

St. Luke's School

Policies, Guidance & Procedures

St. Luke's School

Health and Attendance Policy

Reviewed: Aug 2017

Review: Sep 2020

1. Introduction

This policy and procedure has been produced in consultation with the professional associations/trade unions and is recommended for adoption by HfL. For schools that subscribe to the Schools' HR advisory service, an HR adviser is always available to provide guidance in relation to the implementation of this policy and procedure.

The school is aware that sickness absence may result from a disability. At each stage of the meetings/hearings procedure, particular consideration will be given as to whether there are reasonable adjustments that could be made to the procedure or role requirements.

The school recognises that its employees contribution to the functionality of the school is crucial to its continuing success. It is therefore committed to preserving the health, welfare and safety of all its employees and as such seeks to provide a safe and healthy working environment. It is inevitable that from time to time employees may be unable to attend work due to sickness or injury. In such instances, the school is committed to dealing with absence due to genuine sickness in an empathetic, objective, sensitive, and consistent way across the school and to assist employees return to work as quickly as possible. It is also the school's aim to minimise the incidence of sickness and to give appropriate guidance and support to achieve this.

However, high levels of sickness absence and/or repeated absence can cause significant disruption to the business of the school and can place an undue burden on other teams' members and therefore this needs to be managed closely.

This policy sets out the school's approach in relation to sickness absence management, including its procedure for notification and certification and its position on payment during sickness absence.

The procedure applies to all employees of the school. This procedure does not form part of any employees contract of employment and it may be amended at any time.

2. Breaches of this policy and procedure

Breaches of this policy and procedure include a failure to adhere to notification and certification procedures or taking 'sickness absences' when not genuinely ill.

In the case of a breach of this policy and procedure, employees may be subject to disciplinary proceedings and possible withdrawal of sick pay. In cases of frequent or long-term absence, the school will also have regard to its absence management procedure.

3. Headteachers and the chair of governors

In cases where the Headteacher is the absent party, the chair of governors will carry out the functions normally allocated to the Headteacher in this procedure.

Where Headteachers are absent they will need to notify both the chair of governors and their deputy or next suitable post holder.

4. Notification/certification procedure

If the absence is the result of an accident or injury sustained during the course of work duties, this information and the name of the person to whom the incident was reported must be made known. This is to ensure that the school's management has properly recorded the accident and, where necessary, taken remedial action.

4.1 First day of absence

It is a requirement that employees **contact the Head of School** unless otherwise directed by the School, as soon as possible on the first day of absence. Employees should strive to do this at the earliest possible opportunity. In any case, notification of absence should be made prior to the time the employee is due to start work so that cover can be arranged.

4.2 Second to seventh calendar day of absence

Employees (or their next of kin if they are not sufficiently well to do so) should maintain contact, during any period of self-certification, such that their Headteacher has a reasonable knowledge of the employee's progress at all times, and of when he/she can realistically expect the employee to return to work.

Unless the school specifically requests it, employees are not required to submit a fit note for absences of up to seven calendar days but, on their return to work, must confirm to the school the number of days they were off sick and the reasons for the absence, via the completion of a self-certification form (see appendix 3).

4.3 Absence greater than seven calendar days

For absences of more than seven consecutive calendar days, (including weekends and public holidays), employees must obtain a fit note from their doctor and send it to the school immediately after the first week of absence. If an employee is still not fit to return by the time their medical certificate expires, the employee must obtain another medical certificate so that their entire period of absence is covered and send this to the school at the earliest opportunity.

4.4 School holidays

The requirement to provide a certificate to cover absences also applies to school holidays. Where an employee is not fit to work on the last day of term and first day of the next, a certificate should be provided to cover the school holidays or otherwise to show that the employee was fit during that period of time.

4.5 Provision of fit notes for periods of absence less than eight calendar days

The school reserves the right to require employees to obtain a medical certificate from their GP for absences of any duration. Examples of when this may be done include where there are concerns about frequent absence, or where employees have been off work due to sickness at any time during the week immediately before or immediately after they have taken some holiday (in this case, a certificate will be required for the whole period of absence). In such circumstances, the school will cover the costs incurred in obtaining such a fit note for absences of a week or less on production of a doctor's invoice.

