



## **Supporting Employee Health**

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**Agreed by Full Governing Board: December 2023**

**Next review by Leadership Committee: December 2024**

**(or when reviewed by Westminster City Council if earlier)**

# Supporting Employee Health

## Introduction

***This policy is based on the City of Westminster's Model Policy for Schools dated September 2021. It has been adapted to reflect the workings of the Federation, the Bi-Borough Inclusion Service and the role of the Executive Headteacher rather than an individual school.***

At the Federation of Westminster Special Schools (FWSS) the health and wellbeing of our staff is paramount, and we are committed to creating an environment that empowers our people to have the right work, life balance. This is fundamental to the successful delivery of excellent services to our community.

We recognise that employees become unwell and may not be able to work. However, high and frequent sickness levels can have a significant impact on effective operations, staff morale and may result in substantial financial cost. Managing sickness absence in good time and ensuring that our staff are supported throughout their absence and subsequent return to work is therefore of prime importance.

This policy will all provide our staff [Managers are employees too] a structured framework in approaching sickness absence in a fair and consistent way. It also creates an opportunity to assist our staff to overcome any difficulties that may affect their ability to work effectively.

The policy applies to all FWSS employees.

## Role of Employee

### Our employees will:

- Perform their duties when they are well and fit to do so
- Promptly notify their line manager that they are unable to work due to sickness
- Keep their manager informed regularly on sickness updates, any treatment and likely return to work date at a frequency agreed with their manager
- Obtain a fit note certificate from their GP where sickness lasts longer than 7 calendar days and send it to their line manager
- Engage and cooperate where applicable in the absence management process, attend absence review meetings and occupational health assessments
- Make their manager aware of any underlying health conditions that may affect their ability to attend work
- If they have a condition that has been diagnosed as a disability, consider telling their manager about it if they are content to share that diagnosis and have not previously done so

## Role of Manager

### Our managers will:

- Understand their duty of care for the health, safety and welfare of their staff and provide support to staff who are absent due to sickness including supporting pre-existing disabilities
- Treat staff who are sick in a sensitive, fair, supportive and consistent way
- Monitor and manage sickness absence promptly and check that absence records are kept up to date
- Keep in regular contact with employees during their absence
- Undertake a return to work interview as soon as it is practicable following the employee's return to work
- Be open and honest on the next steps if attendance does not improve
- Make a referral to Occupational Health should the need arise, this could be triggered by the level of absence, a medical concern or just to seek further support
- Advise the purpose and benefits of any medical referral and obtain employees' consent prior to seeking a medical report
- Undertake risk assessments where relevant
- Respect confidentiality when dealing with medical issues
- Explore any reasonable adjustments that may enable employees to return to work earlier if possible
- Take account of the legal requirement to make reasonable adjustments where performance is affected by a disability
- Ensure that you are familiar with the disability policy and guidance to making reasonable adjustments.
- Notify employees in good time when their pay is reducing to half and/or nil pay
- Follow the [Reporting Accidents and Near Miss Policy](#) where an employee notifies the reason of their absence being "Injury at work" and ensure that appropriate investigation and reporting is carried out

## Role of Occupational Health (OH)

### Our OH Service:

- Assesses employees' health in order to provide advice on any underlying health condition or disability
- Provides advice on possible adjustments
- Advises on expected return to work timelines or appropriate alternatives
- Provides suggestions to the employees on how their health could be improved if possible
- With the employee's consent may seek further information about their health from their GP and/or other medical practitioner.
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## Notification of sickness

Employees should contact their manager or supervising member of staff on the first day of absence and explain the reason for sickness, an estimated length of absence and any scheduled meetings or work deadlines that they will not be able to attend or meet due to the absence.

Employees must take all reasonable steps to inform the school /Bi-Borough Service in accordance with the Federation's absence notification procedures.

Where sickness lasts for more than one day, employees will continue keeping in regular contact with their line manager providing them with sickness updates. Manager and employee will agree a frequency of such communication where sickness becomes prolonged.

We trust our employees to follow the absence management process including prompt notification. However, in the unlikely event that an employee repeatedly fails to report and/or record sickness in line with this policy the Federation may withdraw sickness pay and/or instigate the disciplinary process.

## Medical certificates / Fit Notes

If sickness absence continues **beyond 7 calendar days**, the employee will need to provide a medical certificate from their GP and continue submitting these throughout the duration of the absence. There should be no gaps in certification.

