

ATTENDANCE MANAGEMENT POLICY

Issued: July 2016
Revised: October 2016
Reviewed: August 2017
Next Review Due: August 2019

Attendance Management Policy Statement

The Principles of this Managing Staff Attendance Policy

BDAT is committed to maintaining the health, safety and welfare of its staff and volunteers, seeks to provide a positive and healthy working environment and recognises the value of staff's work/life balance. Regular attendance at work is part of every staff member's contract of employment. However, it is recognised that staff will on occasion have genuine and acceptable health reasons to be absent from work and on those occasions the school will aim to do everything possible to support a staff member during the period of absence, with the aim of assisting their return to work at the earliest opportunity.

The overall aim of the policy is to minimise absence levels across the academy and provide information on how the academy may support those staff who are unable to attend work due to ill health. The policy also aims to provide a fair and consistent framework for managing attendance and should inform all staff of their responsibilities regarding attendance at work.

In accordance with its obligations under the Equality Act (2010), management will make all reasonable efforts to allow staff with a disability to continue their employment.

This policy is not contractual and the school may depart from its terms where circumstances dictate. In particular the academy may depart from the terms of this policy in the first two years a staff member's employment.

The Academy's Responsibilities

- To inform all staff of attendance management procedures including the conditions of the sick pay scheme.
- To record all sickness absence upon notification.
- To meet with all staff on their return to work, regardless of the duration of the absence.
- To monitor and review all sickness absence across the academy.
- To decide if a meeting with a staff member when their sickness absence level has reached a trigger point is appropriate.
- To maintain reasonable contact with staff during a period of absence.

Staff Responsibilities

- To attend work when fit to do so.
- To comply with the academy's notification of sickness absence procedures.
- To maintain reasonable contact with the academy and to meet with the academy when required during periods of absence of 4 weeks or more ("long term sickness absence") or, if medically unable to maintain such contact, to make arrangements for an intermediary, e.g. trade union representative or family member, to maintain contact on their behalf.
- If requested to do so by the academy, to attend occupational health (and potentially other medical) appointments.

1. Attendance Management Procedure

How to Report Sickness Absence

The purpose of having a clear reporting process is to ensure that the academy can make the necessary arrangements to cover sickness absence. This may involve arranging for supply cover or longer term arrangements in the event that member of staff is absent for a longer period of time.

As such the academy has set the following absence reporting procedure, which must be followed in the event of sickness absence. A failure to follow this procedure may result in sick pay being withheld and/or the absence being treated as an unauthorised absence in accordance with the school's disciplinary procedure.

On the first day of sickness absence the staff member must if at all possible telephone the nominated person within their academy no later than half an hour before your normal starting time on the first day of absence and advise them of the reason for their absence. The staff member should maintain appropriate contact with the academy everyday (unless otherwise instructed or covered by a medical certificate) with regard to your ongoing absence and its likely duration. Please note that text messages and / or emails are not accepted forms of contact with the academy or BDAT.

If the staff member's absence persists for longer than 7 consecutive days, they must submit a doctor's fit note to the school.

Sick Pay

Sick pay is based on length of service. For teachers this is aggregated teaching service within any Local Education Authority and for all other staff it is continuous service within any public authority to which the Redundancy Payments Modification Order 1985 applies. Please refer to the Teachers' Local Conditions of Service 'Burgundy Book' and the Officers' Terms and Conditions of Service 'Blue Book' for sick pay entitlements, for instance in the case of an accident or assault at work.

If the academy is concerned that the reason(s) given for the staff member's absences are not genuine, the academy may commence an investigation in line with the academy's disciplinary procedure.

The academy reserves the right to withhold sick pay in circumstances which are described in the relevant paragraphs of the conditions of service for teachers and support staff. Additionally, if the staff member is found to be carrying out some other work, within their contracted hours at the academy, sick pay could be withheld.

Staff who are absent from work on sickness absence must not participate in any other form of work (paid or unpaid) during their normal working hours without the prior written authorisation of the academy. It is the responsibility of the staff member to notify the school if undertaking therapeutic work whilst off sick and to avoid misunderstandings it is advised that the staff member should consult with Occupational Health as to the advisability of this kind of activity.

Statutory Sick Pay ("SSP")

In order to qualify for SSP the staff member must:

- Be sick for at least 4 or more days in a row (including weekends and bank holidays) (SSP is not payable for the first 3 days of any period of absence); and
- Earn an average of not less than the Lower Earnings Limit for National Insurance Contributions (NIC).

SSP is paid by the academy for up to a maximum of 28 weeks.

