

P313 Improving attendance and ill-health absence management – model policy for schools

Contents

(If you are viewing this document online, click on the headings below to jump to the relevant section)

1. Introduction – Equal Opportunities and Scope.....	2
2. Sickness absence - definitions	2
3. Scope	3
4. Responsibilities under the policy.....	4
5. Absence linked to disability.....	6
6. Absence linked to pregnancy.....	7
7. Absence due to accident or industrial disease (non-teaching staff).....	7
8. Absence due to accident, injury or assault at work (teaching staff)	7
9. Ill health that does not lead to absence from work	8
10. Employees who are at work but not considered fit by the Headteacher	9
11. Infectious diseases	9
12. Work related ill health	9
13. Work related stress.....	9
14. Sick pay entitlements.....	9
15. Occupational health provision.....	9
16. Other support available	10
Appendix A – Sick pay entitlements.....	12

P313 Improving attendance and ill-health absence management – model policy for schools

1. Introduction – Equal Opportunities and Scope

Some employees will inevitably experience periods of absence due to ill health or injury. It is important that a proper balance is struck between the school managing such absences whilst being supportive and acting as a fair and reasonable employer (i.e. fulfilling the employer's duty of care to employees).

The contribution of employees to the delivery of quality services to the school community is highly valued; employee sickness absence can disrupt student's education and staff morale. Employee absence is very expensive, schools having to spend money on temporary cover or overtime as a result. Unchecked absence can lead to bad feeling, conflict and disciplinary cases including dismissal. This in turn can lead to claims for compensation and tribunal hearings if schools are unable to demonstrate that they have acted fairly. It is therefore essential that attendance at work is managed effectively and appropriately.

The following principles apply to this model policy and related procedure for schools for dealing with sickness absence:

- Good attendance is valued.
- Open and honest communication between Governors, Headteachers, managers and employees is encouraged and promoted.
- Matters raised relating to an employee's attendance do not imply any distrust of employees or concerns regarding their conduct.
- Absence due to injury or ill-health regardless of the cause should be dealt with in a way that is consistent, non-discriminatory and in accordance with the Equal Opportunities Policy and the Disability Discrimination Act 1995.
- Norfolk County Council and Schools will promote a positive and supportive preventative approach, rather than follow a punitive process.
- Norfolk County Council and Schools will be sensitive and supportive to those suffering the effects of ill-health.
- Sickness absence cases will be conducted with respect for confidentiality and in accordance with the requirements of the Data Protection and Access to Medical Reports Acts.
- Health & Safety at Work legislation is important and particularly the duty of care owed by the employer to the employee.

All employees are expected to adhere to this policy in line with their obligations under equality legislation. Managers must ensure that all reasonable adjustments or supportive measures are considered to allow equality of access and opportunity regardless of age, gender, ethnicity, sexual orientation, disability, faith or religion, gender identity, pregnancy or marital status.

2. Sickness absence - definitions

P313 Improving attendance and ill-health absence management – model policy for schools

Sickness absence occurs when an individual is unfit to work due to ill health. It also occurs when a doctor advises the employee not to attend work due to illness, convalescence, incapacity or the possibility that they may be contagious.

Short term absence is defined as any period of time where an employee is not at work due to illness for a period of up to 28 days in duration, from the first day of absence (including any half days).

Persistent short term absence is defined as where an employee has taken a significant number of short term sickness absences.

Long term absence is defined as a period of time where an employee is absent from work due to illness for a continuous period of greater than 28 days.

Other absence - an employee's absence from work may not be related to illness or incapacity. These absences should be recorded and managed in accordance with Leave and time off work: guidance for schools.

Appointments with a GP, dentist, optometrist or other medical practitioner during the working day are also covered within Leave and time off work: guidance for schools document.

Unauthorised absence - Where an employee has claimed to be absent due to sickness but it is subsequently identified that their absence is not due to sickness, it will be considered as unauthorised absence. This may result in disciplinary action and/or loss of pay. See Employee discipline: model procedure for schools.

3. Scope

This policy and related procedure apply to all school employees, both teaching and support staff.

This policy and related procedure make clear the expectations on Headteachers and employees regarding absences caused by ill-health. It is intended to deal with injury and ill-health that lead to attendance problems regardless of the cause. It is not intended for use where health, either mental or physical, leads to performance problems. These matters should be dealt with under the separate *Employee capability: model procedure for schools*.