Upon the ending of a sickness absence the employee's GP may sign a fit note as 'may be fit for work'. The GP usually sets out the possible adjustments that are required to facilitate their fitness for work. It is recommended that a discussion takes place with the employee to discuss the arrangements and recommendations made upon the fit note, taken into consideration that if the adjustments relate to the workplace that agile working may assist in allowing the employee return back to their duties.

In the event that the recommended adjustments cannot be accommodated, the employee will not be able to return to work and will need to remain on sickness absence. It is advisable to seek support from the Occupational Health team when considering these adjustments.

## Return to work interview

All employees will have a return to work discussion with their manager/ Federation HR Manager normally on their first day back at work.

The purpose of a return to work discussion is to ensure that there is an awareness of the issues that affect the employee's attendance at work and state of health so that the appropriate support and action may be taken. For example, it is important that a manager is made aware of.

- any underlying medical conditions
- any adjustments needed
- any symptoms of stress which may relate to personal issues or to issues at work
- any wish to access the counselling service

- whether there are personal issues outside of work that are affecting attendance

Return to work discussions and sickness review meetings may help to improve attendance and resolve absence issues, as health and other associated problems are discussed openly in a supportive way with a view to addressing issues at an early stage.

All employees should be welcomed back to work, ensuring that they are well enough to return, with confirmation of the reason for absence, if it is not known. As part of this conversation the manager/HR Manager should identify whether there is any additional support the Federation can provide, as well as notifying the employee of any service changes or updates.

Should the employee have been absent for one day for an isolated absence then a less formal return to work can be carried out.

An interview record should be kept and shared with the employee.

## **Short term Absence Management Process**

Short- term absence is broadly defined as frequent recurring periods of sickness absence which do not relate to an underlying health issue.

The purpose of the absence management process is to support the employee to maintaining regular attendance at work and identifying any requirements they may need to support them to achieve this and to allow the manager to plan for ongoing absence in the interests of delivery of the service. The absence management process is not to be seen as punitive and should not be used as a means to control the attendance of an employee.

At the Federation we recognise everyone's health is individual to them and as such the following absence management process triggers are to be used as a guide.

- 8 days in any rolling 12 months period or
- an absence pattern or health issue which causes concern (for further advice please contact your HR Advisor)

With the Westminster Way, we empower our managers and employees to have open and transparent conversations around absence / health concerns and work together to identify the best means of support. It is recommended that any concerns with an employee's attendance are discussed informally first, before commencing a formal process.

Should it be deemed appropriate to commence the absence management process the following steps are to be followed:

## Step 1 (Short Term Absence)

This is the first formal step in addressing sickness absence that has resulted in a concern, it is expected by this stage that a referral to Occupational Health has taken place. The purpose would be to arrange to meet with the employee to carry out the following.

- Review the sickness absence record and the impact the absence is having on the service.
- Discuss the reasons for absence and any relevant information the employee has to offer.
- Consider any relevant medical information that is available, including any OH reports.
- Consider any disability related absence and consider, with the employee, whether reasonable adjustments are required, which may assist the employee in reducing their sickness absence.
- Review the implications of further periods of absence.
- Identify an agreed review period in which a sustained improvement in absence is to be seen. This can be in line with the absence management trigger of 8 days absence or an adjusted target which reflects any support that the employee may need. The review period should **not be less** than 4 weeks or **greater** than 12 weeks, however, each circumstance may vary and we encourage managers to work with their employee to set the right review period based on their needs.
- Should the employee's absence improve in the agreed period of time no further action will be taken. If however, the employee's absence remains to be a concern a step 2 review is instigated.
- Confirm any arrangements in writing (this can include in an e-mail).
- If no further action is required at the end of the review period, confirm this in writing to the employee.

Please see *appendix 1* for managers on conducting a sickness review meeting.

## Step 2 (Short Term Absence)

If further to a step 1 review period the employee's absence remains to be a concern or they fail to meet absence management target then the employee should be invited to a further formal meeting, in which to instigate a second review period. The outcome of the meeting will depend on the circumstances of the case but will normally include setting a further monitoring period for improved attendance within a specified timescale (as outlined in the step 1 review).

It is important that at this stage the employee is informed that their employment may be at risk if their level of absence does not improve and this is confirmed in writing following the meeting. Should absence levels improve as required through the second review period, the employee will remain at this stage for 1 year.

## Step 3 (Short Term Absence)

A step 3 review and further formal meeting is reached when:

- The employee has failed to achieve a reduction in absence, or any agreed targets as outlined in the Step 2 Review.