Surgery not for Medical reasons

Time off for surgery that is not for medical reasons will ordinarily not be paid by the academy.

Any leave granted, whether paid or unpaid, will be subject to the availability of staff to cover the member's period of absence.

Resumption of Duties – Interpretation

In order to clarify ambiguity that surrounds the term 'resumption of duties', BDAT is mindful of the stipulation in the Burgundy Book paragraph 4.1 as follows:

Where a teacher is on sick leave on 31st March in any year, no new entitlements shall begin until the teacher has resumed duty and the period from April 1st until the return to duty is regarded as part of the preceding year's entitlement for the purpose of this scheme.

Under national terms and conditions, to retrigger 100 days full sick pay, the staff member has to resume "duties". Local conditions (Bradford) go a step further and state that the staff member must resume "teaching duties".

There is no specific definition of "return to duty" or "resumed duty". The terms "return to duty", "resumed duty" or "teaching duties" could potentially be stretched either way to either be read to mean stepping foot onto school premises, or the other way to mean that a teacher would have to carry out absolutely every element of their role from their Job Description before they would be deemed to have returned – for the purposes of the sick pay scheme.

For the avoidance of doubt and clarification, the BDAT interpretation of the phrase means that a member of teaching staff would have to have performed the substantive teaching duties contractually required before there is any new entitlement under the Burgundy Book terms. In the interests of fairness to all staff, a member of support staff will equally be expected to have resumed substantive duties before any entitlement to new entitlement shall begin.

Returning to Work

Where a doctor advises the staff member that *“you are not fit for work”* the doctor will state the period (or dates) that this will be the case *and* whether they will need to assess the staff again. If the doctor has not stated that they need to assess the staff member again, it will ordinarily be assumed that the staff member will return to work on expiry of the fit note. There may be occasions where it is advisable to ask the staff member to seek further advice from their doctor regarding a return to work. The staff member is required to attend such an additional appointment as reasonably instructed by the school.

During such additional period of assessment (unless the staff member refuses to attend such an appointment), the staff member will remain entitled to sick pay in accordance with the SSP or the staff terms and conditions of service.

The fit note offers a new option - *‘may be fit for work taking account of the following advice’*.

A doctor will be able to suggest ways of helping staff get back to work. This might mean discussing:

- A phased return to work.
- Flexible working.
- Amended duties.
- Workplace adaptations.

It is important that staff communicate any such advice to their academy as soon as possible and in any event significantly prior to their return to work, to enable all reasonable adjustments suggested by their GP. Staff should inform the academy of their return to work date as soon as possible.

The academy will investigate reasonable suggestions made by a doctor of steps that may assist a staff member to return. However, various factors may prevent the school from acting including (but not limited to) maintaining education standards, the impact on pupils or other staff, practicability, disruption to school life and cost.

On their return to work, the staff member must contact their nominated academy representative and complete the Sickness Notification Form as directed. If the staff member is fit to resume work during the school holidays and there are no members of staff in school, they should contact the Director of Operations at BDAT on 01274 909120.

Occupational Health

The academy may refer the staff member to Occupational Health who will be able to advise on matters such as:

- When the staff member may be able to return to their role.
- The staff member's ability to carry out their role.

- Whether the staff member falls under the auspices of the Equality Act (2010), and whether any adjustments or modifications could be made to assist the staff member in carrying out their role.
- Whether the staff member is (or will soon be) unable to carry out their role and/or the staff member's ability to carry out alternative duties either within the school or within the Trust.
- Whether any adjustments or modifications could be made to assist the staff member in carrying out such alternative duties.

The academy has a duty of care to its staff to consider all appropriate support options including reasonable adjustments or phased returns to work.

It may be appropriate for staff experiencing a psychological illness i.e. stress/anxiety/depression or a musculoskeletal complaint i.e. neck/shoulder/back condition, that an immediate referral is made.

Return to work Interview

Following a period of sickness absence the staff member will be required to attend a return to work interview. Ideally this should be done on the staff member's first day back to work. If this is not possible it should be held within at most 3 days of their return to work.

