

# Attendance Management Policy and Procedure



**Date:** December 2019

## Document summary

The County Council believes that it is important to manage sickness absence in a fair, consistent and compassionate way and the policy sets out the agreed approach for doing so.

Attendance management is an important part of the manager's role and all managers should be familiar with the County Council's trigger points as cause to consider whether absence is an issue as well as the attendance management procedures.

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**About this document:**

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# Attendance Management Policy and Procedure

## Policy aims and scope

The Attendance Management Policy and Procedure aims to support employees and managers in achieving a healthy and efficient workforce.

It applies to all Academy Trust employees. This includes employees who:

- Work on permanent and temporary contracts;
- work within the Trust schools where the Governing Body has adopted it;
- have a disability or medical condition which falls within the definitions set out in the Equality Act. However, managers will need to consider any reasonable adjustments to support them.

The policy does not extend to employees in their probationary period, where the Supported Introduction to Employment Policy applies.

## 1. Introduction

- 1.1. Torfield and Saxon Mount Academy Trust has a responsibility to provide a healthy place to work and equally employees have a responsibility to look after their own health.
- 1.2. Everyone gets ill from time to time, and most absences of this nature will only be a day or two due to for example, a cold or a stomach complaint. This means that the majority of staff will only ever be concerned with the first half of this policy, which explains who employees need to talk to when they are unwell and how to report their absence.
- 1.3. Sometimes people are ill more often and have serious health conditions. We want to support all our colleagues however, we also need to balance this against the responsibility we have for the service we provide for our community.
- 1.4. Every employee has an important role to play in supporting the provision of services and any long term or frequent absence will make it more difficult to plan and deliver this. The second part of this policy outlines how we deal with these situations fairly and consistently both for our colleagues and customers.

## What everyone needs to know

### 2. Absence recording

#### Step 1: Informing senior staff of sickness

- 2.1. If an employee is not able to work because they are unwell they must inform their a senior manager as soon as possible, and before 7.30am on the first morning of any absence and in accordance with the Staff code of conduct.
- 2.2. To ensure the senior manager is clear about the absence the employee will need to let them know:
  - The reason they are unwell (if possible)

- How long they expect to be absent from work
  - Any work or meetings that will need to be covered
- 2.3. If the line manager is unavailable, they should contact the school office or send a text message or e-mail to a senior manager.
- 2.4. In exceptional circumstances, if the employee is unable to call, then somebody else can make the call on their behalf.
- 2.5. It is the employee's responsibility to make sure the senior manager is kept up to date regarding their sickness absence and any changes.

#### Reporting sickness while suspended as part of a disciplinary investigation

2.6. As detailed in the disciplinary policy, it may sometimes be necessary to suspend an employee in order to ensure a fair investigation can be carried out. If an employee is suspended as part of a disciplinary investigation, they will still be subject to the Attendance Management Procedure, and it is important that any sickness absence is reported so that appropriate support can be put in place. Suspended employees should therefore still report the absence to their line manager (or another appropriate manager)..

2.7. Employees who report sickness absence during disciplinary suspension will receive sick pay in line with their contractual entitlement.

### **3. Disciplinary proceedings**

- 3.1. Employees should note that disciplinary proceedings may be considered by senior managers in the event that they (note that this list is not exhaustive):
- Fail to notify their senior manager of an absence
  - Fail to respond to reasonable communications from their senior manager during their absence
  - Falsify an absence
  - Work for another organisation whilst on sick leave from TaSMAT.

### **4. What happens if a sickness absence is over 7 days?**

- 4.1. If an employee needs to be absent from work due to an illness for more than 7 calendar days they will need to go and see their GP. The GP will provide them with a 'fit note' that states the length of time the employee will be unable to attend work.
- 4.2. When the employee gets the 'fit note' they should contact their senior manager to let them know the details of this. The 'fit note' should then be posted or handed to the senior manager as soon as possible in order to prevent any interruption with pay.
- 4.3. If the employee feels able to return before their 'fit note' expires they can contact their GP again and ask for an updated 'fit note'. If there is concern regarding a return to work, medical advice should be sought, either from the employees GP or by calling the Trust's Occupational Health Provider.

- 4.4. If the employee does not feel well enough at the end of their 'fit note' they will need to arrange another appointment with their GP, so a further note can be provided. The employee will need to update the senior manager as soon as possible and send in the additional 'fit note'.
- 4.5. Where applicable, if the employee is sick when they are on annual leave they should meet with their GP as soon as possible to obtain a 'fit note'. Once the senior manager has received the 'fit note' the days that are covered by this will then be considered as sickness and the annual leave days will be reinstated.
- 4.6. If an employee is absent due to sickness they still accrue annual leave in line with statutory regulations.
- 4.7. Sometimes the GP may recommend the employee is fit to work in specific circumstances. In these situations they should discuss it with the senior manager as soon as possible to check if they can return on this basis. If this is not possible the employee will continue to be absent from work due to sickness for this period of time.

