

**CATHOLIC EDUCATION SERVICE
MODEL SICKNESS ABSENCE PROCEDURE
FOR SCHOOLS WITH DELEGATED BUDGETS (2004)**

1. STATUTORY OBLIGATIONS AND GOOD PRACTICE GUIDELINES

The Governing Body's aim is to maintain high standards of attendance at work through the fair, consistent and effective management of sickness absence.

1.1 PURPOSE OF SICKNESS PROCEDURE

- 1.1.1 To meet statutory obligations and the school's aim of ensuring fair and effective management of sickness.
- 1.1.2 To enable standards of attendance to be specified and monitored fairly and effectively.
- 1.1.3 To establish arrangements for dealing with sickness absence from work, which comply with statutory requirements and good practice.
- 1.1.4 To ensure that authority is clearly devolved to designated individuals to implement the arrangements.
- 1.1.5 To ensure that Workers¹ (teaching and non-teaching) are clear about the requirements for them to report sickness absence.
- 1.1.6 To ensure all arrangements for managing sickness absence from work are conducted fairly and reasonably without bias in relation to age, disability, class, race, religion, sex and sexuality.
- 1.1.7 To ensure that individual sickness records are regularly reviewed and action taken to reduce absence where practicable.
- 1.1.8 To ensure that full and accurate records are kept of all formal meetings.
- 1.1.9 To ensure that employees are clear about the standards of attendance required of them, the time scales over which these are to be achieved and the management for monitoring and review.
- 1.1.10 To ensure that we encourage and promote appropriate support and assistance to employees that may be needed to secure an improvement in attendance.
- 1.1.11 To ensure that we seek appropriate Human Resources and occupational health advice.
- 1.1.12 To ensure that we have properly consulted with the Worker

¹ "Worker" throughout this procedure means a teacher or other member of staff employed by the Governing Body or engaged otherwise than under a contract of employment.

1.2 LEGAL PROCEDURE

- 1.2.1 The Governing Body in adopting this procedure has taken account of the guidance in the ACAS Disciplinary Code of Practice and the statutory provisions. The main requirements are to act reasonably in the conduct of all attendance, sickness and capability matters, as appropriate by seeking medical advice, providing support or training, investigating alternative employment, making clear the standards of performance/attendance require, warning of the consequences of failing to meet them and giving reasonable time for improvement. In some cases, prolonged and continuing ill-health may lead to dismissal.
- 1.2.2 The Disability Discrimination Act 1995 places a requirement on governing bodies as employers to provide reasonable adjustments to jobs and take all reasonable steps necessary to retain employees with a disability in employment. Regulations² prescribe a number of activities (which, taken as a whole, constitute the work of a teacher) under the Education Act 2002 which may only be carried out by a person if, having regard to the governing body's duty under the Disability Discrimination Act 1995, he has the health and physical capacity for teaching. Specific advice should be sought where a teacher is in receipt of ill-health retirement pension.

1.3 REFERENCE DOCUMENTS

- ACAS Disciplinary and Grievance Procedures Code of Practice
- Conditions of Service for School Teachers in England & Wales revised edition August 2000 ("the Burgundy Book")
- Department for Education and Skills guidance
- DfEE Circular 3/97: What the Disability Discrimination Act means for Schools and LEAs
- Disability Discrimination Act 1995
- DfEE Circular 5/99: Physical and Mental Fitness of Teachers and of Entrants to Teacher Training
- Education Act 2002
- Education (Health Standards) (England) Regulations 2003³
- Education (Prohibition from Teaching or Working with Children) Regulations 2003⁴
- Education (School Teachers' Qualifications) (England) Regulations 2003⁵
- Employment Act 2002
- Employment Relations Act 1999
- Employment Rights Act 1996
- School Standards and Procedure Act 1998
- Trade Union Reform and Employment Rights Act 1993

² The Education (Health Standards) (England) Regulations 2003

³ S.I. 2003/3139

⁴ S.I. 2003/41184

⁵ S.I. 2003/1662

2. INTRODUCTION

- 2.1 The Governing Body wants to work with employees, other Workers and volunteers to promote the health of its workforce by creating a happy and safe environment to enable everyone to perform to the best of their abilities. This procedure underpins those aims.
- 2.2 This procedure is designed to provide a fair, consistent and sensitive approach to dealing with staff and, at the same time, to help school managers to control absence and the disruption it causes schools.
- 2.3 This procedure should be read in conjunction with the Burgundy Book, DfEE Circular 2/99 'Physical and mental fitness to teach of teachers and entrants to Initial Teacher Training'; DfEE Circular 3/97 'What the Disability Discrimination Act (1995) means for schools and LEAs.

3. SCOPE OF SICKNESS ABSENCE PROCEDURE

- 3.1 The sickness absence procedure applies to all staff employed by the Governing Body. Where the document also applies to Workers engaged other than under a contract of employment that is specified.
- 3.2 The Headteacher will be responsible for ensuring that appropriate action is taken where there are concerns regarding an employee's level of sickness absence and may delegate responsibilities to other members of the Senior Management Team as appropriate. Where the Headteacher's attendance is a matter of concern, the role of the Headteacher in relation to the management of the sickness absence will be undertaken by the Chair of Governors in conjunction with a representative of the Director of Education⁶ and a representative of the Diocesan Schools' Commission⁷.
- 3.3 The School Disciplinary Procedure will be used where there is prima facie evidence that the employee is misleading their Headteacher over the reasons for absence.