Or

- The initial improvement achieved at the end of the monitoring period has not been maintained for the 1 year 'hold' period or the future prognosis suggests an inability to continue within their role.

In these circumstances the employee must be referred to Occupational Health for a report to be provided to the Manager. In light of the medical report, which should normally be no more than 4 weeks old and further to meeting with the employee, a decision will be made on how to proceed. Options may include;

- Consideration of any recommendations Occupational Health may make in relation to reasonable adjustments, redeployment or ill health retirement.
- No further action at this time, but a further monitoring period to be set (no less than 4 weeks and no more than 12 weeks).
- A recommendation is put forward for a Capability (sickness) Hearing to be arranged.

For consideration of a hearing under the Capability Procedure, a sickness report is required with authorisation of an adjudicating officer, who has the appropriate authority. Please refer to the **CAPABILITY PROCEDURE** for details on holding a capability (sickness) hearing.

For details on the levels of authority please refer to the table below.

<b>Employee Level</b>	<b>Step 1 Reviewer</b>	<b>Step 2 Reviewer</b>	<b>Step 3 Reviewer</b>
<b>EHT</b>	Nominated Governor/Co chair	Co- Chair (or different gov)	Sickness Capability Hearing
Head Teacher or Head of Bi-Borough Inclusion Service	A non-staff governor appointed by the Co-Chair of Governors	Chair/Co-Chair of Governors or a non-staff Governor nominated by the Co-Chair other than the other co-chair	Governors' Absence Panel (consisting of at least 3 governors, Co-chair not previously involved.
Other Leadership Spine	School Head Teacher (Head of BIS for BIS staff)	Executive Headteacher or a non-staff Governor nominated by the Co-Chair other than the other co-chair	Governors' Absence Panel (consisting of at least 3 governors, Co-chair not previously involved

Other Teaching Staff	SLT Member or BIS Team Leader	School Head Teacher (Head of BIS for BISstaff)	Governors Absence Panel (consisting of at least 3 governors, or 2 governors and an associate member) appointed by the Chair
Other Support Staff	A person appointed by the Headteacher	Senior Leader - A person appointed by the Headteacher	Governors Absence Panel (consisting of at least 3 governors, a co-Chair

## Long Term Absence Management Process

Long term sickness can be defined as **4 or more weeks continuous** sickness absence, or repeated shorter periods of absence arising out of a single or underlying illness.

On the rare occasion that there may be an employee who has a serious medical condition or illness which means that they must have a prolonged period of absence or repeated shorter periods of absence, the process will be handled sensitively. Depending on the nature of the medical condition or illness it is important to weigh up the need to provide the necessary support to the employee, allowing them the time to take care of themselves, with being mindful of the importance of not prolonging any absence. There are many studies to show that any prolonged period of absence can bring about its own issues for assisting that employee to return to work.

It is recommended that the following procedure be followed where correct to do so;

- Ensure that a referral is made to Occupational Health.
- Ensure that contact is maintained with the employee, at an agreed level.
- Review the ongoing case every **4 weeks**, or as needed depending on the medical advice.
- If necessary, arrange a case conference with Occupational Health.
- Identify with the employee what support may be needed or if there is a suggested period in which they will be absent for. Ensuring that any reasonable adjustments are identified and put into place.
- Ensure our duties are met under the Equality Act 2010
- If it is likely that the employee may return to work, but absence concerns remain then you can continue to manage the employee's absence under this process.



- If the employee is unable to participate in any meetings, virtually or in person provide the opportunity for written submissions to be made or seek the appropriate support from Occupational Health and /or a trade union, if they are a member of a recognised trade union.
- By **three months continuous** absence (or repeated shorter periods of absence arising out of a single or underlying illness) the manager must assess the position, it is necessary at this stage to ensure that the employee is in receipt of an updated OH report and to arrange to meet / speak with the employee and identify any likely return to work or sustained return to work. You must ensure that the employee is given the right to be accompanied by a union rep or colleague at this meeting and that they are fully consulted with.
- It is more than likely that a further period of review is required, if so, the manager should identify a suitable period of time, dependent on the needs of the employee, medical advice and the needs of the service.