## **5. Return to work**

- 5.1. After returning to work, the employee must attend a Return to Work discussion with a senior manager.
- 5.2. Return to work conversations should take place within the first day of the employees return wherever possible; these can be held, face to face, by telephone or Skype. At all times the confidential context of these meetings must be considered.
- 5.3. The purpose of the discussion will be to:
  - Confirm the employee has returned to work
  - Ensure they are well enough to be back
  - Check if there is any support that can be put into place for them
  - If appropriate, discuss actions that might be considered by the employee in order to remain fit and healthy
  - Feed back on any key pieces of work they may have missed
  - Update them on any relevant changes in the workplace
- 5.4. A Return to Work form will be completed and signed by the employee and line manager during the meeting.

## **Support measures available**

### **6. Health and self-support / wellbeing conversations**

- 6.1. This informs part of the on-going conversations between the manager and employee.
- 6.2. These conversations may be taking place already as part of your working practice. However, in some circumstances, you may find it helpful to record these.
- 6.3. A 'Health and self-support plan' can be used by a senior manager as an opportunity to discuss on-going or potential health issues or something that is generally affecting the employee's wellbeing and potentially their performance at work.

#### 6.4. The conversation could cover:

- Any concerns the employee or manager may have, these could be around working arrangements i.e. work load concerns or if there is something affecting them that is outside of work
- Discussing a potential plan; identifying any key areas of concern and exploring solutions to address these.

If there are longer term individual solutions agreed, a meeting could be scheduled in to review how things are going and to discuss next steps.

### **7. Occupational Health**

- 7.1. There are times when further medical support and advice is needed. This may be to support a return to work, to understand if there is anything further that can be done to improve attendance at work or to understand when an employee may be fit to return.
- 7.2. In these types of circumstances a referral will be made to the Academy Trust's Occupational Health provider. If a referral is needed this will be discussed between the manager and the employee. The employee will always see a copy of the referral and the written report.
- 7.3. Sometimes further specialist advice is needed and it is useful to have information from a doctor. The employee will be asked to complete a consent form and this will allow for their records to be released. In the event an employee is unable to perform their duties due to ill health they are required to be referred to Occupational Health as directed.
- 7.4. Strict confidentiality applies to all medical information held by the Occupational Health provider. The referral is treated in accordance with the Data Protection Act 1998.
- 7.5. The Occupational Health practitioner will ask some questions that relate to the employee's health as part of the referral. These questions will aim to provide:
  - Practical advice about fitness for the role
  - If appropriate, detail on any personal limitations
  - Details of adjustments which may be helpful to support the employee in undertaking their role
  - Details of how much time may be needed for a return and/or proposals for a phased return to work.

### **8. Employee Assistance Programme**

- 8.1. As an employer who takes their responsibility for staff wellbeing seriously, we provide additional support as and when identified.
- 8.2. There are times when further support on life's events can be helpful. This may be for advice on relationships or legal matters. In addition to this there is a free and confidential counselling service.

## **9. Reasonable Adjustments**

- 9.1. Where a manager believes that an employee may have a disability or an on-going medical condition they have a legal obligation to seek advice as appropriate in terms of support that can be put in place for the employee. The Occupational Health service can advise on what these adjustments might be.
- 9.2. Adjustments might include:
  - Rearranging working location
  - The provision of physical aids
  - Permitting different patterns of work
- 9.3. The reasonableness of any adjustments should be assessed as 'reasonable' based on the needs of both the employee and the service. Reasonable Adjustments can be agreed on a long or short term basis however, they should always be subject to review.
- 9.4. If reasonable adjustments are requested or implemented a Reasonable Adjustment Statement should be completed and formally recorded.
- 9.5. Employers must make reasonable adjustments to overcome the barriers to a disabled person caused by physical features of the working environment and working practices. Equally, employers should also consider making adjustments to physical features and working practices for members of staff who, whilst not covered under the Equality Act 2010, require an adjustment to prevent a condition developing further. If further guidance is required employers may call their HR advisor.

## **10. Stress**

- 10.1. When stress hazards are suspected managers may find it helpful to complete the Stress Risk Assessment form. When a stress related absence has occurred, this process may be followed. Line managers will discuss implementing the stress management policy in appropriate cases.
- 10.2. Any actions identified must be implemented monitored and reviewed as necessary. The stress policy, risk assessment form and further guidance relating to it can be found on the schools' R drives.