The meeting will normally be held by the staff member's line manager or head of department. The purpose of the interview is to welcome the staff member back to work, inform them of any changes during their absence and to seek reassurance on the part of the employer whether the staff member is completely fit for work or needs extra support at the time. It is also to demonstrate the academy's commitment to monitoring the health and well-being of its staff. It may be that a Referral to the Occupational Health Unit for investigation of the staff member's health problems is necessary to gain advice on medium and long term fitness for work and if there is an underlying condition requiring reasonable adjustments to be carried out

In a Return to Work interview the member of staff must be made aware when they are near to reaching the trigger points and that reaching these could result in a Stage 1 Absence Meeting (and that a Stage 1 warning could be given at this meeting.) Staff should be offered support to prevent this. Should the staff member have hit the trigger points by this stage they will be informed at the Return to Work interview that they could be invited to an Absence Meeting. Should a live warning already be on file for the staff member, and they have exceeded their absence target, they will be notified at the Return to Work interview that they could be invited to a Stage 2/3 Absence Meeting. A record of the interview must be made using the Return to Work interview Form, this is to be signed by the manager and staff member and copied to the staff member and placed on the staff member's personnel record file.

It is the intention that the academy will manage absence in a pro-active manner through the effective completion of return to work interviews

2. Short Term Absence Management

When considering trigger points, the circumstances of the staff member will be carefully and sensitively considered in order to treat all staff fairly, consistently and compassionately.

How attendance will be reviewed

In order to manage attendance effectively it is important that sickness absence is consistently reviewed. The academy have pre-determined review points which can alert the academy if a staff member's attendance has reached a point where there may be cause for concern. The following review points are in place to monitor staff attendance:

- 3 or more occurrences of sickness absence in any 6 month period
- 7 or more day's sickness absence in any 12 month period
- 4 weeks continuous sickness absence.
- When operational need dictates, for example if the number or pattern of absences causes concern.

Procedure

This procedure is designed to deal with persistent short-term ill-health cases.

The Trust has delegated the following powers to the following levels of staff:

Absence Stage	Meeting Officer	Appeal Officer
Stage 1 Meeting	SLT	Principal
Stage 2 Meeting	SLT	Principal
Stage 3 Meeting	Principal	Chair of LGB

If the staff member's attendance levels have not improved to a satisfactory level following informal action through the return to work interviews, and having taken into consideration the trigger points, management may choose to obtain medical advice from occupational health (if appropriate) or may proceed to a Stage 1 Absence Meeting.

Stage 1 Absence Meeting

If a staff member's sickness absence levels have not improved despite being addressed in their Return to Work Meetings, and the staff member has reached the trigger points, a member of SLT may invite the staff member to a Stage 1 Absence Meeting.

The member of SLT will provide at least 3 working days' notice of the Stage 1 Absence Meeting in writing. They should inform the staff member of the time, date and place of the meeting, the reason for the meeting, issue any evidence to be discussed at the meeting and state that they have the right to be accompanied by a trade union or work colleague not involved in the case.

The member of SLT should prepare for the meeting by ensuring that they have identified the staff member's sickness absence levels and the support that has been provided via the Return to Work meetings. Any medical evidence or documentation that the staff member wishes the member of SLT to consider should be submitted prior to the meeting.

In the Stage 1 Absence Meeting the member of SLT must:-

- Explain the concern about the absence level and reasons for that concern, such as operational difficulties caused.
- Listen to reasons and respond appropriately.
- Consider whether to refer the case to the Occupational Health Unit, if not already done.
- State that sustained improvement in attendance is expected and set an appropriate monitoring period and targets for improvement.
- Identify any support required.

Potential Outcomes:

- Give the staff member a Stage 1 warning, to remain on file for 6 to 12 months, and explain that continued failure to improve attendance to the specified level may lead to a Stage 2 Absence Meeting which could ultimately lead to his/her employment being put at risk.
- An extension of informal monitoring
- No further action is required at this stage

In any event the member of SLT should fully record the details of the meeting and send a letter to the staff member confirming all the details of this meeting.

Stage 2 Absence Meeting

If the staff member's attendance drops below the required level within the set monitoring period the member of SLT will ask the staff member to attend a Stage 2 Absence Meeting.

The member of SLT will provide at least 3 working days' notice of the Stage 2 Absence Meeting in writing. They should inform the staff member of the time, date and place of the meeting, the reason for the meeting, issue any evidence to be discussed at the meeting and state that they have the right to be accompanied by a trade union representative or work colleague not involved in this case.

In the Stage 2 Absence Meeting the member of SLT must:-

- Explain the concern about the absence level and reasons for that concern, such as operational difficulties caused.
- Listen to reasons and respond appropriately.
- Consider whether to refer the case to the Occupational Health Unit, if not already done
- State that sustained improvement in attendance is expected and set an appropriate monitoring period and targets for improvement.

- Identify any support required.

Potential Outcomes

- Give the staff member a Stage 2 warning, to remain on file for 9 to 12 months and explain that continued failure to improve attendance to the specified level will lead to a Stage 3 Absence Hearing which could result in dismissal.
- An extension of monitoring and support within Stage 1 of the formal process
- No further action is required at this stage

In any event, the member of SLT should fully record the details of the meeting and send a letter to the staff member confirming all the details of this meeting.