4.6 Fit notes which recommend adjustments

The school will give reasonable consideration to all adjustments recommended by GPs where it is stated that the employee is fit if certain adjustments can be made. However, where the school feels unable to comply with the adjustments, the employee will remain sick in accordance with the note.

4.7 Sickness incapacity whilst on annual leave

If an employee becomes unfit during annual leave and wishes to treat the incapacity as sick leave and reclaim the annual leave they must comply fully with the usual requirements for notification and provision of medical evidence. Where those requirements are not fulfilled, the absence will be deemed to be unauthorised and will not be paid.

5. Maintaining contact

It is recommended that regular contact be maintained between the employee and employer throughout any prolonged period of absence.

It is anticipated that at an early stage, arrangements will be made between the employee and their Headteacher, line manager, or other nominated person as to the frequency and form (e.g. telephone, email, or letters) that contact is to take.

6. Failure to inform the school of an absence and/or failure to provide a medical certificate

A failure to attend work without providing any reason, or any reasonable reason will be deemed an unauthorised absence from work which may result in an employee being in breach of contract and therefore subject to disciplinary process and/ or withdrawal of pay.

Should an employee fail to provide a certificate either from the outset of an absence or fail to maintain certification throughout the entire period of their absence, they will be treated as having an unauthorised absence from the work and may be deemed to be in breach of contract with the consequences outlined above.

It is reasonable in such circumstances for the school to make reasonable efforts to contact an employee to establish their whereabouts to ensure their wellbeing and log their attempts to do so.

The management of such unauthorised absences is not covered by this policy. Where such issues arise, the Schools' HR advisory service team should be contacted promptly for further guidance.

7. Sick pay

Subject to compliance with the appropriate procedures, the school will pay "Statutory Sick Pay" (SSP) in respect of all eligible employees at the prevailing nationally set rates, and payment will be subject to deduction of tax and National Insurance contributions as appropriate. To qualify for payment of SSP, a "self-certificate" declaration form must be completed upon return to work after any period of absence (see appendix 3). SSP is payable from the fourth day of absence and may be payable for up to 28 weeks.

The school will also pay occupational sick pay (up to and including full basic salary for a certain period, less any SSP received) subject always to continued compliance with the school's sickness absence and notification/certification procedures. Eligibility for occupational sick pay and the level and duration of

payment of any occupational sick pay will follow the entitlements set out in the relevant conditions of service.

No payment will be made in respect of unauthorised absences. Pay will not be reinstated if a certificate is latterly provided.

For long term absences, if it is concluded in the school's reasonable belief, that an employee is unable to fulfil their contract of employment as a result of ill health, the school reserves the right to terminate the employee's contract with due notice having followed the school's absence management procedure prior to any applicable sick pay having been exhausted.

8. Medical appointments

The school will allow **reasonable** time-off for employees to attend medical appointments, which are unable to be arranged out of working hours. Before arranging non-urgent doctor's medical appointments, employees should seek the approval of their Headteacher if it is necessary to take time off work. Employees should make every attempt to make these appointments at the beginning or end of the day or during lunch breaks to minimise the time they have to be absent from work and evidence of the appointment may be requested by the school.

9. Return to work meetings

It is considered good management practice to hold return to work meetings after every period of sickness absence. Where possible, the return to work meeting will be carried out on the first day back to work by the Headteacher, line manager, or other nominated person, or shortly afterwards where this is not possible.

The meeting will be to welcome the employee back to work and seek to clarify that the employee is fit to carry out the duties of their post. The meeting will also establish the reasons for the absence and highlight any additional support required. Any concerns regarding absence may be raised and measures identified to support the employee to improve attendance where necessary and help to prevent its reoccurrence.