4. RESPONSIBILITIES OF MANAGEMENT

The Headteacher is expected to:

- Ensure levels of attendance are monitored across the school and individual sickness is monitored and confidential records of attendance are kept and that the employee concerned has reasonable access to them;
- Use "rolling" years to monitor sickness absence;
- Identify any problems and assist in meeting targets for levels of attendance;
- Ensure that, for managerial purposes, individual cases are monitored and are not allowed to drift;
- Report sickness absences to ensure that appropriate sickness entitlements are processed, if payroll is outsourced from the school;

⁶ Director of Education means the Chief Education Officer of the Local Education Authority

⁷ Diocesan Schools' Commission means the Diocesan Department for Education or Schools

- Conduct return to work interviews where necessary;
- Discuss absences with employees and set standards (under the informal stage) prior to considering further action under stage 1 - attendance review);
- Ensure that each case is given due consideration to avoid wrong, improper or hasty decisions being reached;
- Seek advice from the school's occupational health service provider ("OHSP") to advise on the medical aspects of the case. This may be a service provided by the LEA;
- Seek advice from the Diocesan Schools' Commission and other provider of Human Resources as necessary on the employment law aspects of any case;
- Consider reasonable adjustments in the case of an employee with a disability, in line with the Disability Discrimination Act 1995;
- Take into account any mitigating circumstances e.g. personal problems;
- Agree trigger points for the investigation of Sickness or Sickness Review with the Governing Body and ensure that all members of staff are aware of them, e.g. three absences in any rolling twelve-week period;
- Ensure that the statutory requirement to report any accident/injury resulting in absence of more than three days is complied with, using an appropriate accident/incident report form;
- Ensure that infectious diseases are brought to the attention of the Diocesan Schools Commissioner⁸ and Director of Education and that this does not affect the sickness entitlement of those staff. It may also be appropriate to advise the OHSP;
- Take into account the outcome of similar cases in the past in that work area;
- Treat the employee with sympathy, compassion and understanding;
- Ensure that an employee has not been unfairly singled out;
- Take into account the employee's length of service, age, position and previous record before considering dismissal;
- Consider whether it is feasible to redeploy the employee or change duties;
- Follow the Sickness Procedure and advise the employee that their job is at risk if there is a possibility that they will face dismissal.

5. RESPONSIBILITIES OF WORKERS

Employees are expected to:

- Attend return to work interviews where requested;
- Notify their line manager or Headteacher on the first day of sickness absence in accordance with the specified procedure. The employee should state the nature of their absence and, where possible, give an indication of how long he or she is likely to be absent;
- Notify their line manager or Headteacher on the fourth day of continuous absence if he or she is likely to be absent for a longer period and keep in regular contact;
- Complete a school self certificate form for sickness absence from the fourth day;
- Submit a doctor's certificate for absences of eight calendar days including Saturdays and Sundays, or more and immediately submit further certificates on the expiry of the previous certificate;

⁸ Diocesan Schools' Commissioner (DSC) means the Director of Education or Schools for the Diocese

- Submit a doctor's certificate which specifies that they are fit to return to work if requested to do so by their manager;
- Attend a medical examination with the OHSP if required;
- Report any accident or injury suffered in the course of his or her duties immediately and ensure that the incident/accident report form has been completed and the Headteacher made aware of it;
- Notify the Headteacher if an infectious disease occurs in the home which the Worker is living and await advice from the Headteacher as to whether he or she should refrain from school duties (following advice from the OHSP). The employee would usually expect to continue school duties pending receipt of instructions from the OHSP except in the event of a notifiable disease (see Section 12 and Appendix A);
- Where a Worker is on sick leave immediately preceding a period of school closure but recovers during the period of closure (and has exhausted his or her sick pay allowance or is entitled to less than full sick pay), the certificate should show the actual date he or she was authorised medically fit to return to work. Such a Worker shall be deemed, for the purpose of calculating the amount of salary due, to have returned to duty on the day he or she is authorised medically fit to do so provided he or she actually returns to duty on the first day after the period for closure. Where a Worker in these circumstances does not return to duty on the first day after the period of closure, he or she shall refund such sum as the Governing Body at its discretion may decide.

6. INDUSTRIAL INJURY OR DISEASE AND SICK PAY

Industrial injury or disease can arise as a result of the duties a Worker carries out, or through an accident at work. Sickness absence caused by industrial injury or disease is treated differently from normal sick pay in two important ways:

- (a) It is separate entitlement. Such absences do not use up entitlement under the sick pay scheme.
- (b) The period of entitlement is as set out in the sick pay scheme but normally the half pay period is paid at the full rate.

Failure to comply with the procedures in reporting accidents/health and safety may invalidate this entitlement.

When the OHSP certifies that there is evidence to show that an infectious or contagious illness may have been contracted directly in the course of a Worker's employment, full pay shall be allowed for such period as may be certified by the OHSP to be due to the illness. Such absence shall not be counted against the teacher in calculating any future sick pay entitlement.