## • **Formal Absence Assessment**

Should a question be raised around the likelihood of the employee being able to return to work or being medically fit to return to their role a full assessment needs to be made. The full assessment must consider the following:

- The outcome of any medical advice/ OH advice / OH case conference
  - The nature of the illness and the likely length of the continuing absence.
  - The need to have the work completed which the employee is engaged to do.
  - The impact on the service area.
  - Any requirements under the Equalities Act 2010.
  - Have considered ill health retirement / medical redeployment
- It is important at this stage that the employee understands the serious concern that exists about either the length of their sickness absence or the medical condition at hand and that they are given an opportunity to discuss any factors / personal circumstances that need to be taken into consideration. This meeting should be held face to face or virtually with the right for a Trade Union Representative to present.
  - If further to conducting a full assessment it is determined that it is not possible to continue to support any further absence and all means of support have been exhausted then a recommendation should be put forward for a Capability (sickness) Hearing of which a sickness report is required with authorisation of an adjudicating officer, who has the appropriate level of authority. Progression to a Capability (sickness) Hearing cannot be considered without the employee having been fully consulted and given the opportunity to respond at each stage. Please refer to the **Capability Procedure** for details on holding a capability (sickness) hearing.

## Disability Related Sickness

The Council has a legal duty under the Equality Act 2010 to put reasonable adjustments in place where an employee's disability is having an impact on their attendance record or ability to do their job.

The legal definition of a disability is wide and any condition where the employee has a physical or mental impairment that has a substantial or long term negative effect on the ability to do normal daily activities may constitute a disability as well as some substantial illnesses. Managers therefore should exercise caution and seek advice from Occupational Health or their Employee Relations Advisor.

When reporting absence an employee should indicate whether their absence is disability related via the drop down options on ESS. Absence related to a disability should still be monitored in discussion with the employee but with the view of supporting the employee attend work where they can and identify any necessary reasonable adjustments.

The Sickness Management Process **may only** commence after advice from the Federation's HR Advisor has been obtained and once every effort to assist the employee has taken place by making any reasonable adjustments to working practices and duties. It is important when deciding whether it is appropriate to commence the sickness management process that the manager should speak with the HR advisor and ensure that as part of a reasonable adjustment a higher level of absence is accommodated where related to a disability.

## Disability Leave

The Equality Act specifically identifies the provision of leave as a reasonable adjustment where a disabled person needs to be absent from work for 'rehabilitation, assessment or treatment' for a fixed period(s) of time known in advance. This can be termed as disability leave. The usually predictable and fixed nature of this leave distinguishes it from disability related sickness absence, which is unpredictable and for unknown periods of time.

Additional paid time off for medical appointments, rehabilitation, assessment or treatment related to their disability should be considered in line with the Federation's duty to make reasonable adjustments and in line with our special leave policy. This will be balanced with service needs. Any agreed time can be submitted on IBC / ESS as medical appointments.

Please see *appendix 7* for further guidance and information relating to disabilities and making reasonable adjustments.

## Medical Suspension

Managers have a duty under Health and Safety legislation to take appropriate action where they believe that an employee is unfit to work. If a manager believes an employee is unfit to work, they should first discuss the matter with the employee and encourage them to absent themselves on the grounds of sickness and to seek medical advice if appropriate.

If an employee refuses, then it may be necessary to consider medical suspension please see guidance note (*Appendix 6*)

## Medical Redeployment

For employees who can work but cannot continue in their current role due to disabilities or ill health then medical redeployment may be explored. Please see guidance note

## Phased Return

It is often a useful means of support to provide returning employees a phased return. A phased return means a staggered return to normal contracted hours. It is often a recommendation that is made by Occupational Health who will also advise the length of the duration of any phased return, although they tend to be for no more than a month. Any suggested phased return should be discussed with the employee prior to them returning.

The first 4 weeks of a phased return are paid as full pay, regardless of the employee's sick pay entitlement. Should the phased return last longer than 4 weeks the remaining days or hours should be reimbursed by either the use of annual leave or any remaining sick pay, or a temporary reduction in working hours should be accommodated.

## Terminal illness and ill health retirement (IHR)

The Federation will support employees who suffer from a terminal illness with dignity, respect and compassion and in accordance with their wishes wherever possible. We aim to provide the most financially advantageous arrangements for them and their family. This includes discussion of the possibility of ill-health retirement in line with the LGPS ill health retirement scheme or the termination of employment with a lump-sum payment under any other pension scheme if applicable.

Ill health retirement can also be explored with agreement of the individual should they have a medical condition which is preventing them from carrying out their role. Any consideration for ill health retirement has to be made in connection with occupational health.

Managers should seek HR, pension and OH advice in these circumstances, which will be provided on a case-by-case basis.