## **Formal process for managing sickness absence**

### **11. Which process should be followed?**

- 11.1. As noted in paragraph 6, if an employee is absent from work a Return to Work conversation should always take place. If the absence is frequent or over 8 calendar days in length a Health Review Meeting should also take place. These can happen in a single meeting.

11.2. Sickness absence can be managed in two ways; either in the Short Term or the Long Term Procedure. If an employee is absent frequently or they have one absence over 8 calendar days in length the Short Term Procedure should be followed. If the absence extends beyond 28 calendar days the Long Term Procedure should be followed.

## **12. The short term procedure**

12.1. The short term procedure will apply when any of the following triggers are breached:

- 3 separate absences in a 6 month period (referred to as the 3:6 rule) on a rolling 6 month basis
- 1 occasion of 8 days or more continual absence
- The frequency or pattern of absence causes concern for the manager.

12.2. When a short term absence trigger is breached, a Health Review Meeting to discuss the employees' health should be arranged. The Short Term flow chart on Page 11 should be used as a reference guide.

### **12.3. Health review meeting**

The Health Review Meeting (HRM) is the first formal stage of the Attendance Management Procedure. The meeting will be initiated by an Absence Trigger, alerting line managers of the need to meet with their employee to discuss their health and to find out what support can be put in place for them.

12.4. The purpose of this meeting will be to engage in a meaningful discussion with the employee; exploring the reason for their absence(s) and identifying any relevant support mechanisms. Guidance on how to hold this meeting can be found in the Managers' Checklist, available on the schools' R Drives.

12.5. If reasonable adjustments are identified a 'Reasonable Adjustment Statement' could be completed and formally recorded. This statement will need to be agreed by the Head of School or Director of Finance and Resources as applicable. The senior manager should meet with the employee at regular intervals in order to review how effective these adjustments are in line with the employees needs and those of the service. The form and further guidance on this can be found on the schools' R Drive.

### **12.6. First written warning**

If the senior manager is concerned regarding the level of absence a First Written Warning can be issued at this meeting. The manager will need to show that reasonable adjustments have been explored and the employee's absence is of concern. Please see the Managers' Checklist for more information on issuing a first written warning.

### **12.7. Communication record**

If an employee requires ongoing support for a medical condition, it is recommended best practice that the senior manager maintains a record of conversations and actions that have taken place.

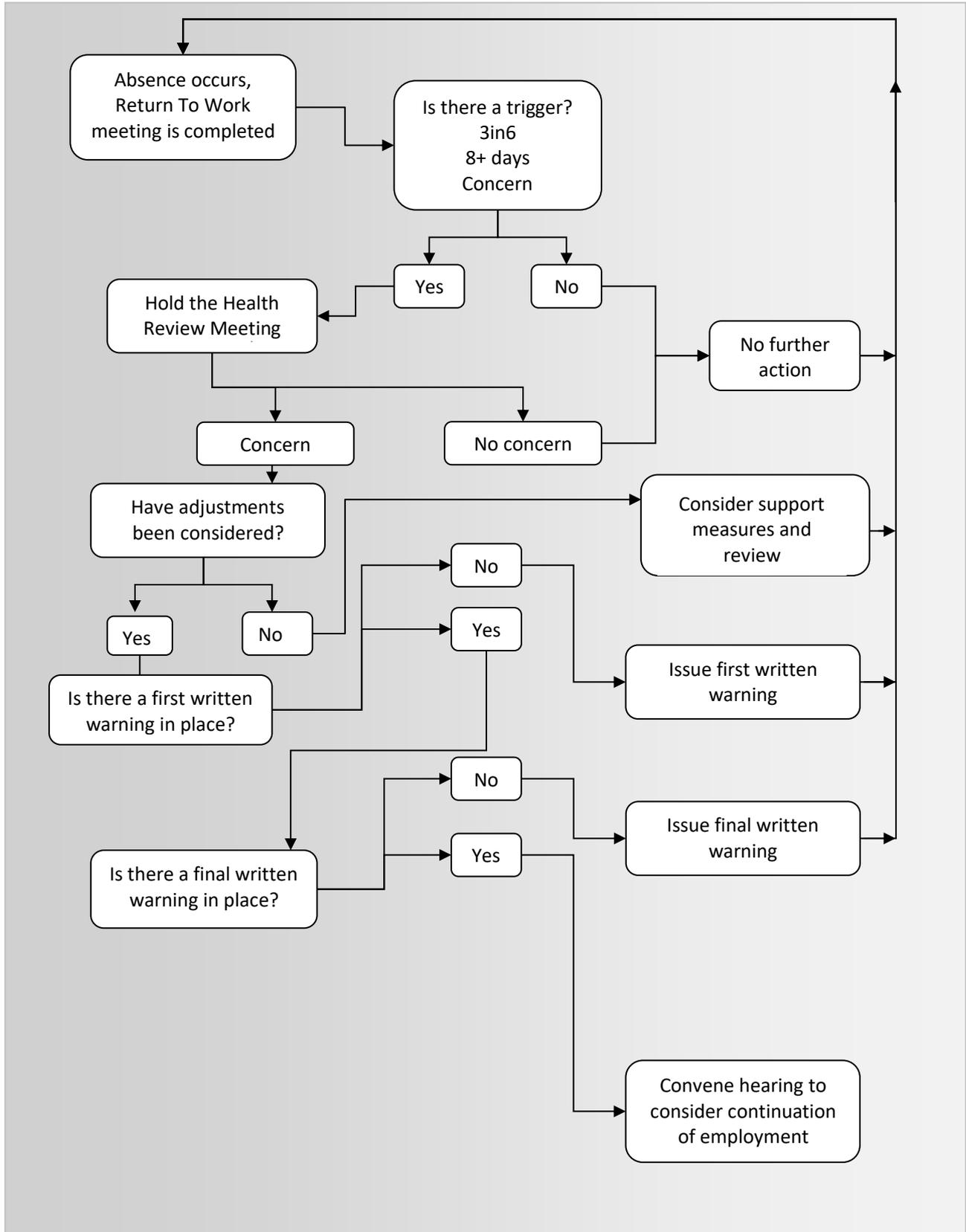
12.8. An example of a Communication Record is available to use as part of the Attendance Management toolkit.