Exceptional circumstances

For absences in which there are exceptional circumstances, other than those specified in industrial injury, pay may be extended subject to proper authorisation. Pay may be extended following advice from the OHSP and agreement from the relevant committee.

7. MONITORING SICKNESS ABSENCE

Return to work interview/Informal meeting

After each absence the Headteacher (or nominee) may where necessary

- Speak informally to the Worker;
- Ensure that the Worker is fit to return to work;
- Ask the Worker to produce or complete the appropriate sickness absence form;
- Update the Worker on anything they need to know;
- Let the Worker know they have been missed;
- Confirm the overall absence record over the last 12 months and where appropriate advise that further absence may lead to a formal review (stage 1).

Before moving to the formal stage of the procedure, the Headteacher (or nominee) will need to ensure that they have already discussed the absence/underlying medical problem with the employee.

8. FORMAL ATTENDANCE REVIEW – STAGE 1: INVESTIGATING SICKNESS

A meeting will be held to investigate the case and keep the employee informed as outlined under ‘Action under the Sickness Procedure’ (page 9).

A letter should be written to the employee detailing the outcome of the meeting within 10 working days.⁹

9. FORMAL ATTENDANCE REVIEW - STAGE 2: SICKNESS REVIEW MEETING

(i) Establishing Sickness Review Panel

- The Headteacher will arrange for the employee and his or her representative to attend a Sickness Review Meeting of the Governing Body.
- The meeting will be before a panel of three Governors. Inclusion of any Governor on a panel arising from this procedure is subject to the overriding principle that direct involvement in the case may subsequently disqualify individuals from hearing a particular case.
- A representative of the Diocesan Schools’ Commission will be advised and given the opportunity to attend and advise the panel. Similarly, the LEA will be given sufficient

⁹ A ‘working day’ for the purpose of this procedure is any day when the school is open to pupils or for INSET.

notice to arrange for a Human Resources Adviser to attend the meeting to advise the panel.

- Normally a hearing would be set at the earliest convenient date and certainly no later than 15 working days from the date of the employee's most recent return to work after sickness absence.

A Sickness Review Meeting will be conducted in cases where, despite a meeting(s) and warning(s), an employee's level of attendance is so poor that it is necessary to consider what further action should be taken at a Sickness Review Meeting. The purpose of the meeting is outlined under 'Action under the Sickness Procedure'. The employee should always be advised that dismissal may result.

(ii) Sickness Review Meeting

The main purpose of the Sickness Review Meeting is to allow the panel to:

- (a) Decide if the Worker is capable of working to the school's standards;
- (b) Determine a course of action that will take into account:
 - the needs of the school; and
 - the best interests of the Worker.

The Panel will consider:

- the standard of attendance required by the school; and
- the needs of the school.

The Headteacher will present the facts of the case and his or her recommendations to the Sickness Review Panel based on:

- The length of employment;
- The effect, if any, that their illness and/or poor attendance record has had on their ability to perform their duties;
- The record and pattern of absence throughout the employment;
- Whether there is an underlying illness or any other advice from the occupational health service;
- The likelihood of a change in attendance;
- The type of job and record of support given to the Worker employee;
- The work problems caused by the Worker's absence, including the effect on the morale of other Workers;
- The response of the Worker (or his or her representative) including recommendations which should normally be based on the above criteria.

In reaching its decision the Sickness Review Panel will consider the advice of the LEA's Human Resources Adviser and representative of the Diocesan Schools Commission. The decision may be to:

- Review the case after getting more information; or
- Keep the job open until the Worker recovers from any underlying illness; or
- Keep the situation under review but for the time being to accept the level of sickness absence; or
- Agree a period of time for a phased return to work and keep the situation under review, or
- Terminate the employment but only if:
 - The Worker has already been warned that his or her job is at risk;
 - Any sickness before the date of a Worker's return from maternity leave which is related to pregnancy is disregarded;
 - The Worker does not accept any previously made offer of ill health retirement.

The Chair of the Panel will normally issue the decision letter within 10 working days of the meeting. In the case of dismissal the decision letter will include reasons for dismissal and the right of appeal. In addition, if dismissal is involved, the date on which employment will terminate will be included.

(iii) Procedure at Formal Hearing

- (a) The Worker is entitled to be present at all times except when any matter falls solely to the Sickness Review Panel to consider.
- (b) The Worker may be accompanied by a representative and if he/she so wish a scribe and all references to the Worker shall be taken to include his/her representative.
- (c) The Chair of the Panel will invite the Headteacher and the Worker in that order to make submissions to the meeting and invite cross examination.
- (d) The introduction of relevant additional documentary evidence will be allowed and the Chair of the Panel will allow proper time for the receiving party and the Panel to read and consider the evidence.
- (e) The Headteacher and the Worker in that order will have the right to call witnesses who will be available for questioning by the Headteacher, the Worker and the Panel.
- (f) The Chair of the Panel will invite Governors to ask questions of the Headteacher, the Worker and their witnesses and any of them
- (g) Witnesses will only remain in the meeting for so long as they are giving evidence or being questioned.
- (h) The Headteacher and the Worker in that order will have the right to make a final or closing statement to the Panel.
- (i) An LEA and/or Diocesan Officer should be invited to be present to advise the Panel.
- (j) All other parties to the hearing will then withdraw and the Panel will consider the matter and reach a decision. Any Diocesan or LEA officer present will provide advice as requested to assist the Panel but will not be entitled to any vote or have any role in the making of the decision.
- (k) The Clerk to the Governors if present should take no part in the proceedings but will remain with the Panel to provide procedural advice – he shall also make available any notes taken of the evidence and will record the Panel's decision.
- (l) If the Panel decides that further questions need to be asked or clarifications required the full meeting will be resumed.