## Pregnancy related sickness

Where an employee is off due to pregnancy related sickness our managers will ensure appropriate support is provided and will seek further advice from OH if needed.

Employees should continue recording their absence as usual on IBC. The line manager will monitor this; however, there will be no progression through the steps of the Sickness Management Process where sickness is pregnancy related. It is important that a risk assessment is carried out **include link to risk assessment**.

## Accidents at work

Any absences because of an accident at work will be managed in the usual way but the employee will be paid an injury allowance (see below).

## Sick Pay and Injury Allowance

### Entitlements

#### Statutory Sick Pay (SSP)

- This is the minimum entitlement laid down by law which the Federation is required to pay employees while sick
- SSP will be paid to employees when sick for four days or more in a row
- Employees will receive SSP for up to 28 weeks in a spell of sickness
- Spells with 8 weeks or less between them count as one spell
- If the employee is sick after 28 weeks they will be issued with form SSP1 which they can use to claim state benefits
- Employees who are not entitled to receive SSP will receive a form from HR stating why, which can be used when claiming benefit

#### Occupational Sick Pay (OSP)

- Employees on sick leave are entitled to receive payments from the Federation's Sick Pay Scheme, depending on their length of service
- The Federation supplements SSP with OSP. The maximum payment that an employee will receive when off sick will not exceed full pay
- Entitlement for each new period of sickness will depend on what has been paid over the previous 12 months
- When calculating entitlement to OSP, previous continuous service with a local government will count towards service
- By participating in the absence management process, attending absence meetings, it helps the organisation assess what is right for the employee balanced against organisation needs. Failing to engage could lead to withdrawal of occupational sick pay.

Service	Entitlement
During 1st year	1 month's full pay and (after completing 4 months' service) 2 months' half pay
During 2nd year	2 months' full pay and 2 months' half pay
During 3rd year	4 months' full pay and 4 months' half pay
During 4 <sup>th</sup> and 5 <sup>th</sup> year	5 months' full pay and 5 months' half pay
After 5 years	6 months' full pay and 6 months' half pay

## **Industrial Injury**

An allowance will be paid if:

- an employee becomes unable to work, either on a short-term or permanent basis due to injury or disease whilst in the employment of the Federation
- this can be specifically attributable to the nature of their duties
- this is not wholly or mainly due to or seriously aggrieved by their own negligence or misconduct

Where an employee cannot continue in their present post, but is not permanently unable to work, alternative employment should be sought for them. They will continue to be paid at the rate of pay for their substantive role prior to being redeployed. Deductions of the amount of statutory benefit or compensation that the employee is in receipt of will be made from their salary, as long as the final pay is not reduced below the level of pay for the post that the employee has been redeployed into.

## **Extension of Occupational Sick Pay**

An extension of sick pay will not normally be considered where there is little likelihood of the employee ever returning to work. In such cases the possibility of an ill health retirement should be considered in consultation with the Occupational Health Provider

Extension to periods of full or half sick pay will only be considered, after consultation with HR, in the following exceptional circumstances:

- where the employee's absence is for an underlying medical condition which may have required more than one period of absence, or is identified as a complex case where the condition may be both physical and mental
- where it is anticipated that the employee will return to work in the very near future and extension of sick pay will aid a quicker recovery of the employees' health, and
- where it is known that the financial hardship resulting in a reduction in pay may generate a level of anxiety that would hinder a speedy recovery and consequently delay a return to work

Sick pay cannot normally be extended beyond the end of the employee's half sick pay entitlement. Where such circumstances apply and extension of sick pay is considered, the Manager should seek advice from the Federation's HR Adviser – currently Browne Jacobson HR Adviser. The Headteacher in liaison with nominated Co-Chair of Governors will make the final decision in agreement with the HR Advisor. Each case will be considered on its merits.

*There are a number of Westminster Guidance notes covering various aspects of this policy in more detail. In some cases they refer to services not necessarily fully available to the Federation – if that is the case you should refer to the Federation HR adviser for alternatives*

*These are;*

- 1: Management Guide – Carrying out Absence Review Meetings*
- 2: New and expectant mothers*
- 3: Medical redeployment guidance*

*4: Accident and Incident Management*

*5: Sickness Ill Health Retirement Guidance*

*6: Medical Suspension Guide*

*7: Disability Guide*

In addition, the following organisation offers help and advice to employees with cancer;

<https://www.macmillan.org.uk/documents/getinvolved/campaigns/workingthroughcancer/workingthroughcancer2010/workingthroughcancer2010.pdf>