Throughout this policy and related procedure, reference is made to the Headteacher as the manager responsible for dealing with absence issues. In some situations, line managers other than Headteachers may have delegated responsibility for significant elements of the day-to-day management of absent employees. Equally, where the Headteacher is the employee with health issues, the Chair of Governors will take the manager role.

P313 Improving attendance and ill-health absence management – model policy for schools

4. Responsibilities under the policy

Final decisions about how to deal with an employee's sickness absence or ill health and the impact on their employment situation, are managerial, not medical. Through HR Direct, the Headteacher will seek medical advice where work is affecting an employee's health or where an employee's health is affecting their work in order to help inform the decisions that are made.

The role of Occupational Health is to provide impartial guidance to the Headteacher and the employee on the employee's ability to undertake their duties and what measures can be put in place to support them, where appropriate.

Below is a summary of the main responsibilities and expectations this policy and the related procedure places on a Headteacher, employees and the local authority's HR team.

Roles and responsibilities		
Employee	Headteacher/Chair of Governors	HR Direct
Read and understand the Improving attendance and absence management policy and procedures.	Ensure all school employees are aware of the policy and procedures and how it affects them.	Provide consistent support and guidance to all employees on the interpretation and application of the policy and procedures.
Tell the Headteacher at the earliest opportunity if they believe their job is making them ill or contributing to their illness.	Carry out risk assessments and act promptly on potential health issues, even where they are not causing absence.	Provide support and guidance on risk assessment and what steps can be taken to minimise or eliminate risk.
Take all reasonable steps to maintain personal health and well being and acknowledge responsibility to attend work unless unfit to do so.	Promote a culture in which good attendance is valued and recognised. Report levels of absence (but not details on named individual employees) to Governors. Investigate high levels and take steps to improve attendance.	Provide support to schools via Occupational Health, IPRS, Norfolk Support Line, well being services etc in order to improve attendance.
Report sickness absences promptly. To seek advice from GP to improve health at the earliest opportunity.	Ensure all employees know who and how often they should report absence to. Pass details of absence to HR promptly.	Record absence accurately, providing information on effects on employees' pay as necessary.
Contact the Headteacher on a regular basis during	Maintain contact with employees during periods of	Provide guidance on how to maintain contact in difficult

P313 Improving attendance and ill-health absence management – model policy for schools

periods of sickness absence to keep them informed of progress.	sickness absence in a manner which has been mutually agreed with the employee.	circumstances.
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Roles and responsibilities (continued)		
Employee	Headteacher/Chair of Governors	HR Direct
Ensure that appropriate certification is completed and submitted promptly.	Monitor receipt of certification and chase when necessary. Maintain proper and accurate records in school.	Provide advice on interpretation and need for certification.
Communicate openly and honestly with the Headteacher.	Respond sensitively, sympathetically and maintain confidentiality.	Work with Headteachers and employees to promote healthy communication.
Co-operate fully with the Headteacher, HR and Occupational Health and any other organisation providing support to NCC, including being available to attend the Occupational Health provider whenever absent.	Be prepared to listen, and give serious consideration to all reasonable adjustments or ideas to promote recovery and return to work. Request review appointments through HR Direct.	Arrange and follow up Occupational Health advice and other support promptly and effectively.
Not delay commencement of medical intervention where it has been identified and made available.	Seek HR advice promptly to minimise length of absence and promote earlier recovery.	Offer suggestions for intervention when appropriate.
Attend absence management meetings as necessary. Participate in the discussion and understand the consequences if improvement targets are not met.	Manage those with unacceptable absence firmly and fairly. Communicate openly and honestly whilst not avoiding difficult conversations about the impact of an employee's absence and making them aware of possible outcomes.	Provide support and advice at meetings and in interviews where appropriate.
Not to abuse the sickness absence procedures or sick pay scheme.	Ensure the policy and procedures are applied fairly and consistently with regard to the individual	Provide advice to schools on what might or might not be considered fair and reasonable when applying

P313 Improving attendance and ill-health absence management – model policy for schools

	circumstances of each case.	this policy and procedure.
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5 Absence linked to disability

The Disability Discrimination Act 1995 defined a disabled person as someone who had a physical or mental impairment which had an effect on his or her ability to carry out normal day to day activities. That effect had to be substantial (that is, more than minor or trivial), adverse and long term (ie that it had lasted or was likely to last for at least a year or for the rest of the life of the person affected). Physical or mental impairment included sensory impairment. Hidden impairments were also covered, for example, mental illness or mental health problems, learning disabilities, dyslexia, diabetes and epilepsy.