- (m) The Clerk to the Governors will document the proceedings of the meeting and will confirm the decision in writing to the Headteacher, the Worker, their representatives and the Chair of the Panel who heard the case within 3 working days of the conclusion of any meeting. The Clerk to the Governors will indicate the rights of appeal and the procedures for exercising those rights in the letter.
- (n) Where the Clerk to the Governors is not present the Clerking function will be carried out by a member of the Panel or an agreed alternative. The Clerk should be present in all but exceptional circumstances.

10. FORMAL ATTENDANCE REVIEW – STAGE 3: SICKNESS REVIEW APPEAL

The Worker may appeal against any decision of the Governing Body by setting out the grounds of their appeal in writing, within five days of receiving the outcome of the Sickness Review Meeting. Normally a panel of Governors (made up of same number of Governors as that at the Sickness Review Meeting) who were not involved in the Sickness Review Meeting will hear any appeal. This procedure should follow the same procedure as the original hearing set out in 9(iii). The appeal hearing will not be a rehearing of the case; its purpose will be to:

- Consider the Worker's grounds of appeal;
- Decide if dismissal was reasonable in the circumstances of the case;
- Give Governors the opportunity to remedy any procedural defects.

The appeal panel may ask questions about either presentation before making their decision after taking advice from the representative of the Diocesan Schools' Commission and LEA Human Resources Adviser at the meeting. The Diocesan and LEA representatives should not be those involved at Stage 2. The decision may be to:

- Review the case after getting more information, or
- Confirm the recommendation to dismiss;
- Reinstate the Worker, subject to any provisions made regarding the Worker's future attendance.

There is no further right of appeal.

A Worker who is dismissed shall be given appropriate notice or pay in lieu of notice, even if in practice, he or she cannot work their notice. In cases of intermittent sickness, it may sometimes be practical to ask the employee to work through their notice period

Support staff may, subject to agreement, be paid for any outstanding annual leave entitlement.

Action under the Sickness Procedure

Activity	Purpose	The Worker is Entitled to:
<p>Return to work interviews/informal stage</p>	<p>To allow the Headteacher or line manager to:</p> <ul style="list-style-type: none"> • Speak informally to the Worker about their absence • Offer any assistance or support the employee may need <p>Review absence record with the Worker before moving to the formal stage of the procedure, the Headteacher or manager will need to ensure that they have already discussed the absence/underlying medical problem with the Worker.</p>	<ul style="list-style-type: none"> • Explain the reason(s) for their absence • Ask for any additional support needed to prevent illness from recurring • Request that a representative attends an informal meeting if it will involve a detailed discussion of the sickness
<p>Attendance review- Stage 1. Investigating the case and keeping the employee informed</p>	<p>To allow the Headteacher to:</p> <ul style="list-style-type: none"> • Investigate fully sickness absence • State management concerns • Listen to any explanation offered by the Worker • Point out impact of absence on their work and their colleagues and encourage improvement • Bring to light any work, disability, welfare or domestic problems underlying the absence • Explore different working arrangements (e.g. light duties, health and safety issues, additional support). • Refer the case to the OHSP if necessary (if not previously done) • Arrange further review period • Ensure the Worker clearly understands what improvement is required, how performance will be reviewed and over what time period • Advise the Worker that if their attendance does not sufficiently improve or if any improvement is not maintained the manager may arrange a sickness review meeting with a panel that may dismiss the Worker on grounds of poor attendance • Seek advice from the OHSP as to whether decisions should be reached in the Worker's absence. 	<ul style="list-style-type: none"> • Put their side of things • The opportunity to be represented by a colleague, trade union representative or friend • Be kept informed of management standards • Be told if the job is at risk • Have information regarding their sickness treated confidentially • Request that their illness is discussed with a person of the same gender