In a return to work meeting, employees should be made aware when they are near to reaching the trigger points (see section 9.1 below) and that reaching these could result in a formal ill health capability meeting being convened (see section 10 below). If an employee has reached the trigger points when a return to work meeting is held, the employee should be made aware that an ill health capability meeting may be scheduled and a first written warning could be given at this meeting. Alternatively consideration should be given to setting an attendance improvement plan (AIP) (see section 9.2 below).

A record of the meeting must be made using the self certification sickness absence and return to work meeting form (appendix 3). A copy of this form should be given to the employee and the original placed on the employee's personal record file.

9.1 Trigger points

In any six month period, the trigger points are:

- three separate occasions of sickness absence; and/or
- a continuous sickness absence of 10 working days' or more; and/or

- an absence which appears to have a recurring recognisable pattern, for example frequent absenteeism around a weekend

However, these trigger points are for guidance only and the school reserves the right to raise any concerns with an employee at an earlier stage where there are reasonable grounds for concern, or at a later stage where appropriate, and to institute an attendance improvement plan at any time (see section 9.2 below).

It is hoped that closer monitoring and discussions with an employee concerning absence and attendance will result in an improved attendance record.

Employees should be aware that a poor attendance record may result in formal action being taken, which may, in some circumstances, include and/or lead to the termination of their employment.

9.2 Attendance improvement plan (AIP)

An AIP is a record of what an employee will need to achieve in terms of attendance over the coming weeks or months. The AIP should provide enough time to demonstrate attendance has improved with details of assistance that the employee will be offered, wherever possible, to help them achieve improved attendance.

AIPs may be put in place either where there are management concerns about attendance or as part of a formal process.

9.3 Persistent short term absence

If an employee's sickness absence is close to reaching or indeed has reached a "trigger point", the relevant line manager and/or Headteacher should discuss this with the employee and start to monitor their sickness absence more carefully through an AIP and pursuant to the school's absence management procedure.

9.4 Long term sickness absence

Long term sickness absence occurs when an employee is absent from work for a continuous period of **at least 28 calendar days**. Where it is clear at the outset or becomes clear after a time that the absence will be long term, a referral can be made to Occupational Health (usually after four to six weeks' of continuous absence, sooner if there are concerns of a mental health nature for example, stress, anxiety or depression). The Headteacher or nominated person will inform the member of staff that Occupational Health will be asked to give an opinion in relation to the employee's current fitness for work and recommendations for support that may be of benefit, where it can be facilitated. The Headteacher or nominated person should then contact the Schools' HR advisory service team about making a referral to Occupational Health.

9.5 Referral to the Occupational Health Unit

During any period of absence or on return to work, the school may require an employee to engage with an Occupational Health physician/adviser so that they can prepare a medical report. If the school has made a referral, employees are expected to co-operate fully with the Occupational Health physician/adviser. This may include attending an appointment with the Occupational Health physician/adviser and providing consent for the release of medical information.

- in this section, the duties of a Headteacher may be delegated to another appropriate member of staff
- the Headteacher should talk to the employee and explain that he/she will be referring him/her to the Occupational Health Unit. In some circumstances, it may be necessary to inform the employee in writing

When to make a referral

A referral should be made if any of the following occur:

- where it is anticipated or known that the absence is going to last four weeks or more. The absence need not have exceeded four weeks at the time of making the referral
- where there is a concern over persistent short term absence prior to or during an attendance improvement plan
- where a trigger point is met, unless a referral has already been undertaken recently
- where there is a concern of any nature where there appears to be an underlying medical condition
- when an employee has been absent with, or appears to be suffering from, mental health issues (for example stress, anxiety, depression)
- where there are concerns about an employee's health and/or safety in the workplace and medical advice is required

Referrals may not be necessary for routine procedures which require a fixed period of convalescence, unless complications arise.