- 12.9. A 12 month monitoring period will be set following the First Health Review Meeting. If the employee has further period(s) of absence during this time that triggers under the short term procedure (in line with 4.2.1 above) a Health Review Meeting should be scheduled and a Final Written Warning should be considered.
- 12.10. Following the Health Review Meeting, if the employee triggers again within a 12 month period a further Health Review Meeting will take place.
- 12.11. Final written warning  
If the employee fails to improve their attendance level and a First Written Warning is live, the senior manager may issue a Final Written Warning at this meeting. The senior manager will need to show that reasonable adjustments have been considered and the employee's absence is of concern. Senior Managers will have discretion in some circumstances to reissue the First Written Warning. The Managers' Checklist provides further guidance on issuing a Final Written Warning.
- 12.12. A further monitoring period of 12 months should then be set and if the employee either triggers again or fails to improve their attendance levels, a further meeting will be convened and a referral to a dismissal hearing will be considered.
- 12.13. Following the Health Review Meeting if the employee triggers again within a 12 month period, a further Health Review Meeting will take place.
- 12.14. If the employee fails to improve their attendance level and a Final Written Warning is live, the senior manager may refer to a hearing to consider the continuation of their employment at this meeting. The senior manager will need to show that reasonable adjustments have been considered and the employee's absence is of concern and there are no exceptional circumstances. Please see the Manager's Checklist for further guidance on referring to a Continuation of Employment Hearing.
- 12.15. Continuation of Employment Hearing  
A referral to continuation of employment hearing will be considered when the employee has had a further trigger within a 12 month period of a Final Written Warning being issued.
- 12.16. The purpose of the formal hearing is to consider all the circumstances and whether any more can be done to support and improve the employee's attendance at work. An outcome from the hearing can include dismissal on the grounds of incapability due to ill health.
- 12.17. Advice from HR should always be sought prior to any decision regarding the continuation of employment.
- 12.18. Appendix C details the procedure for a Continuation of Employment Hearing.
- 12.19. Right of appeal: Dismissal  
If a recommendation for dismissal is upheld, the employee may appeal against the decision. Further detail on this procedure can be found in Appendix 4.
- 12.20. Right of appeal: Written Warnings  
If the manager issues a First or Final Warning, the employee may appeal against the decision. Further detail can be found regarding the procedure for this in Appendix 2.

12.21. Right to representation: Short term

12.22. The employee has a right to be accompanied by a Trade Union official or a current work colleague at any Health Review Meetings where a Final Written Warning or dismissal could be a potential outcome.

## Short term attendance management flowchart



### **13. The long term procedure**

13.1. The long term procedure will apply when the employee has, or is likely to have 28 or more calendar days of continuous absence. The Long Term flow chart on Page 16 should be used as a reference guide.

#### **13.2. Keeping in touch during a long term absence**

If an employee is likely to be off sick for longer than one week their manager should contact them to discuss the situation and see how they are.