If at any stage a member of staff has reached a level of improvement acceptable to the academy, monitoring should revert back to informal arrangements.

Stage 3 Absence Hearing

If the staff member's attendance drops below the required level within the set monitoring period the member of SLT will ask the staff member to attend a Stage 3 Attendance Meeting.

The member of SLT will provide at least 5 working days' notice of the Stage 3 Absence Meeting in writing of:

- the purpose of the hearing;
- the complaints or allegations;
- the stage reached in the procedure;
- when and where the hearing will be conducted;
- who will be attending, including witnesses to be called;
- the right to be accompanied by a trade union or work colleague not involved in the case. the requirement for confidentiality;
- the requirement for the staff member to provide, in at least 2 working days before the hearing, all documents that he/she intends to present at the hearing.

The Stage 3 Absence Hearing will be conducted by the Meeting Officer. Any medical evidence or documentation that the staff member wishes to be considered should be submitted at least 2 working days prior to the hearing. The purpose of the Stage 3 Absence Meeting is to consider whether the staff member is capable of continuing employment with the school in the light of their health, their attendance and their ability to perform the role with reasonable effectiveness. The meeting also takes into account whether the academy can reasonably sustain the staff member's level of attendance.

Potential Outcomes:

- An extension of monitoring and support within Stage 1 of the formal process.

- If the Meeting Officer decide that the staff member's attendance is not acceptable and is unlikely to improve, the staff member may be dismissed with notice on the grounds of failure to sustain required levels of attendance.

If the Meeting Officer decides to terminate the staff member's employment on the grounds of the above, the staff member will be informed of the school's decision to dismiss in writing and the staff member will be reminded of their right of appeal.

Appeals

Any appeal arising as a result of a warning or dismissal must be made in writing within 10 working days of receiving written notice of the outcome of the hearing.

If the staff member submits an appeal, he/she will be invited to an Appeal Hearing where their case will be heard. The outcome of the Appeal Hearing will be confirmed in writing to the staff member. There is no further level of appeal.

Managing Headteacher Sickness Absence

In the case of Headteacher sickness absence, The Absence Management Procedure will be managed by the Chair of Governors.

All Sickness Absence Hearings relating to Headteacher sickness absence will be conducted by the Discipline, Grievance and Dismissal Committee of the school's Chair of Governors and Trustees.

3. Long Term Sickness Absence Management

Where a member of staff is or is reasonably expected to be absent from work for 4 weeks or more (including any period of holiday) or where the staff member has been unable to sustain regular and efficient attendance due to a long term condition they will fall within the scope of the long term sickness absence management procedure.

It may be appropriate for staff experiencing a psychological illness i.e. stress/anxiety/depression or a musculoskeletal complaint i.e. neck/shoulder/back condition, that an immediate referral is made.

The academy will maintain regular and supportive contact with the staff member, which may include regular review meetings to discuss the staff member's continuing absence, when the staff member may be able to return to work and any reasonable adjustments that the school may be able to make to assist the staff member in returning to work. It is a contractual requirement that the staff member co-operates with the school during such period of absence.

Alternative Venues

In some circumstances where a staff member is unable to attend a meeting at the academy it may be appropriate for management to arrange an alternative venue. This may include the staff member's home with their agreement or a neutral venue.

Medical Suspension

There are a number of circumstances where it may be necessary to medically suspend a member of staff.

Reasons for such a decision may include consideration for the protection of the person's own health, as well as the health and welfare of other staff and students who may be put at risk by the medical condition of a member of staff. Occupational Health may recommend medical suspension to management.

When Medical Capability is being considered

If, following advice from Occupational Health, it appears that the staff member is probably not going to be able to return to their role within a reasonable period of time the staff member may be invited to attend a Medical Capability Hearing.

Prior to a medical capability hearing a preliminary meeting should be arranged in order to discuss the following:

- The history of the staff member's absence, including the number of absences or duration of absences.
- Any reasonable adjustments that have been made or considered.
- If and when the staff member may be able to return to work or start providing regular and efficient service.
- Any redeployment options that have been considered within the school.
- The up to date medical advice.

The staff member has the right to be accompanied at the meeting by a trade union representative or work colleague.

If, following the preliminary meeting, management remain of the opinion that the staff member is not able to return to work within a reasonable period of time and that their absence cannot be sustained or that the staff member will not be able to provide regular and efficient service in accordance with their contract of employment, the staff member should be invited to attend a Medical Capability Hearing.