The Equality Act 2010 abandons the list of capacities, relying instead on the general requirement that an impairment has a substantial (ie more than minor or trivial) and long-term effect on a person's ability to carry out normal day-to-day activities (without specifying what those activities might be).

The Headteacher should ensure that they have regard to the *Equality Act* when managing the sickness absence of disabled employees. Disabled employees should not be treated less favourably than other employees and reasonable adjustments should be made both in applying the policy and procedure, and to enable disabled employees to remain in employment appropriate to the individual circumstances of the case.

The Headteacher needs to consider any reasonable adjustments that are necessary to assist an earlier return to work, limit future absence and support the employee in achieving an appropriate level of attendance. Examples of reasonable adjustments could be:

- extending trigger points;
- providing specialist equipment;
- modifying days or hours of work;
- modifying duties.

Identifying and implementing the adjustments which are reasonable and appropriate will vary depending on the circumstances of each individual case.

Employees may be able to access support and advice from Access to Work (www.directgov.uk), who can assist with identifying specialist equipment, adaptations to the workplace and in some cases, a support worker. Responsibility for any associated costs arising from implementing reasonable adjustments lies with the school however Access to Work may make a financial contribution.

Some accommodation of sickness absence directly related to their disability can be a reasonable adjustment under the Equality Act. For example, some people with disabilities may need time off every week, every few weeks, every few months or every year for hospital treatment or counselling. Absence directly related to an employee's disability, recognised under DDA, should not be counted towards trigger points unless there is

P313 Improving attendance and ill-health absence management – model policy for schools

significant cost or disruption as a result of absence. Absences for other reasons will count towards triggers. Further advice or guidance can be sought from HR Direct.

Current case law does not require sick pay to be extended at either full or half pay where a disabled employee has exhausted their entitlement, irrespective of whether this was as a result of disability related absence or not. Case law has shown that it may be appropriate for an employer to extend an employee's sick pay entitlement when the employer has failed to make a reasonable adjustment and that failure has resulted in continuing absence and expiry of the employee's normal sick pay entitlement.

It should be noted that disability or genuine reasons for absence do not prevent the termination of an employee's employment where attendance is not at the required level and all other interventions, adjustments and options under the policy have been exhausted.

6 Absence linked to pregnancy

Where the employee is absent due to non-pregnancy related sickness either during her pregnancy or at the end of her maternity leave, this should be managed under the *Improving attendance and ill-health absence management policy and procedure* as for any other absent employee.

Where an employee is on long-term sickness as a result of her pregnancy, the Headteacher should seek advice from HR Direct. The dismissal of an employee due to absence caused by a pregnancy-related illness would be automatically unfair under sex discrimination/equality legislation.

It is not unfair under sex discrimination legislation to refuse to extend sick pay where it has been exhausted as a result of pregnancy-related absence.

7. Absence due to accident or industrial disease (non-teaching staff)

For the purposes of the National Conditions of Service as supplemented by the following local arrangements, accident or industrial disease is defined as occurring out of and in the course of employment with NCC, but not attributable to an employee's own misconduct.

Absence as a result of accident or industrial disease should not be counted against an employee's entitlement due to normal sickness; there is a separate but equivalent entitlement. Entitlement to paid absence due to accident or industrial disease is identical to the employee's period of entitlement for normal sickness.

All requests for extensions to an employee's basic entitlement to receive payment during absence due to accident or industrial disease should be addressed to the Headteacher who would consider each case in conjunction with the Chair of Governors and HR.

8. Absence due to accident, injury or assault at work (teaching staff)

In the case of a teacher's absence due to accident, injury or assault, found to have arisen out of and in the course of, the teacher's employment, the provisions of the Burgundy

P313 Improving attendance and ill-health absence management – model policy for schools

Book (Conditions of Service for School Teachers in England and Wales) would apply. Those provisions allow for full pay to be paid from the day of the accident, injury or assault, up to the date of recovery, but not exceeding six calendar months.

