Line Manager) of:

- Any work-related issues that may be contributing to their ill health and/or absence.

- Any medical conditions which might put themselves, pupils, other members of staff at risk.
- Any work-related accident, incident or injury, including ensuring that an accident form is completed.

5.2.4 When an employee is unable to attend work due to ill health they are required to comply with the Trust's and individual Academy's specified sickness reporting arrangements (these may vary depending on the place of work), which will usually include reporting the absence to their Line Manager or other nominated person within specific timeframes.

5.2.5 When reporting an absence, the following information should be given:

- Reason for absence (giving the reason such as 'ill' or 'sick' is not sufficient).
- Likely length of absence.
- Ability to attend work on amended/reduced duties/hours (supported by medical evidence where appropriate).
- Ability to work from home for a short period of time (only where appropriate).
- Details of any work commitments that may need addressing.
- Contact telephone number so that the Line Manager (or an agreed representative of the Academy) can maintain regular contact.

5.2.6 For periods of sickness exceeding 7 days, a Statement of Fitness for Work signed by a G.P. is required.

5.2.7 Return to work **may** be allowed before the expiry date on the medical certificate should the employee feel fit to return to work. **See Statement of Fitness for Work Guidance Appendix 1.**

5.2.8 Where the sickness absence continues the employee must contact their Line Manager (or agreed representative of the Academy) as agreed. Arrangements for contact should be agreed relative to the circumstances: for example, if it is a minor illness and a quick return is expected then daily contact may be appropriate; however, if it is clear from the outset that the absence will be longer term then weekly or fortnightly contact may be more appropriate to maintain communication.

5.2.9 If no contact has been made within 1 working day of the start of an absence and the academy has been unable to contact the employee directly, in the interests of the employees' safety and welfare the Line Manager may contact the employees next of kin and also their trade union representative (as they may be able to offer support in making contact with the employee). In cases where there is extreme concern about an employee or when unable to contact the next of kin (or their representative has been unable to make any contact with the employee), they may also undertake an immediate home visit.

5.2.10 Employees should contact their Line Manager to provide at least one days-notice of their return to work (or as much notice as possible) to ensure the necessary arrangements are in place to support the employee on their return to work.

5.2.11 Whilst absent from work due to illness, employees:

- Should refrain from undertaking any other paid activities as this could potentially be considered a breach of the sick pay regulations. In cases of dual employment, specific medical advice should be sought in relation to each post held.
- Should refrain from undertaking any unpaid activities that may be detrimental to their health and recovery, and cause delay to their return to work.
- Are obliged to attend all sickness absence meetings (this is covered for teachers in the Burgundy Book (Conditions of Service for Teachers in England and Wales) paragraph 8.1(iv) and Green Book (National Joint Council for Local Government Services) Part 3, paragraph 4.2).
- Are required to attend OHU appointment(s). Should the employee fail to attend an OHU appointment (either medical or counselling) without a reasonable explanation (for example an unforeseen emergency) this will result in the employee being charged for the cost of the appointment.

- May be requested to provide their consent for a medical report to be obtained from their G.P.

5.2.12 When an employee does not engage in the process, there will be minimal detailed information relating to the employees' absence. In these exceptional circumstances, decisions will be based on the information that is to hand in order to be able to progress through the procedure.

5.2.13 Prior to returning to work an employee may be requested to provide a medical certificate to prove fitness for work, or visit Occupational Health, depending on the nature of the job, reason and length of absence.

5.2.14 Where an employee has an annual leave entitlement, they will be required to provide a medical certificate if their absence is before or after a period of annual leave.

5.2.15 On returning to work, employees should ensure that they have a return to work discussion. This will be dependent on arrangements in the individual Academy.

5.3 Human Resources

5.3.1 The role of HR is to support Line Managers by:

- Advising on the Supporting Attendance Procedure and best practice relating to supporting employee health and wellbeing.
- Attending intermittent and long term formal absence meetings.
- Advising on making Occupational Health referrals and coordinating referrals to the Occupational Health Provider.
- Providing training to ensure absence reporting is the same across the Trust.
- Advising hearings on procedural matters.
- Advising management on individual cases and give advice on measures/tools for managing absence.
- Monitoring the implementation of this policy and advising Line Managers on implementation to encourage fair management of sickness absence across the Trust.