13.3. The type of contact will depend on the circumstances, initially the manager should contact the employee by phone. If this is not possible a letter or email may be appropriate. An informal meeting may follow and can be held somewhere away from the work place if appropriate. Visits will be pre-arranged.

13.4. If an employee is absent due to a reason related to work a meeting should be held as soon as possible. This allows for an early opportunity to resolve any issues and alleviate any concerns in a timely manner.

13.5. The Trust reserves the right to instigate an earlier discussion of an employee's sickness absence record if the situation would benefit from early intervention. Examples might be a work related injury, an accusation of bullying or harassment or where there is evidence that the employee is not ill.

#### **13.6. Communication record**

If an employee requires ongoing support for a medical condition, it is recommended best practice that the senior manager maintains a record of conversations and actions that have taken place.

13.7. An example of a Communication Record is available to use as part of the Attendance Management toolkit.

#### **13.8. First Health Review Meeting – long term**

If an employee has an absence that exceeds 28 calendar days a Health Review Meeting should be held by week six of an employee's absence.

13.9. The purpose of this meeting will be to engage in a meaningful discussion with the employee; exploring the reason for their absences and identifying any support mechanisms that could aid a return to work. In the event an employee is unable to perform their duties due to ill health they are required to be referred to Occupational Health as directed.

#### **13.10. Interim Health Review Meeting – long term**

If it appears that the employee looks unlikely to return to work within 28 calendar days of the meeting taking place an Interim Health Review Meeting should be arranged.

- 13.11. This meeting is to review the progress of the employee's health and may involve:
- Reviewing Occupational Health advice
  - Reviewing the timeline for recovery
  - Considering medical redeployment
  - Considering ill health retirement
- 13.12. A minimum of one Interim Health Review Meeting needs to take place before week 15 of the employee's absence.
- 13.13. If the employee is unlikely to return to work before week 26, a Final Health Review Meeting should be scheduled.
- 13.14. Final Health Review Meeting – long term  
A Final Health Review Meeting should be arranged when either:
- A return to work is planned, or:
  - An employee is unlikely to return to work by week 26 of their absence
- 13.15. Within this meeting a decision needs to be made regarding future employment. Possible outcomes include:
- Agreed return to work plan (within reasonable timescale)
  - Ill Health Retirement
  - Medical Redeployment
  - Mutual termination of employment
  - Referral to Health Review Hearing
- 13.16. In exceptional circumstances, the process may be extended beyond 32 weeks. To do this, a business case would need to be approved by the relevant Assistant Director or Headteacher. Such circumstances might include life-threatening or terminal illnesses where the employee is able to return to work and wishes to do so.
- 13.17. Continuation of Employment Hearing – long term  
A Hearing will be held to consider the continuation of employment in the following circumstances:
- The employee is not expected to be back at work within the date set at the Health Review meeting or within 26 weeks of the start of the absence, and
  - All reasonable measures have been exhausted in order to support them back to work
- 13.18. The purpose of the formal hearing is to consider all the information available and whether any more can be done to support the employees attendance at work. Outcomes from the Hearing can include dismissal on the grounds of incapability due to ill health. (Please refer to Appendix 3 for further guidance).
- 13.19. Advice from HR will always be sought prior to any decision regarding the continuation of employment.

13.20. Right to representation – long term

The employee has a right to be accompanied by a Trade Union official or a current work colleague at any Long Term Health Review Meetings.

13.21. Return to work following a long term period of absence: Support Meetings

When the outcome of a Final Health Review Meeting is that the employee returns to work, Support Meetings should take place at regular intervals. The purpose of the meetings will be to update the employee's Communication Record and will include:

- Reviewing any temporary adjustments to the employee's job
- Identifying any further reasonable support measures

These Support Meetings should continue until the employee is fully rehabilitated back into the role. It is recommended these meetings should be held weekly during the first four weeks of the employee's return to work.

13.22. The expectation is that the log will be signed off by both the manager and the employee no later than week six of an employee's return.

13.23. If there are further concerns following this and the return has not been successful, alternative options may need to be explored which could include:

- Occupational Health Review,
  - Contractual reduction in hours,
  - Medical redeployment, or:
  - If these options are not viable, reconvening the Final Health Review meeting.
- Please contact your HR representative for further guidance.

13.24. Further long term absence within a 12 month period

A 12 month review period will be set following an employee's return to work. In the event the employee has a further long term period of absence a Final Health Review Meeting can be reconvened.