<p>Refer to the occupational health service (OHSP)</p>	<p>To get medical advice on the following issues:</p> <ul style="list-style-type: none"> • Is there an underlying health problem • If so, when is it likely to be resolved • If and when the Worker returns to work, will he or she be fit to carry out his or her duties • If not, is there other sort of work in which service is likely to be regular and efficient • Are there any adaptations to the work, equipment or work place that may help with the duties of the job, with reference also being made to the Disability Discrimination Act • The likelihood of the illness returning or of some other illness 	<ul style="list-style-type: none"> • Know the purpose of the referral • Consent to a medical report from the Worker's own GP • Understand the implications of a refusal to consent to a medical report • Understand the implications of a refusal to attend the OHSP at the request of the employer
<p>Attendance review - Stage 2. Sickness Review Meeting</p>	<p>To allow a panel of Governors (with advice from the Diocesan Schools Commission and LEA Human Resources Adviser) to:</p> <ul style="list-style-type: none"> • Consider the medical advice obtained • Consider if the employee is capable of regular and efficient service • Consider if the employee needs time to recover health • Consider if this is compatible with the school's need for work to be done • Ensure the employee is treated reasonably in all the circumstances • If the employee is not dismissed ensure the employee clearly understands what improvement is required, how performance will be reviewed and over what time period <p>If outcome is dismissal, ensure there is a substantial reason for the decision</p>	<ul style="list-style-type: none"> • The opportunity to be represented by a colleague, trade union representative or friend
<p>Attendance review- Stage 3 Sickness Review Appeal</p>	<p>To allow a panel of Governors (with advice from the Diocesan Schools Commission and LEA Human Resources Adviser) to consider the grounds of appeal and reach a decision</p>	<ul style="list-style-type: none"> • Set out the grounds of their appeal, in writing, within five days of receiving the outcome of the Sickness Review Meeting • The opportunity to be represented by a colleague, trade union representative or friend.

ENTITLEMENTS TO SICK PAY

TEACHING STAFF

Pay (less any entitlement to statutory sick Pay or National Insurance Benefit) shall be granted in accordance with the following table:

Entitlement depends on the previous service recognised for salary assessment and is as follows:

For sickness during	Full Pay*	Half Pay*
First Term	25	Nil
2nd and 3rd Term	25	50
2nd year	50	50
3rd year	75	75
4th and subsequent years	100	100
*Maximum entitlement in working days		

During absence extending into, or occurring within a school holiday period, a teacher shall receive pay at the rate due to her/him on the last day of the term, i.e. full pay; half pay or, if their sick pay is exhausted, no pay.

SUPPORT STAFF

Entitlement (within any twelve-month period) depends on how long the employee has worked continuously in local government. The provisions, even for temporary staff, are as follows:

For sickness during...	Full pay entitlement	Half pay entitlement
First 4 months	1 month	Nil
5th to 12th month	1 month	2 months
2nd year	2 months	2 months
3rd year	4 months	4 months
4th and 5th years	5 months	5 months
Thereafter...	6 months	6 months

The Governing Body may determine that enhanced benefits will be paid to employees in line with any local agreement by the Local Education Authority to ensure parity of conditions of service with other maintained schools locally.

11. NOTIFIABLE DISEASES¹⁰

Acute encephalitis
Acute poliomyelitis
Anthrax
Cholera
Diphtheria
Dysentery
Food Poisoning
Leptospirosis
Malaria
Measles
Meningitis:
Meningococcal:

- Pneumococcal
- Haemophilus influenza
- Viral
- Other specified
- Unspecified

Meningococcal septicaemia (without meningitis)
Mumps
Ophthalmia neonatorum
Paratyphoid fever
Plague
Rabies
Relapsing fever
Rubella
Scarlet fever
Smallpox
Tetanus
Tuberculosis
Typhoid fever
Typhus fever
Viral haemorrhagic fever
Viral hepatitis:

- Hepatitis A
- Hepatitis B
- Hepatitis C
- Other

Whooping cough
Yellow Fever

*Legionellosis is notifiable by local agreement – check with your LEA.

¹⁰ Diseases Notifiable (to Local Authority Proper Officers) under the Public Health (Infectious Diseases) Regulations 1988.

APPENDIX A

TEACHERS: EDUCATION REGULATIONS:

Teachers Remaining Unfit for Duty

Headteachers should be aware of the considerations which enable a teacher to apply to the Teachers' Pensions for release from service because of being permanently unfit to teach. In such instances the teacher should complete the appropriate forms for Infirmity Benefits or Short Service Incapacity Grant. Such applications need to be supported by full medical evidence from the teacher's medical advisers and/or General Practitioner.

The sickness procedure may still be invoked where a teacher is pursuing ill health retirement.

Teachers: Education Procedure

A Governing Body or Headteacher must take emergency action when they consider a teacher may have become medically incapable of performing teaching duties if this may put at risk the health, education, safety or welfare of pupils.¹¹ The role of the Governing Body as employer is to consider whether the health, education or welfare of pupils will be put at risk by the teacher's condition.

It may be the case that a teacher who becomes unfit can continue to discharge his/her duties effectively with a change of technical or human support or institutional arrangements. Advice is also available from DfEE Circular No: 3/97 "What the Disability Discrimination Act (DDA) 1995 means for Schools and LEAs", relevant disability organisations and from the Employment Service's Placement, Assessment and Counselling Team (PACT).

The Education (Prohibition from Teaching or Working with Children) Regulations 2003¹² require governing bodies to make a full report to the Secretary of State where they have ceased to use a person's services on grounds of health where a relevant issue (i.e. one which concerns the health and safety of children) is raised. In brief, the report must include a statement of reasons for ceasing to use a person's services; and employer's records, including meeting notes, warning, correspondence etc. These regulations will primarily apply in child protection rather than ill-health cases and specific advice should be sought on the appropriate way to comply with their requirements.

¹¹ DfEE Circular No: 5/99 Physical and Mental Fitness of Teachers and of Entrants to Initial Teacher Training

¹² S.I. 2003/1184

APPENDIX C:

SAMPLE SICKNESS LETTERS

LETTER A TO ADVISE EMPLOYEE OF REFERRAL TO OHSP

Dear [],

I am sorry that you have not yet recovered. I hope that you will soon be well and fit to return to work. [*Adapt as necessary*].