6. Sickness Absence During Pregnancy

6.1 An employee who is suffering from a pregnancy related illness will be protected under the Equality Act 2010 and the Maternity and Parental Leave Regulations 1999 therefore should not be treated unfavourably because of this.

6.2 If a pregnant employee is absent due to sickness, the employee must ensure that they report whether their illness is pregnancy related or not, providing medical evidence where necessary. However, in some cases, in the very early stages of pregnancy (i.e. the first 12 weeks), it is understood that an employee may not wish to disclose that pregnancy is the reason for absence. When this is disclosed, records can be amended to reflect the correct reason for absence.

6.3 Where there is a pregnancy related absence within the four weeks before the Expected Date of Childbirth (EWC), the Maternity Pay and Leave Period are automatically triggered on the day after the first day of absence.

6.4 A maternity risk assessment will be carried out **(see Appendix 2)** so that reasonable adjustments can be put in place where necessary.

7. Infectious Diseases

7.1 Employees prevented from attending work due to contact with an infectious disease or having an industrial injury, as determined by their G.P. or Occupational Health, will be managed in accordance with their conditions of service.

8. Terminal Illness

8.1 In these circumstances it may not be appropriate to refer to Occupational Health however contact with the employee or a nominated person must be maintained. The employee may wish to contact their pensions service to discuss their specific circumstances. It is imperative that Line Managers do not avoid the situation and should contact Human Resources for advice. With the employees' consent, their trade union representative should also be contacted as they can also offer support and advice.

9. Ill Health Suspension

9.1 In very rare and extreme circumstances, it may be necessary to suspend an employee from work on the grounds of ill health. Consideration to ill health suspension can be given in the following circumstances:

- In the opinion of Occupational Health, the employee is unfit for work, but is declaring themselves fit or being declared fit by their own G.P.
- If the employee is deemed to be a risk to themselves or others because of their medical condition.

9.2 Advice should be sought from Human Resources prior to making a decision to suspend an employee on these grounds.

9.3 Any medical suspension will be at the normal rate of pay.

9.4 In all cases further medical advice will be sought from Occupational Health and/or the employees G.P.

9.5 If, following further medical advice, the employee is declared fit for work, a return to work meeting will be held prior to any return taking place.

9.6 If following further medical advice, the employee is declared unfit for work and a further Statement of Fitness for Work is issued, they will be managed in accordance with this procedure.

10. Pay during Sickness Absence

10.1 Support staff will be paid in accordance with the conditions as detailed in the National Joint Council for Local Government Services and Teachers in accordance with the Conditions of Service for School Teachers in England and Wales.

11. Managing Sickness Absence Informally (Return to Work Discussions)

11.1 Line Managers must meet with the employee informally after every period of sickness absence to determine reasons behind sickness absences and to identify any underlying medical conditions that the employee may need support with to enable them to sustain their attendance at work.

11.2 The meeting should be held, wherever possible, on the first day back after absence, in a comfortable and informal setting.

11.3 Employees must be informed of the sickness absence triggers and that re-occurrences of absences could lead to a formal Sickness Absence Meeting being convened, where a warning could be issued.

11.4 At the return to work meeting the Line Manager and the employee should complete a self-certification form/return to work form (**Appendix 3).**

11.5 Following wellbeing intervention, if an employee's sickness absence starts to reach levels of concern, then it is recommended that a Pre-Trigger letter be issued to employees as a supportive intervention prior to reaching the trigger point(s). (See **Appendix 4 – letter 1**).

11.6 Where the employee has hit a procedural trigger point with their absence, a formal Sickness Absence Meeting will be convened.

12. Triggers

12.1 Absence monitoring trigger points are:

- Three or more sickness absences in a 3-month consecutive period.
- Six or more working days lost due to sickness absence in a rolling 12-month period.
- A pattern of absence which is causing concern.

12.2 Where a disability is disclosed consideration can be given to an amendment to the triggers. Likewise, where triggers have been met and the absences are linked to a previously unknown disability, triggers can be amended.