Occupational Health Recommendations

It should be noted that the outcomes of an Occupational Health referral in the form of the report(s) provided are advisory in nature. It will ultimately be a judgement for the school, having sought HR advice, as to whether any given recommendation can be reasonably implemented. Occupational Health may recommend reasonable adjustments which could include a phased return to work, temporary or permanent adjustments to an employee's role. In the event that the employee is unable to fulfil the role, retirement on ill health grounds may be considered.

10. Absence management procedure

10.1 General principles

Ill health capability hearings and the management of absence is based on the principle that whilst absence due to ill health will not usually be the fault of an employee, there will come a point where the employee is deemed incapable of undertaking the role they were employed to do. This may be because the employee is not in work regularly enough to effectively fulfil the role, despite consideration of reasonable support to reduce levels and/or instances of absence.

At the discretion of the school, and usually involving long term absence, informal health review meetings may be arranged to discuss the contents of any Occupational Health report or generally to ascertain the employee's state of health and options going forward.

At every stage of the absence management procedure, the employee will:

- be given advance notice of any formal ill health capability hearing, which should be at least five working days' notice in writing by recorded delivery or delivery by hand
- be advised in writing of the nature of the attendance concerns against him or her
- have the right to be accompanied by their professional association/trade union representative or work colleague; and
- have a right of appeal against any decision made following a hearing

Employees should make all reasonable efforts to attend hearings/meetings convened under this absence management procedure. If an employee fails to attend any hearing/meeting without good reason, this may be treated as misconduct in itself. If the employee fails to attend without good reason or is persistently unable to attend due to health issues, a hearing/meeting may be convened and a decision taken based on the available evidence in the absence of the employee.

10.2 Expert advice at a hearing

At any ill health capability hearing where dismissal is a possibility, the Headteacher or panel may be advised by an HR professional. For schools that subscribe to the Schools' HR advisory service, please contact your HR adviser prior to arranging a hearing.

At any hearing where dismissal is to be considered, the following provisions apply:

- at any community or voluntary controlled school, the local authority must be invited to send an adviser. The school must send all of the papers for the hearing to the HR adviser no later than the date on which the papers are sent to the employee
- at any voluntary aided, foundation school or academy the school is encouraged to invite an HR adviser. If an HR adviser is to be in attendance, the school must send all of the papers for the hearing to the HR adviser no later than the date on which the papers are sent to the employee

10.3 The note-taker at formal hearings

A written record of the proceedings is essential at every formal hearing. This is likely to be the clerk to the governors or a member of administration staff at the school. The note-taker will make a confidential record of the hearing but not of any confidential deliberations to determine a judgement at the end of the hearing.

The school does not support the audio recording of ill health capability meetings or hearings unless there are exceptional circumstances for doing so. Covert recording is considered gross misconduct.

10.4 Right to be accompanied

An employee has the right to be accompanied and supported, at each formal stage of the procedure where action may be taken (including appeal), by a work colleague or an accredited professional association/trade union representative.

The employee should give advance notice if he/she is to be accompanied, and by whom. If the professional association/trade union representative or work colleague is unavailable at the time of the

hearing, the employee should contact the individual that convened the hearing to postpone the hearing (once) to a time that is mutually convenient to all parties. Any postponement should be within a reasonable timescale and should not normally extend beyond five working days.

10.5 Formal ill health capability hearing – short term absence

While formal ill health capability hearings are more commonly used to address concerns relating to short term absence, they may also be convened following an employees return to work from long term absence. This will especially be the case where it is not the first period of prolonged absence to have occurred.

The hearing is intended to establish the facts. At this hearing, the Headteacher or line manager will:

- identify the attendance concerns, support already given or considered, and the level of attendance required where there has been an attendance improvement plan
- provide written evidence of the concerns identified e.g. self certification sickness absence and return to work meeting form(s), other meeting notes, absence data, any medical information being used to determine whether, and if so what support the employee may benefit from.
- consider and discuss any causes and reasons for the absences. The employee should be given the opportunity to discuss any contributory factors they feel may have affected their attendance
- after reviewing the evidence before them and taking into account any contributing factors the employee has put forward, the Headteacher or line manager will decide upon the relevant outcome from the hearing:

Outcomes of the hearing, depending on the circumstances of the particular case, could (without limitation) include:

- the setting of an attendance improvement plan (AIP), where one has not been set prior to entering the formal process.
- first written warning and an AIP which is likely to be appropriate in most cases where there has been a persistent failure to meet satisfactory attendance levels, notwithstanding previous informal discussions
- final written warning and an AIP which is likely to be appropriate where, following a first written warning and an AIP, there has been a continued failure to meet satisfactory attendance levels or where there has been a serious failure to meet satisfactory attendance levels

Dismissal with notice may be considered where despite the employee having already received a first and/or final written warning for short term absence, and following one or more AIP their attendance levels continue to fall below expectations.

Notes must be taken of the hearing and a copy given to the employee, but not of any deliberations.

After the hearing, the employee will be informed in writing of the school's decision as soon as practicably possible and usually within five working days. Where a formal sanction (a warning or notice of dismissal) has been issued, the decision letter must contain the right to appeal.

10.6 Duration of warnings

In circumstances where a first written or final written warning is issued it will be placed on the employee's personal file normally for a period of 12 months, unless the employee is notified to the contrary. The employee will need to be at work throughout the relevant warning period. If they should be absent from work for any reason e.g. sickness, this period will not count for the purposes of the warning period.

10.7 Formal ill health capability hearing – long term absence

Dismissal with notice may be considered, without the need for first or final written warnings, where an employee has been or is likely to be absent for a prolonged period, where a reasonable period of recovery has been allowed for and weighing up input from Occupational Health, in the school's opinion a return to work in the short term is unlikely and where it is concluded that there are no reasonable adjustments or restrictions that would enable the employee to return to a work. Where possible, these judgements should be made having sought advice from Occupational Health via the Schools' HR advisory service team.

10.8 Arranging a formal ill health capability hearing – long term absence

Ill health capability hearings will be heard by either the Headteacher or a panel of three governors as appropriate in the circumstances.

The hearing allows the employee to prepare a response to concerns about their absence and make their case in the company of their professional association/trade union representative or a work colleague.

If an employee is unable to attend an ill health capability hearing, he/she may choose to provide written permission to the effect that their representative may act on full authority and he/she will accept any decision that their representative has been party to. He/she may also choose to provide a written response.

Hearings should normally be held during normal working hours, but, where this is not possible, the hearing should begin as soon as possible after the end of the school day.

The employee must receive at least five working days' notice in writing, by recorded delivery or delivery by hand, stating:

- the purpose, time and place of the hearing
- specific concerns, confirming that this is a formal ill health capability hearing pursuant to the school's health and attendance policy and procedure
- a copy of the school's health and attendance policy and procedure
- who will be attending (e.g. Headteacher, employee)
- the right to be accompanied by an accredited professional association/trade union representative or a work colleague
- relevant documentation the school intends to present
- the requirement for confidentiality
- the requirement for the employee to provide, at least three working days' before the hearing, all relevant documents that he/she intends to present

The Headteacher or panel members, as appropriate, will be sent all of the papers to be presented, including a copy of the invite letter sent to the employee in reasonable time before the hearing. Panel members must not discuss any aspect of the case or the contents of the case papers with anyone, including other panel members, before the hearing.

10.9 The ill-health capability hearing decision – long term absence

If the case for dismissal is not established, a warning appropriate to the circumstances of the case may be issued.

If the decision is dismissal, then the employee will be informed as a matter of urgency and advised of the right of appeal. The decision of the Headteacher (or governing body disciplinary panel), the reasons for it and the appeal arrangements will be confirmed in writing to the employee as soon as reasonable practicable and usually within five working days.

For a community or voluntary controlled school (whose staff are employed by the County Council), a copy of the letter will be sent to the director of Children's Services who will then formally confirm the dismissal by letter to the employee.

10.10 Appeal

If the employee wishes to appeal against the school's decision at any stage of the process (including the level of any sanction imposed) he/she must do so in writing to the person specified in the decision letter, stating the full grounds of appeal, within seven calendar days from receipt of the letter setting out the school's decision.