After that maximum period of six months' full pay, in the event of a teacher not returning to duty, they shall be entitled to normal sick leave and pay according to their length of service.

Absence resulting from accident, injury or assault should not be counted against a teacher's entitlement to normal sick pay.

Before these provisions are applied, advice should be sought from HR Direct and it is possible that an Occupational Health view would be recommended to establish that the absence is a result of an accident, injury or assault at work.

9. Ill health that does not lead to absence from work

There may be occasions where an employee is suffering from ill health but it does not lead to the employee being absent from work. If the employee believes that their ill health is having an impact on their ability to undertake their job they must raise the matter with the Headteacher.

The Headteacher should take any concerns seriously and seek advice via HR Direct. The Headteacher should objectively assess all reasonable measures that can address the health problem and retain the employee at work. Any intervention should be discussed with the employee prior to implementation.

Where a Headteacher has concerns that an employee is suffering from ill health which is having an impact on their ability to undertake the duties of the post, these should be raised with the employee in a sensitive and supportive manner. The Headteacher should seek advice on any proposed intervention from HR Direct prior to discussions taking place with the employee.

The Headteacher should consider the following:

- Identify any temporary or permanent adjustments that will help the person stay at work (eg work from home, time off for treatment, physical adjustments, etc).
- Identify any long term or permanent adjustments that may be required (eg temporary/permanent reduction in working hours, physical adjustments, adjustments to duties, reasonable time off related to the disability, etc)
- Consider whether referral to Occupational Health is necessary.
- Consider whether a counselling, IPRS or other organisation, specific to the individual's condition can provide support.
- If ill health is ongoing then there will be a need to review adjustments made to ensure they are still relevant to the person. A review should take place at least once every month or at other mutually agreed intervals.

P313 Improving attendance and ill-health absence management – model policy for schools

10. Employees who are at work but not considered fit by the Headteacher

Where there are concerns about an employee's fitness to be at work, it is important that the Headteacher discusses those concerns with the employee in a sensitive manner. Each discussion will be different based upon the circumstances of the case, but it is important that the employee is encouraged to access the support of their GP and reminded of other support available, eg the Norfolk Support Line, where appropriate.

Where the concerns about an individual's fitness still remain and/or they are unwilling to seek medical assistance, the Headteacher should contact HR Direct for advice.

11. Infectious diseases

Specific arrangements exist within Conditions of Service for dealing with serious infectious diseases. In any case, where an employee is absent with an infectious disease, guidance should be taken from HR Direct on how to deal with the situation.

12. Work related ill health

When an employee reports that they are experiencing any form of ill health (back or other musculoskeletal problems, skin complaints, stress, etc) that they believe are caused by work, the Headteacher should seek advice from HR Direct and follow the Incident Reporting procedure detailed on Schools' PeopleNet.

This will include investigating the potential cause of ill health, carrying out any necessary risk assessments and implementing remedial action as soon as possible.

13. Work related stress

When an employee reports that they are experiencing work related stress, the Headteacher should also follow the Stress Management advice on Schools' PeopleNet.

14. Sick pay entitlements

The level of sick pay entitlements will vary on an individual basis, in line with the eligibility criteria for Occupational Sick Pay and Statutory Sick Pay. See Appendix A.

Where an employee is receiving sick pay, any change to their sick pay entitlement should be notified to them in writing, by the HR Shared Service Centre, prior to any change occurring eg where their full pay entitlement has been exhausted or will reduce, detailing the reason, the effective date and confirming the pay position.

15. Occupational health provision

Early and effective medical advice can be key to identifying the most appropriate way to manage sickness absence. The timing of an Occupational Health referral will depend on the particular circumstances of the case.

The purpose of an Occupational Health referral is to provide advice and guidance to employees and Headteachers regarding:

- the nature of the illness
- the prognosis regarding recovery

P313 Improving attendance and ill-health absence management – model policy for schools

- timescales for a return to work
- recommendations for a phased/therapeutic return to work where appropriate
- recommendations for other appropriate support measures which will enable the employee to return and sustain their attendance at work.