12.3 Triggers are pro rata for part time employees:

Days worked in a week/over a rota	Trigger
5 Days	6 Working Days
4 Days	5 Working Days
3 Days	3.5 Working Days
2 Days	2.5 Working Days
1 Day	2 Working Days

13. Managing Short-Term and Frequent Intermittent Absence

13.1 Formal Sickness Absence Meeting (Stage 1)

13.1.1 Where the monitoring trigger point(s) have been met, the employee will be invited to attend a formal meeting **(Appendix 4 - letter 2).**

13.1.2 Every reasonable effort should be made by the employee and representative to be available for the meeting. If the employee's representative is unable to attend on the specified date, the employee may request that the meeting be postponed. Provided that the new date and/or time is reasonable i.e. within the working day, and within 5 working days of the original date this will be accommodated.

13.1.3 If an employee attends with a TU representative or work colleague, the chosen representative should not answer questions on the employee's behalf or address any meeting without the employee's prior consent.

13.1.4 During the meeting the Line Manager will discuss with the employee:

- Details of employee absences.
- Causes/reasons for absence.
- Underlying medical issues.
- Support and reasonable adjustments.
- Occupational Health Referral (if required).
- Expectations regarding attendance at work.
- Impact of non-attendance.

13.1.5 At the end of the meeting the Line Manager will make a decision as to whether it is appropriate to issue a written warning (Stage 1 of the procedure)(**Appendix 4 – letter 3**) in conjunction with any further support appropriate to enable the employee to meet the required level of attendance. Where it is decided not to issue a warning, the procedure will revert back to section 11. (**Appendix 4 – Letter 4).**

13.1.6 Where a warning has been given, an agreed monitoring period must be formalised with the employee (this will usually be for a period of 6 months). Realistic and achievable targets should be set, and a review meeting put in place at 3 months. In general terms, this means no further absences within the monitoring period. However, consideration will be taken in respect of employees with a disability and consideration of an employee's individual circumstances should also be taken before confirming the decision.

13.1.7 Where there is concern about the reason for absence, or frequent short-term absence, the Line Manger may request that evidence is provided that the employee has sought medical advice for all absences regardless of the length of absence (e.g. appointment text message or letter).

13.1.8 A referral to Occupational Health will be made only in instances where the employee states there is some underlying medical issue causing the absences.

13.1.9 Where a warning and monitoring period has been put in place and adequate improvements have been made over the time period specified, the employee will be managed in accordance with **Section 13.**

13.1.10 Line Managers may consider that, where the employee's attendance has shown considerable improvement, but where full attendance has not been maintained during the monitoring period, a 3-month extension to the monitoring period and warning can be put in place. Where an employee has further absence within one month of the monitoring period ending, consideration to a further 3 month monitoring period being put in place can be given.

14. Stage 2

14.1 Where a monitoring period has been put in place and there are no improvements i.e. further sickness absences have occurred, a further formal Sickness Absence Meeting must be convened to consider issuing a final written warning with an appropriate further monitoring period **(Appendix 4 – Letter 2**). At the end of this period, a review meeting will be held to determine next steps. The option may be to end the monitoring period and revert to the informal monitoring in accordance with **section 11.**

14.2 Where adequate progress has not been made within this further monitoring period and the employee has been issued with a final written warning **(Appendix 4 – Letter 3**), they will be informed both verbally and in writing that the matter will progress to a formal Sickness Absence Hearing where their ongoing employment will be considered, and which may lead to their dismissal.

14.3 Employees have the right of appeal against any formal sanction within 5 working days of the sanction being issued (**refer to section 22).**

15. Formal Sickness Absence Hearing - Stage 3

15.1 The decision to progress to a formal hearing will be confirmed in writing (**Appendix 4 – letter 5**). Refer to **Appendix 7** for Process at Formal Sickness Absence Hearings and Appeals.

15.2 Membership of panels will consist of between one and three members, depending on the specific circumstances **(See section 4).**

15.3 The employee must be provided with all evidence to be considered at the hearing e.g. list of absences, Occupational Health advice, evidence of meetings in relation to absence, support provided, job description etc. at least 10 working days prior to the hearing (the pack should be issued with the letter inviting the employee to the hearing).

15.4 In some cases, the employee may wish to submit documentation for consideration by the panel. This should be provided no later than 3 working days prior to the date of the hearing.

15.5 Should the employee request their representative attend on their behalf or if they wish to provide a written submission, the person/panel hearing the case will consider this.