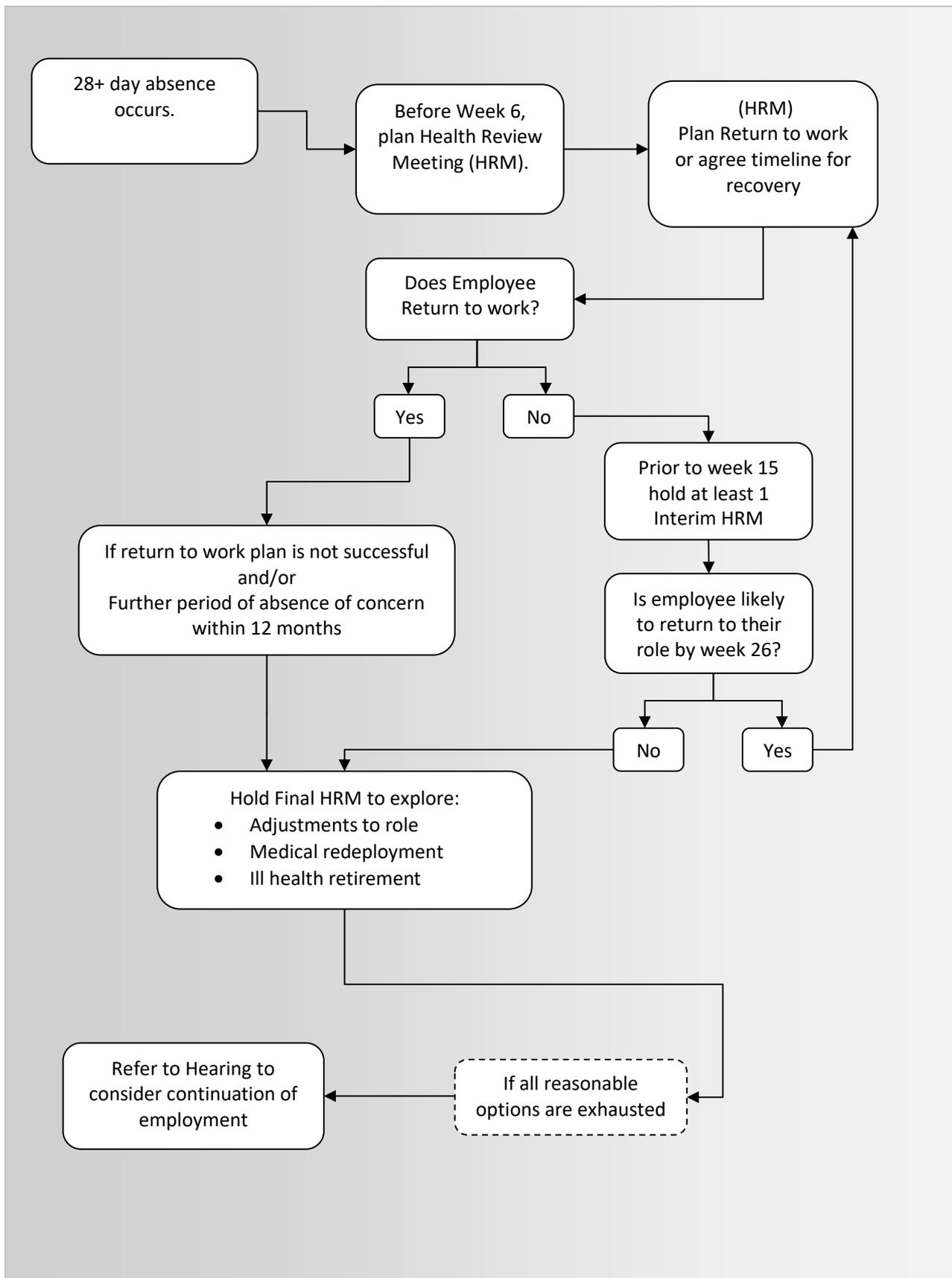
13.25. Further short term absence within a 12 month period

In the event the employee has a Short Term Health Review Trigger during the 12 month period for either:

- 3 separate absences in a 6 month period (referred to as the 3:6 rule) on a rolling 6 month basis,
- 1 occasion of 8 working days or more continual absence,
- the pattern or frequency of absence causes concern,

a Health Review Meeting should be arranged under the Short Term Procedure and a written warning should be considered.

## Long term attendance flowchart



## **Glossary**

### **Communication record**

If an employee is absent long term due to sickness or requires ongoing support for a medical condition, it is recommended best practice that the line manager maintains a record of conversations and actions that have taken place.

An example of a Communication Record is available to use as part of the Attendance Management toolkit.

It is designed to be reviewed and updated at regular intervals in line with the Long Term Attendance Management Procedure or, in certain circumstances, the Short Term Attendance Management Procedure.

The Communication Record acts both as a live action plan to record and monitor any agreements that have taken place and as a historical log of any contact regarding the absence.