In order to plan its work and the resources needed to accomplish it, the school needs to know how long you are likely to be off work, and how your illness will affect your work in future. [*Adapt for short-term absences as necessary*]. I have therefore decided to refer you to the school's Occupational Health Service Provider (OHSP) to obtain medical advice. [*Give name of company or organization that acts as the school's OHSP*]. You may be asked by OHSP to submit to a medical examination.

You should note that I will be asking for advice on the following issues:

- Is there an underlying health problem that has caused the absence?
- If so, when is it likely to be resolved?
- If and when you return to work will you be fit to carry out the duties on your job description?
- Are there any adaptations to the work, equipment, or work place that may help with the duties of the job?

The medical advice will be used to consider what to do in the light of your absence and the prospect of recovery.

Should you need any help or advice on overcoming or working with health problems, the OHSP also provides welfare and counselling service. They can be contacted direct on [*Complete with telephone number*]

(For teaching staff only) Further confidential counselling, support and advice can be obtained from The Teacher Support Line on 08000 562 561 (formerly Teacherline) or through the LEA counselling scheme, where available.

If you have any questions on this matter please do not hesitate to contact me.

Yours sincerely

Headteacher

LETTER B

1.1.2 INVITATION TO ATTENDANCE REVIEW – STAGE 1

1.2 Re: Sickness Absence

Dear [],

Your level of sickness absence has now reached a level where it is causing concern. I am writing to advise you that you are required to attend an Attendance Review-Stage 1 meeting to review your levels of sickness.

[It is for the Headteacher/manager to determine when a Stage 1 meeting is necessary. Examples that may trigger action under Stage 1 are:

- *Sickness that falls on Mondays or Fridays*
- *Regular short term absence*
- *Long term absence or*
- *Absence that is above the average for the school.*

The Headteacher/manager will investigate each case on its merits.

If the employee is off sick for a long period, the manager will usually make contact after 4 weeks continuous absence (although contact may be earlier or later or not at all if the case requires it).

The meeting will be held in *[specify]* office on *[date]* at *[time]* a.m. / p.m.; please report to *[name]* on arrival. The meeting will allow me to: *[Amend as necessary]*

- Investigate fully your sickness absence;
- State management concerns;
- Listen to any explanation offered by you;
- Point out the impact of absence on the work and encourage improvement;
- Bring to light any work, disability, welfare or domestic problems underlying the absence;
- Explore different working arrangements;
- Refer the case to the school's Occupational Health Service Provider (OHSP) if necessary (if not previously done) or discuss the reports from the OHSP dated xx and xx and obtain a response from you. *[Amend as necessary]*;
- Arrange a further review period;
- Ensure that you clearly understand what improvement is required, how performance will be reviewed and over what time period;
- Advise you that if your attendance does not sufficiently improve or if any improvement is not maintained a sickness review meeting may be arranged with a panel who may dismiss you on grounds of poor attendance;
- Seek advice from our OHSP as to whether decisions should be reached in your absence if you do not attend.

You will be entitled to:

- Put your side of things;
- Be represented by a colleague, trade union representative or friend;
- Be kept informed of management standards;
- Be told if your job is at risk;
- Have information regarding your sickness treated confidentially;
- Request that your illness is discussed with a person of the same gender.

Enclosed is a copy of your sickness absence details and a report(s) from our OHSP dated [*specify*].

May I remind you that you have the right to be accompanied by a trade union representative, friend or legal professional in the employment of your trade union.

Please note that the only valid reason for your non-attendance at the meeting will be if you provide a medical certificate stating that you are physically incapable of getting to the meeting, or that you are so distressed as to be unable to participate in it reasonably. In these circumstances, I recommend that you ensure that your representative attend the meeting on [*date*]. If you do not attend the meeting or send a representative in your absence, I will have no alternative but to reach a decision on the basis of the information that is available to me.

Enclosed is a copy of the sickness absence procedure for your information.

You should note that your job might be at risk.

[Personal message]

Yours sincerely

Headteacher/manager

c.c. Human Resources (LEA)
Diocesan Schools Commission

Enc. OHSP report
Sickness absence details
Sickness absence procedure

1.3 LETTER C

1.3.1 OUTCOME OF ATTENDANCE REVIEW – STAGE 1

Dear [],

I am writing further to the Attendance Review – Stage 1 meeting held on *[date]*. At the meeting, I was accompanied by *[name and position]*. You were accompanied by *[name and position]*.

At the meeting I:

- Informed you that I have concerns regarding the level of your sickness absence.
- Advised you of the effect that your absence is having on the school.
- *[Other points as appropriate]*

At the conclusion of the meeting, I confirmed my decision that

- *[Add details of decision]*
- *[Specify as necessary depending upon the outcome of the meeting].*

Options could include either moving to a Stage 2 Attendance Review meeting (*expectation that standards have been previously set*) or to set standards with a review date. (The decision to move to Stage 2 can be re-examined at the end of this review date depending upon performance)

Enclosed is a copy of the management notes for your information *[or they may be incorporated within the letter]*.