15.6 Every reasonable effort should be made by the employee and representative to be available for the hearing. If the employees' representative is unable to attend on the specified date, the employee may request that the meeting be postponed. Provided that the new date and/or time is reasonable i.e. within the working day, and within 5 working days of the original date this will be accommodated. Where no agreement can be reached, the hearing date will be set by the person managing the case, usually the employee's Line Manager.

15.7 Should the employee/their representative fail to attend without reasonable explanation, the person hearing the case will decide whether to proceed in their absence.

16. Outcome of Formal Hearing

16.1 The possible outcomes of the formal hearing are:

- Dismissal on the grounds of sickness absence capability.
- Further period of review.
- Seek further advice from Occupational Health/ medical professionals.

16.2 The employee will normally be notified verbally of the outcome by the person that heard the case. The decision will also be confirmed in writing within 5 working days wherever possible, informing the employee of their right of appeal **(Appendix 4 – Letter 6).** Appeals should be submitted in wring using the Notification of Appeal Form **(Appendix 5).**

16.3 In the event the employee confirms in writing that they wish to appeal within 5 working days of receipt of the hearing outcome letter, arrangements should be made for an appeal hearing to take place at the earliest opportunity. **(Appendix 4 – Letter 7).**

17. Managing Long-Term Sickness Absence

17.1 Long-term sickness absence is defined as absence of 4 or more consecutive weeks and will result in progression to a formal Long-Term Sickness Absence Meeting – Stage 1.

17.2 Line Managers must maintain regular contact with employees whilst they are off sick to demonstrate concern for their welfare, promote inclusion, offer reasonable support and seek to discuss alternative options which may facilitate an earlier return to work. A wellbeing support letter should be issued as soon as it is known the employees' absence is going to be long term. **(Appendix 4 - letter 8).**

17.3 As a supportive measure, the formal Sickness Absence Meeting may be held earlier than 4 weeks for early intervention.

17.4 During the management of an employee's long term ill health, Occupational Health or the employees G.P may indicate that the employee "may be fit for work" with possible recommendations for adjustments. The Line Manager should assess whether it is possible to meet these recommendations in order to assist the employee returning to work. If there are concerns about implementing the recommendations, advice should be sought from Human Resources. If it is really not possible to accommodate the recommendations, then this should be communicated to the employee in writing giving reasons, and the employee may need to remain off sick.

17.5 Where an employee has had an absence of 4 consecutive weeks or more, and on their return to work then continue to have intermittent absences, a holistic view of the employees' overall attendance at work will be taken and managed accordingly. In these circumstances, advice should be sought from Human Resources.

18. Formal Sickness Absence Meeting

18.1 The decision to progress to a formal sickness absence meeting will be confirmed in writing (**Appendix 4 – letter 9**).

18.2 During the meeting the Line Manager will discuss the following with the employee:

- Causes/reasons for absence.
- Underlying medical issues.
- Support and reasonable adjustments.
- Occupational Health Referral (if required).

18.3 Where the employee will be fit to return to work shortly after the Formal Sickness Absence meeting, their return to work should be discussed and planned in this meeting (including arrangements for a phased return **(see Appendix 6 for guidance on Phased Returns).**

18.4 Where there is ongoing medical intervention taking place and an imminent return unlikely, arrangements should be made to convene a further formal Long-Term Sickness Absence Review meeting (s) not usually any longer than 4 weeks apart, to monitor progress with a view to supporting the employees return to work.

18.5 Line Managers should consider whether a referral to Occupational Health is necessary at this point. The referral will be actioned by a member of the HR Team, and the contents of the referral will be made available to the employee prior to their appointment.

19. Continuing Long Term Absence – Formal Long-Term Sickness Absence Review Meeting(s)

19.1 During the Formal Long-Term Sickness Absence Review meeting, the Line Manager will review progress, changes in circumstances and Occupational Health advice (if referred) since the previous meeting. Use outcome letters (**Appendix 4 – letter 10 and 11 as appropriate).**

19.2 Where an employee has been referred to Occupational Health, the Occupational Health report may recommend that further review appointments are necessary; this could be to allow for a course of treatment or to allow for medical information to be obtained from the employees GP or specialist. In these circumstances, it is recommended that managers continue to maintain contact and hold regular review meetings with the employee. Possible outcomes of the Occupational Health assessment include:

- Fit to return to work.
- Fit for current role with reasonable adjustments, e.g. phased return
- Unfit for substantive role but may be fit for redeployment.
- Unfit for any work for the foreseeable future.