### **Health and self-support / wellbeing plan**

The plan does not need to be linked to any period of absence or medical condition; it is a proactive tool aimed to improve the wellbeing of an individual or team. The action points can be as simple as taking regular lunch breaks away from the desk or it could lead to consideration of a flexible working request.

The plan could be regularly reviewed until the action points have been fully explored.

### **Health review meeting**

The Health Review Meeting (HRM) is the first formal stage of the Attendance Management Procedure. The meeting will be initiated by an Absence Trigger, alerting line managers for the need to meet with their employee to discuss their health and to find out what support can be put in place for them.

The purpose of this meeting will be to engage in a meaningful discussion with the employee; exploring the reason for their absence(s) and identifying any relevant support mechanisms.

## **Final health review meeting**

Within this meeting, a decision needs to be made regarding future employment. Possible outcomes include:

- Agreed Return to work plan (within reasonable time scale)
- Ill Health Retirement
- Medical Redeployment
- Mutual Termination of Employment
- Referral to Health Review

## **Absence trigger**

The short term triggers are below.

Short term:

- 3 separate absences in a 6 month period (referred to as the 3:6 rule) on a rolling 6 month basis
- 1 occasion of 8 working days or more continual absence
- A pattern or the frequency of absence causes concern.

Long term:

- 28 calendar days of continuous absence

When an absence trigger is breached, a Health Review Meeting must always be arranged.

## **Appendix 1: Medical Redeployment**

- 1.1. If an employee is identified by Occupational Health as being unable to fulfil the duties of their current post due to ill health (on a long term or permanent basis) the senior manager should meet with the employee at a Health Review Meeting to discuss the option of appointment to a suitable alternative post i.e. redeployment.
- 1.2. During this Health Review Meeting the employee will elect whether or not they wish to be placed on the redeployment register. In the event they do not wish to do this a Final Health Review Meeting may be convened. The outcome of this may be referral to a dismissal hearing. The senior manager will refer to the Trusts HR advisor for further guidance.
- 1.3. If the employee agrees to be placed on the redeployment register, a redeployment form is completed with their skills and preferences. From the date the employee submits the form they will have the opportunity to apply for roles one week prior to them being advertised.
- 1.4. The employee is made aware of all new roles on a weekly basis and a matching process is undertaken. If the employee's skill set is matched to a particular vacancy then advice must be sought from Occupational Health on the suitability of the post.
- 1.5. Alternative positions will be considered if the employee meets the essential criteria and they are at the same grade, or within a ten percent margin of their current salary. Alternative positions must be advertised - posts cannot be created.
- 1.6. The redeployment process is limited for a period of 12 weeks and if the employee has not secured a role during this period a Final Health Review Meeting will be convened. The outcome of this may be referral to a dismissal hearing to consider termination of employment on the grounds of ill health.
- 1.7. For details on redeployment please refer to the Recruitment and Selection toolkit on the Intranet/Czone.

## **Appendix 2: Appeal process for First and Final Warnings**

- 1.1. The senior manager presents the case to another manager at the same level/Senior Manager/Headteacher/panel of Governors as appropriate. Personnel and Training (PAT) provide support and advice (usually a Personnel representative from the Attendance Management Team). The employee may be accompanied by a TU representative or a current work colleague.
- 1.2. If an employee exercises his/her right to appeal against a First or Final Written Warning, the senior manager should:
  - Inform the employee of the formal meeting to consider the appeal within ten working days of receiving the written registration of appeal;
  - Seek advice from the Attendance Management Team as required;
  - Give the employee written notice of the appeal hearing date, time and venue, along with the opportunity to bring a trade union representative or current work colleague and an opportunity for the employee to request any reasonable adjustments to enable them to attend.
- 1.3. Exchange of documents should occur within three working days of the date of the appeal hearing and this should be confirmed in the written notice of the appeal hearing.
- 1.4. The conduct for the procedure of an appeal hearing is as follows:
  - Senior Manager/Manager/Headteacher/Governors will reach their decision having listened to the case put by both sides and following an adjournment;
  - Senior Manager/Manager/Headteacher/Governors to notify the employee and manager of the decision, in writing, within five working days of the appeal. Senior Manager/Manager/Headteacher/Governors may choose to give an oral decision on the day but this must be confirmed in writing within five working days.
  - If the Senior Manager/Manager/Headteacher/Governors uphold the decision to issue the Warning, the employee must be informed that there is no further right of appeal within the County Council.