You should be quite clear that you understand the improvements required of you.

Please contact me should you require clarification on the content of this letter. If you wish to provide me with written comments, please do so by *[date]* and I will ensure that your comments are kept on file.

Yours sincerely,

Headteacher

c.c. Human Resources (LEA)
Diocesan Schools' Commission

1.4 LETTER D

1.4.1. INVITATION TO ATTENDANCE REVIEW – STAGE 2

[A sickness review meeting will be conducted in cases where, despite a meeting(s) and warning(s) a employee's level of attendance is so poor that it is necessary to consider dismissal at a sickness review meeting.]

Dear [],

Further to the Attendance Review – Stage 1 meeting on *[date]* I am writing to confirm that I have decided to progress to the next stage of the Sickness Absence Procedure and convene an Attendance Review – Stage 2: Sickness Review Meeting.

The purpose of the meeting will be to allow a panel of Governors, taking advice from a representative of the Diocesan Schools Commission and an LEA Human Resources Adviser to:

- Consider the medical advice obtained;
- Consider whether you are capable of regular and efficient service;
- Consider whether you need time to recover your health;
- Consider if this is compatible with the school's need for work to be done;
- Ensure that you are treated reasonably in all the circumstances;
- Ensure that you clearly understand what improvement is required, how performance will be reviewed and over what period.

You should be aware that dismissal is a possible outcome.

The panel will:

- Decide if you are capable of working to the school's standards;
- Determine a course of action that will take into account:
 - the needs of the school;
 - the best interests of the employee;
- Consider the standard of attendance required by the school;
- Consider the needs of the school;

I will present the facts of the case and recommendations to the Sickness Review Panel based on:

- Your length of employment;
- Your work performance;
- The record and pattern of absence throughout the employment;
- Whether there is an underlying illness or any other advice from the occupation health service;
- The likelihood of a change in attendance;
- The type of job and record of support given to you;

- The work problems caused by your absence, including the effect on the morale of other employees;
- You or your representative's response to the above including recommendations. These should normally be based on the above criteria.

The Sickness Review Meeting will take place on *[date]* at *[time]* a.m. / p.m. at the school. The Panel will comprise three Governors, *[name them]*, who have no direct involvement in this matter. An LEA Human Resources Adviser and representative of the Diocesan Schools Commission will also attend.

Please ensure that you provide *[name, location]* with copies of any documentation that you wish the panel to consider and a list of witnesses that you may wish to call by *[insert date 5 working days before meeting]*. This will enable the information to be distributed to relevant parties; management will also follow this process.

May I remind you that you have the right to be accompanied by a trade union representative, friend or legal professional in the employment of your trade union.

Please note that the only valid reason for your non attendance at the meeting will be if you provide a medical certificate stating that you are physically incapable of getting to the meeting, or that you are so distressed as to be unable to participate in it reasonably. In these circumstances, I recommend that you ensure that your representative attend the meeting on *[date]*. If you do not attend the meeting or send a representative in your absence, the Panel will have no alternative but to reach a decision on the basis of the information that is available to it.

It is important that I advise you that one of the outcomes of the Sickness Review Meeting could be dismissal, i.e. your employment may be terminated.

Yours sincerely,

Headteacher

c.c. Human Resources (LEA)
Diocesan Schools' Commission

1.5. LETTER E

1.5.1 INVITATION TO SICKNESS REVIEW APPEAL

[The employee may appeal against any decision of the Governing Body. Normally a panel (same number as for the sickness review hearing) who were not involved in the Sickness Review Meeting will hear any appeal.]

Dear []

Further to your appeal against the decision of the Attendance Review – Stage 2 Sickness Review Meeting on *[date]* I am writing to confirm that the Appeals Panel will consider your appeal on *[date]* at *[time]* a.m. / p.m. at the School. The Panel will comprise three governors without any prior knowledge of the details of your case.

[Insert names (normally the chair of the Sickness Review Meeting or Chair of original panel)], will present the management's case to school governors and may be advised by representatives from Human Resources (LEA) and the Diocesan Schools Commission.

The appeal hearing panel will comprise of the following governors from *[name of school]* and will be advised by a Human Resources Adviser from the LEA and by a representative from the Diocesan Schools Commission.

- *[Name of School Governor]*
- *[Name of School Governor]*
- *[Name of School Governor]*

The Appeal Hearing will not be a rehearing of the case; its purpose will be to:

- Consider your grounds of appeal;
- Decide if dismissal was reasonable in the circumstances of the case;
- Give the opportunity to remedy any procedural defects.

The Appeal Panel may ask questions about either presentation before making their decision. Advice will be taken from the LEA Human Resources Adviser and representative of the Diocesan Schools Commission at the meeting. The decision may be to:

- Review the case after getting more information, or
- Confirm the recommendation to dismiss;
- Reinstate you, subject to any provisions regarding your future attendance.

Please ensure that you provide me with copies of any documentation that you wish the appeal panel to consider and a list of witnesses that you wish to call by *[insert date 5 working days before hearing]*. This will enable information to be distributed to all relevant parties.

May I remind you that you have the right to be accompanied by a trade union representative, friend or legal professional in the employment of your trade union.