19.3 Fit to Return to Work

19.3.1 Where the Occupational Health report indicates that the employee is fit to return to work a meeting must be arranged to inform the employee of the outcome and arrange a return to work date.

19.4 Fit for Current Role with Reasonable Adjustments

19.4.1 An employee may be experiencing either permanent or temporary difficulties doing all the tasks required in their current role or in coping with the work situation. The Line Manager should consider any recommendations made by Occupational Health.

19.4.2 Line Managers should discuss recommendations with the employee and give due consideration to implementing these to facilitate the employees return to work, these may include:

- Altering working hours to allow the employee a later start or an earlier finish.
- Minor adjustment to duties.
- A standard phased return, the usual duration being 4 weeks which can be extended to a maximum of 6 weeks in total.

19.4.3 If the Line Manager is unable to accommodate the adjustments suggested by Occupational Health and has a valid business reason to support this, then they should inform the HR Team and Occupational Health. Where there is a valid reason as to why adjustments cannot be made the manager should discuss these reasons with the employee at this meeting and the outcome should be recorded.

19.5 Unfit for Current Role but may be Fit for Redeployment

19.5.1 Where adjustments in hours or work practices have proven unsuccessful or are inappropriate it is necessary to consider, in conjunction with Occupational Health, alternative employment opportunities for the employee. Redeployment should only be considered where it could help the employee reach and maintain a satisfactory level of attendance, taking into consideration the impact on the employees' health, their abilities and the future prognosis. Depending on the level of post in question, the academy's Chair of Governors and/or the CEO of the Trust may be involved.

19.5.2 There is no requirement to create a role for the employee, however, the employee should be considered for suitable vacancies across the Trust.

19.5.3 Where the employee has a condition that falls under the Equality Act then steps should be taken to make reasonable adjustments to enable the employee to undertake the vacant role.

19.5.4 Redeployment opportunities will be sought for a period of 8 weeks. When redeployment is not found within the specified time, a dismissal hearing will be convened. Academies will however continue to seek redeployment opportunities during the dismissal process and any notice period.

19.5.5 Where redeployment is secured, pay will be at the rate for the job, there will be no pay protection.

19.6 Unfit for Any Work for the Foreseeable Future

19.6.1 Where Occupational Health recommends that the employee is unfit for any work for the foreseeable future (periods of 3 months or more) then the Line Manager will write to the employee to inform them of the requirement to attend a review meeting (if one has not already been previously scheduled) to discuss the medical prognosis in which the employee should be advised that their employment may terminate on the grounds of ill health.

19.6.2 The Line Manager will provide the employee with a written outcome of the meeting inviting them to attend a Formal Sickness Absence Dismissal Hearing (**Appendix 4 – letter 12).**

20. Formal Sickness Absence Dismissal Hearing (Long-Term)

20.1 The decision to progress to a formal hearing will be confirmed in writing (**Appendix 4 – letter 12**). Refer to **Appendix 7** for Process at Formal Sickness Absence Hearings and Appeals.

20.2 Membership of panels will consist of three members, depending on the specific circumstances **(See section 4).**

20.3 The employee must be provided with all evidence to be considered at the hearing e.g. list of absences, Occupational Health Advice, evidence of meetings in relation to absence, support provided, job description etc. at least 10 working days prior to the hearing (the pack should be issued with the letter inviting the employee to the hearing).

20.4 In some cases, the employee may wish to submit documentation for consideration by the panel. This should be provided no later than 3 working days prior to the date of the hearing.

20.5 Should the employee request their representative attend on their behalf or if they wish to provide a written submission, the person/panel hearing the case will take this into consideration.

20.6 Every reasonable effort should be made by the employee and representative to be available for the hearing. If the employees' representative is unable to attend on the specified date, the employee may request that the meeting be postponed. Provided that the new date and/or time is reasonable i.e. within the working day and within 5 working days of the original date this will be accommodated. Where no agreement can be reached, the hearing date will be set by the person managing the case, usually the employee's Line Manager.

20.7 Should the employee/their representative fail to attend without reasonable explanation, the person hearing the case will decide whether to proceed in their absence.

20.8 At the hearing both the management side and the employee will be given the opportunity to state their case, call witnesses and ask questions. HR will attend the hearing to provide procedural advice.