An appeal will be heard by the Headteacher (only in cases where a warning was issued by a line manager) or by a panel of three governors, not involved in the original hearing. At the discretion of the school, the appeal may be a complete rehearing of the matter or it may be a review of the fairness of the original decision in light of the procedure that was followed and any new information that may have come to light.

New evidence will only be considered if relevant and there is a good reason why this had not been included as part of the original hearing.

The employee's letter to lodge the appeal must be accompanied by detailed grounds for appeal.

The Headteacher/chair of panel, i.e. the person or a representative of the panel that heard the original case will normally present the case at any appeal against a warning or ill health capability dismissal decision.

Appendix 1

Sick Pay Entitlement

Teachers	
During the first year of service	Full pay for 25 working days and after completing 4 calendar months' service half pay for 50 working days
During the second year of service	Full pay for 50 working days and half pay for 50 working days
During the third year of service	Full pay for 75 days and half pay for 75 working days
During the fourth year and successive years	Full pay for 100 working days and half pay for 100 working days

Note 1: For teachers, working days are the days defined as "directed time" (currently 195 per school year). Years of service are based on aggregated service.

Appendix 2: Sick Pay Entitlement

Support Staff

Please delete either table A or B depending on the terms and conditions of employment for support staff relevant to your school.

Table A	
Support Staff in Community or Voluntary Controlled Schools, or any other school adopting the new terms and conditions of employment - with effect from 1 April 2012	
First 2 days absence in each period of absence	No pay
During the first 6 months of service	Statutory Sick Pay only
During months 7-12 of service	1 month full pay and 1 month half pay
During the second year of service	2 months' full pay and 2 months' half pay
During the third year of service	3 months' full pay and 3 months' half pay
During the fourth year of service	4 months' full pay and 4 months' half pay
Additional Disability Leave allowance	Up to 5 extra days paid disability leave per year available to those employees who have a disability defined by the Equalities Act 2010.
Additional Pregnancy related sick leave	Up to 5 extra days paid pregnancy related sick leave for women who experience pregnancy related sickness.
<p>Note 1: For occupational sick pay entitlement record purposes (and without prejudice to the National Council's arrangements for self-certification days and to any local agreements on "qualifying days" for statutory sick pay purposes) "one month" is deemed to be equivalent to 26 working days, Saturday being reckoned in all cases as a working day.</p>	
<p>Note 2: If an employee has suffered an injury during the course of their work duties, and this has been confirmed in writing by the Department of Work and Pensions (DWP), then the employee is entitled to receive the first four months of their absence as full pay (for the first two days of absence pay will not be deducted). If they are still absent after the first four months, then their normal sick pay entitlement will begin.</p>	
<p>Note 3: Entitlement is based on continuous service.</p>	

Table B	
Support Staff in Voluntary Aided, Foundation or Academy Schools not covered by the HCC Collective Agreement	
During the First year of service	1 Month full pay and, after completing 4 months' service, 2 months half pay
During the second year of service	2 months' full pay and 2 months' half pay
During the third year of service	4 months' full pay and 4 months' half pay
During the fourth & fifth year of service	5 months' full pay and 5 months' half pay
After 5 years' service	6 months' full pay and 6 months' half pay
<p>Note 1: For occupational sick pay entitlement record purposes (and without prejudice to the National Council's arrangements for self-certification days and to any local agreements on "qualifying days" for statutory sick pay purposes) "one month" is deemed to be equivalent to 26 working days, Saturday being reckoned in all cases as a working day.</p>	
<p>Note 2 : If an employee has suffered an injury during the course of their work duties, and this has been confirmed in writing by the Department of Work and Pensions (DWP), then the employee is entitled to receive the first 6 months of their absence as full pay. If they are still absent after the first 6 months, then their normal sick pay entitlement will begin.</p>	
<p>Note 3: Entitlement is based on continuous service.</p>	