Please note that the only valid reason for your non attendance at the meeting will be if you provide a medical certificate stating that you are physically incapable of getting to the meeting, or that you are so distressed as to be unable to participate in it reasonably. In these circumstances, I recommend that you ensure that your representative attend the meeting on *[date]*. If you do not attend the meeting or send a representative in your absence, the Panel will have no alternative but to reach a decision on the basis of the information that is available to it.

Yours sincerely,

Headteacher

c.c. Human Resources (LEA)
Diocesan Schools' Commission

GUIDANCE NOTES FOR HEADTEACHERS:
SICKNESS PROCEDURE FOR STAFF EMPLOYED BY GOVERNING BODIES WITH DELEGATED BUDGETS

Role of an Occupational Health Service Provider

The role of the OHSP is to advise managers on the effects of any clinical issues that will affect the Worker's performance. Many schools choose to buy this service from their LEA. If you are concerned about a Worker's level of absence or the impact of a Worker's health on their work, you can refer them to the school's OHSP. You should clearly explain to the Worker why he or she is being referred. You should obtain advice from the OHSP before considering dismissal under stage 2 of the sickness procedure.

If you are asking an OHSP to provide you with a medical opinion on the Worker, the OHSP should obtain their consent to contact their own GP or Consultant. The OHSP should explain to the Worker that he or she has a right to withhold consent to get a medical report from his or her own GP or Consultant.

If he or she gives consent, the Worker may ask to see the report before it is returned to OHSP.

If he or she feels that the report is inaccurate or misleading, he or she may:

- Refuse to allow the report to be submitted to OHSP, or
- Ask the doctor to amend the inaccurate or misleading part, or
- Ask the doctor to attach the employee's own statement outlining the parts with which he or she disagrees.

If the Worker does not consent to a report from his or her own GP, the OHSP should explain that:

- He or she is exercising a legal right, but the OHSP should offer their advice without the benefit of the opinion of the Worker's doctors, and that you will act on that.

If support staff refuse or fail to attend an appointment with the school's OHSP you should let him or her know that:

- They are in breach of the conditions of the school's sick pay scheme and are therefore no longer eligible for payments under it. (You should, instead, pay sick pay at the statutory minimum).
- If future attendance levels do not improve, it may mean that he or she is not capable of providing regular and efficient service and the Governing Body may seriously have to consider dismissal in a Sickness Review Meeting.
- You will have no choice but to proceed with any future review meetings with no further medical advice on the prospect of recovery.

Making the Referral

You should include:

- The sickness absence record;
- The job description;
- A covering letter, if appropriate, stating any special issues on which you need medical advice.

You should require your OHSP to take the following steps, as appropriate:

- Write to the Worker's GP or Consultant enclosing a consent form, and asking for a reply within three weeks;
- Send a reminder if there is no reply within a fortnight;
- Ask the Worker to contact the doctor to get a report;
- Tell the Worker that if there is no reply in the next week the occupational health report will be based on the information it already has;
- Prepare written advice as soon as it is available or after four weeks if no reply is received.

If the Worker does not agree to medical report:

- Contact the OHSP with the information you have;
- OHSP will give its advice on the basis of the information already at hand.

Conflict of Medical Opinion

If the opinion of the OHSP is in conflict with the Worker's doctor, either side may refer the case to a medical referee. The school must bear this cost. You should require the OHSP to arrange to get the decision of the agreed referee. That decision will be final.

Acting on the Medical Opinion

Some of the options you may need to consider following the referral process are:

There is no underlying illness. If so, you can tell the Worker that:

- You need to be satisfied that there is good reason for any future absence;
- You have no medical reason to explain the level of absence, so you will set the level that you expect to see achieved;
- His or her job is at risk if he or she fails to meet the standard.

The Worker is permanently unfit and recommended for early retirement on medical grounds. If so, you should:

- Meet the Worker to discuss the matter in person or make contact, and then implement the decision (support staff only). Teaching staff will need to seek approval for ill health retirement through Teachers' Pensions.

Medical Redeployment (support staff)

You need to consider medical redeployment if the Worker (support staff) is unlikely to give regular and efficient service in the current job but might be expected to so do in a different job. Your OHSP should advise you on:

- Whether the Worker is suitable for redeployment;
- The range of work in which the Worker may provide regular and efficient service if medical redeployment is recommended by the OHSP;
- You will need to explain to the Worker that their job is at risk and the Governing Body will have to review the position in 4 weeks but that in the meantime you will try to redeploy him or her into a suitable job.

Try to redeploy within the school, if no job is available then the options are as follows:

- If the Worker is permanently unfit for his or her present job the procedure for early retirement on medical grounds will follow;
- If the Worker is recommended for medical assessment, you should decide if it is reasonable to keep the job open until a medical reassessment can be done
- If you cannot keep the job open tell the OHSP and initiate a Sickness Review Meeting.

If the Worker is not permanently unfit:

- A Sickness Review Meeting may be convened to consider options;
- Decide if it is reasonable to keep the job open;
- If you cannot keep the job open tell the Worker in writing that his or her job is at risk and arrange a Sickness Review Meeting.

Pregnancy

Pregnancy is not an illness. Dismissing a Worker for reasons related to the pregnancy is likely to be automatically unfair and it is important that you seek Human Resources advice if you are considering such an option.