Medical Capability Hearing

The Medical Capability Hearing will be conducted by the Meeting Officer. The purpose of the Medical Capability Hearing is to consider the viability of the staff member's continuing employment

with the academy. The staff member should be given written notification of the meeting giving 5 working days' notice.

The Meeting Officer will consider dismissal on the grounds of medical capability where having considered any medical advice and any representations by the staff member the Meeting Officer reasonably believes that:

- the staff member is permanently unfit to work.
- they are unable to reasonably determine when the staff member will be able to return to work or to provide regular and efficient service.
- the staff member is unlikely to be able to provide a reliable and efficient service.

In the event that a member of staff has failed to attend appointments with Occupational Health and therefore there is no medical evidence to consider, the Meeting Officer may make a decision based on the information presented at the Hearing.

The staff member has the right to be accompanied at the Medical Capability Hearing by a colleague or a trade union representative. Any documentation that the staff member wishes the Meeting Officer to consider should be submitted at least 2 working days prior to the Hearing.

In certain situations whereby medical evidence from a staff member is in conflict with the medical evidence from Occupational Health, the school may decide to obtain a further medical report or may prefer either report.

Where a member of staff fails to attend the Medical Capability Hearing, the hearing may go ahead in their absence.

If the Meeting Officer decides to terminate the staff member's employment on the grounds of Medical Capability, the staff member will be informed of the Meeting Officer's decision to dismiss in writing and the staff member will be informed of their right of appeal.

Appeals

Any appeal arising as result of a Medical Capability Dismissal must be made in writing within 10 working days of receipt of the outcome of the hearing.

If the staff member submits an appeal, he/she will be invited to an Appeal Hearing where their case will be heard. Both the staff member and the school may wish to provide additional medical information for consideration at the Appeal Hearing.

The outcome of the Appeal Hearing will be confirmed in writing to the staff member. There is no further level of appeal.

Redeployment

There may be some instances where a member of staff is fit to return to work but not necessarily to the role they were originally employed to undertake. Redeployment is where a staff member is transferred into a suitable alternative post which they are able to undertake with or without reasonable adjustments and/or training. In respect of alternative work, managers are advised to look at any existing and near future vacancies in the academy in the first instance and discuss these with the staff member in terms of their eligibility (including consideration of reasonable adjustments and training, as appropriate).

If there is no suitable alternative post in the academy it may be possible to look for opportunities across the Trust. In cases of ill-health redeployment, academy based staff can be given access to non-teaching vacancies from the date of a decision to dismiss, until the end of the notice period.

Ill-Health Retirement

It may be possible that a member of staff who is contributing to the West Yorkshire Pension Fund (WYPF) or Teachers' Pensions (TP), could be considered for Ill-Health Retirement. Ill-Health Retirement is when a staff member is considered permanently unable to do their job or any comparable job with their employer. If a staff member seeks advice with regard to ill-health retirement he or she should be referred to Occupational Health. It is advised that Headteachers and managers should seek support with this process from a Human Resources Advisor.

Support Staff

If appropriate, Occupational Health will advise the school that they will support Ill-Health Retirement and will complete a Medical Certificate of Permanent Incapacity. This certificate is then forwarded to the WYPF alongside the appropriate documentation. In order to terminate the individual's employment the school will need to follow the process outlined in the medical Capability Hearing and dismiss on the Grounds of Medical Capability.

Teachers

If appropriate, Occupational Health will advise the school that they will support Ill-Health Retirement however the process is significantly different to that of support staff. Occupational Health can only recommend Ill-Health Retirement, the final decision is made by TP. Under these circumstances the staff member will be required to apply for ill-health benefits, completing an application form and a medical evidence form.

Accrual of annual leave during sick leave

Staff have the right to accrue annual leave during sickness and to take this upon return or carry forward the annual leave into the next leave year. The time a staff member takes leave will be agreed by management in line with the needs of the academy. Staff are entitled to 28 days (5.6 weeks) of statutory annual leave under the Working Time Regulations 1998. Therefore, the entitlement to statutory annual leave can be offset by any periods of academy closure, whether they occur before or after the period of sickness. Where there is insufficient academy closure time to

allow the statutory annual leave to be taken, employers should allow the staff member to carry forward the leave to be taken in an academy closure.

Where a member of staff commences sick leave, the amount of 'leave' the member has had in the current leave year will be established by the amount of academy closure periods that have already occurred during the leave year. If this exceeds the entitlement to statutory annual leave there will be no further entitlement to leave. For more information please speak to your HR Advisor.