## Appendix 3: Procedure for Consideration of Continuation of Employment

- 1.1. Advice from HR should always be sought prior to any decision regarding the continuation of employment
- 1.2. In the event of the application of either the Short Term or Long Term Attendance Management Procedures resulting in the senior manager recommending that consideration should be given to terminating employment, a Senior Manager will present the case to either an appropriate delegated Senior Manager or the Chief Officer. In schools the case will be presented to either the Headteacher, or to a panel of Governors (if the Headteacher is the Senior Manager presenting the case). (See the Scheme of Personnel Delegations document)
- 1.3. Appropriate support from Personnel and Training (PAT) will be available to the Chief Officer/Senior Manager or Headteacher/panel of Governors.
- 1.4. The employee may be accompanied by a TU representative or current work colleague.
- 1.5. If termination of employment is to be recommended, the senior manager informs the employee in writing with details of the arrangements for the hearing including date, time venue, the right to representation and an opportunity to request reasonable adjustments if appropriate.
- 1.6. Conduct of a hearing to consider continuation of employment

The appellant, management and witnesses must exchange documents **not less than 5 working days** before the date of the hearing.
- 1.7. Introduction

The chairperson will make introductions and outline the process to be followed to ensure that everyone present understands what is going to happen.
- 1.8. The chairperson will normally be advised by an advisor from PAT who may take notes of the meeting which will then be available to all parties present. Sometimes a dedicated note-taker may be present.
- 1.9. Presentation of an employee's case

The manager will present their case highlighting key points, referring to any relevant documents and calling any witnesses as appropriate.
- 1.10. The employee and/or their companion may question the manager or any witnesses on their evidence.
- 1.11. The chairperson and their advisor may also question any person present.
- 1.12. Each witness will join the hearing to give evidence and leave after doing so, although they may be recalled at any time if necessary.

1.13. Presentation of employer's case

The senior manager will present their case highlighting key points, referring to any relevant documents and calling any witnesses as appropriate

1.14. The employee and/or their companion may question the manager or any witnesses on their evidence.

1.15. The chairperson and their advisor may also question any person present.

1.16. Each witness will join the hearing to give evidence and leave after doing so, although they may be recalled at any time if necessary.

1.17. Summing up

1.18. The employee or their companion summarises the main points of their case.

1.19. The senior manager summarises the main points of their case.

1.20. At this stage no new evidence may be introduced.

1.21. The hearing is then adjourned and both parties leave the meeting.

1.22. The decision

1.23. The chairperson will consider whether, on the balance of probability, the employee's case was proven in full, in part or not at all.

1.24. The chairperson should take into account any mitigating circumstances and if further clarification or information is required in order to reach a decision, all parties will be recalled and/or the hearing adjourned until the information is provided.

1.25. Once the chairperson has reached a decision, all parties will be recalled to the meeting and the chairperson will read out their decision, including the reasons for it. In complex cases, deliberation may take some time. If this occurs a decision should be made within 2 working days of the conclusion of the hearing, and, in all situations the outcome of the hearing should be confirmed in writing within 5 working days.

## Appendix 4: Procedure for Appeals against Termination of Employment

- 1.1. In the event of the event of an appeal, the dismissing officer presents the management case to a panel (the appeal panel) of elected Members of the County Council, or panel of Governors if the employee works in a school.
- 1.2. Appropriate Personnel and Training (PAT) support will be made available to the dismissing officer and to the appeal panel. Where the appeal panel comprises elected Members, an officer from the Legal Services Team will be present to advise them.
- 1.3. The employee may bring a Trade Union (TU) representative or current work colleague.
- 1.4. The Appeal Procedure
- 1.5. If an employee exercises their right of appeal, the Clerk to the Governors or other designated person in schools, will convene a formal appeal hearing, within the employee's period of notice if possible, but in all events within 2 months of receiving appeal notification.
- 1.6. The Clerk to the Governors or other designated person in schools, will give both the employee and management side written notice of the appeal date/time and venue. The employee will be notified of the right to bring a TU representative or current work colleague.
- 1.7. The appellant, management and witnesses must exchange documents **not less than 5** working days before the date of the hearing, via the Chief Operating Officer- BSD or Clerk to the Governors as appropriate. The documents should be sent to the appeal panel members simultaneously.
- 1.8. The formal hearing takes place and will normally re-hear the entire case. The dismissing officer presents her/his case and is questioned upon it. The employee then presents their case and is questioned upon it. The employee sums up after the manager. Both parties may call witnesses as part of their presentation.
- 1.9. The appeal panel should notify both the employee and the dismissing officer of the decision, in writing, within 5 working days of the appeal. (In addition, the appeal panel may choose to give the decision orally following an adjournment on the day of the appeal, but this must be followed up in writing).
- 1.10. If appeal is not upheld, the decision is final with no further right of appeal within the Academy Trust.