20.9 The chair/panel will consider:

- The employee's overall attendance record
- The impact of the level of attendance on the academy / Trust
- Representations from the employee
- Whether the reason for the absence(s) falls within the disability provisions of the Equality Act 2010

- The management of the case
- Any medical advice received
- The support / reasonable adjustments considered and/or provided
- Any further action that can be taken
- Options for redeployment within the academy or Trust on medical grounds
- Whether ill-health retirement has been considered

20.10 The hearing will normally be adjourned whilst the chair/panel hearing the case reaches a decision.

21. Outcome of Formal Hearing

21.1 The possible outcomes of the formal hearing are:

- Dismissal on the grounds of sickness absence capability.
- Further period of review.
- Seek further advice from Occupational Health/ medical professionals.

21.2 Where an employee is dismissed s/he should be dismissed with appropriate notice, which will be paid at the full rate of pay with normal deductions.

21.3 The employee will be notified verbally of the outcome by the person that heard the case. The decision will also be confirmed in writing within 5 working days wherever possible, informing the employee of their right of appeal **(Appendix 4 – Letter 13).**

22. Right of Appeal for both intermittent absence and long-term absence

22.1 Employees have the right of appeal against any sanction given as a result of a hearing within 5 working days of receiving their confirmation letter and (where appropriate) should provide supporting evidence (for example, if new medical evidence has come to light). The **Appeal Form in Appendix 5** should be used for this purpose but a letter outlining the grounds for appeal is also acceptable.

22.2 The appeal should be on the basis of one of the following grounds:

- The procedure - a failure to follow procedure had a material effect on the decision
- The decision - the evidence did not support the conclusion reached
- The penalty - was too severe given the circumstances of the case
- New evidence - which has genuinely come to light since the first hearing.

22.3 Membership of all Appeals Panels will consist of between one and three members, depending on the specific circumstances. **See Section 4.**

22.4 The employee will be given 10 working days-notice of the Appeal Hearing **Appendix 4 – Letter 14.**

22.5 The appeal will be conducted as a review of the first instance decision, having regard to the matters set out on the Appeal Form and/or letter from the employee, and the outcome letter of the sickness absence hearing.

22.6 The person(s) hearing the appeal will receive the appeal form and/or letter, relevant documents referred to in the sickness absence hearing and a copy of the letter confirming the outcome of the sickness absence hearing.

22.7 Every reasonable effort should be made by the employee and representative to be available for the appeal hearing. If the employees' representative is unable to attend on the specified date, the employee may request that the meeting be postponed. Provided that the new date and/or time is reasonable i.e. within the working day, and within 5 working days of the original date, this will be accommodated.

22.8 If following reasonable attempts to arrange a suitable date for all to attend and the employee/their representative is still unavailable, the person hearing the appeal may determine that the appeal is withdrawn.

22.9 The appeal should normally be conducted in one day except in exceptional circumstances.

22.10 If an employee attends with a TU representative or work colleague, the chosen representative does not have the right to answer questions on the employees' behalf or address any meeting without the employees' consent. They will be allowed to address the appeal panel and present the employees' case.

22.11 The process for the Appeal Hearing will be as outlined in the Process at a Formal Appeal Hearing **(see Appendix 7).**

22.12 The person(s) hearing the appeal has authority to confirm or overturn the decision, or to recommend some alternative action.

22.13 The decision of the person(s) hearing the appeal is final.

22.14 Where possible the decision will be given to the employee at the conclusion of the meeting and confirmed in writing no more than 5 working days after the hearing **(Appendix 4 – Letter 15).**

22.15 The written record of the appeal hearing should be completed as quickly as possible after the date of the hearing.

22.16 All documents pertaining to this procedure should be retained on the employee's personal file.

23. Review

23.1 The Equality Act 2010 requires public bodies, in carrying out their functions, to have due regard to the need to:

- to eliminate discrimination and other conduct that is prohibited by the Act
- to advance equality of opportunity between people who share a protected characteristic and people who do not share it
- to foster good relations across all characteristics - between people who share a protected characteristic and people who do not share it.

23.2 In the development of this policy due regard has been given to achieving these objectives.

23.3 This procedure will be reviewed to respond to any changes in the employment legislation, and at least every three years, in conjunction with the Trust's recognised trade unions