Referrals to Occupational Health are managed via HR Direct. It is important, however, that the Headteacher makes contact with the employee to explain the need for a referral and to allay any fears they may have regarding this process.

Once the Headteacher has discussed the referral with the employee, HR Direct will make the necessary arrangements for the referral to take place.

16. Other support available

16.1 *Musculoskeletal Injury Rehabilitation Service (MIRS)*

This service is available to employees free of charge where the school buys into the Sickness Insurance Scheme. It provides treatment for acute musculoskeletal injuries that are causing absence from work, or affecting an employee's ability to perform their normal duties at work.

From the time of referral to the scheme, the employee will have a telephone assessment with a physiotherapist within 24 hours, and an appointment with a physiotherapist, osteopath, chiropractor or podiatrist within four working days. The scheme provides up to four treatment sessions per referral, although more treatment can be provided in exceptional circumstances.

The service can be accessed through HR Direct.

Schools not buying into the Sickness Insurance Scheme may be able to access MIRS through an ad hoc service via HR Direct but there will be a cost to the school in these circumstances.

16.2 *Functional capacity evaluations (FCE)*

In some cases occupational health or MIRS may recommend a functional capacity evaluation (FCE) be undertaken to assess what an individual is physically capable of doing in relation to his/her job. Further information on FCE's can be found on Schools PeopleNet. These can be arranged via HR Direct.

16.3 *The Norfolk Support Line (NSL)*

The Norfolk Support Line provides free and immediate access to independent, confidential and professional advice and counselling, 24 hours per day, 7 days a week, 365 days a year. Telephone and face to face counselling is available as well as information signposting and support.

This is available to school employees and their families where schools purchase the service.

P313 Improving attendance and ill-health absence management – model policy for schools

Further information regarding The Norfolk Support Line can be found on Schools' PeopleNet.

16.4 *The Well Being Programme*

The Well Being Programme promotes the well being of employees in schools. Schools have free access to this service, although some additional services have to be funded by schools as their well-being projects develop. The Well Being Programme also provides schools with a ready and effective way to meet the duty to assess the risk of stress related ill-health arising from work activities.

In addition the Headteacher Well-Being Support Officer provides confidential personal and professional support to Headteachers and acting Headteachers. Further information can be found on Schools PeopleNet.

P313 Improving attendance and ill-health absence management – model policy for schools

Appendix A – Sick pay entitlements

Occupational sick pay

Regardless of any entitlement under the Statutory Sick Pay Scheme (SSP) (see 3 below) employees are entitled to receive allowances under the sickness payments schemes laid down in the appropriate national conditions of service. The HR Shared Service Centre will offset any benefits due under Statutory Sick Pay, Employment and Support Allowance etc against any occupational sick pay entitlement so that sick pay does not exceed ordinary full pay.

Extension of occupational sick pay

The HR Shared Service Centre will notify the employing school when both full and half pay are due to expire. In certain circumstances it may be possible for the Headteacher to authorise an extension of sick pay either at the full or half rate. This may only take place with approval of the appropriate Governing Body Committee and on advice from the school's HR Consultant.

An extension of paid sick leave should not be regarded as automatic for any employee who exhausts their contractual entitlement. The exceptional circumstances in which an extension to sick pay (for a period not normally exceeding three months) might be granted could include the expected imminent death of the employee who has been diagnosed with a terminal illness.

The cost of any extension of sick pay would be met from the school's budget.

If at the end of an extension of sick pay at full rate, it is not considered appropriate to make a further extension, the individual should then move on to half pay. The decision to count the period of the extension at full rate against the normal period of half pay should be made on a case by case basis having due regard to the current prognosis and the individual's personal circumstances. The individual involved should have this confirmed in writing at the time the decision to extend is made. Where appropriate the advice of the school's HR Consultant should be sought.

Statutory Sick Pay (SSP)

Under the statutory sick pay scheme, employers are responsible for paying SSP for up to 28 weeks to employees incapable of working under their contracts of employment by reason of some specific disease or disability.

Entitlement to SSP applies to Periods of Incapacity of Work (PIWs) lasting for at least four consecutive days, including Sundays and Public Holidays. However, SSP is not payable if an employee:

- is taken on for a specified period of no more than three months, unless the contract is extended to more than three months or if the current contract is one of two or more with the same employer, each is separated by not more than eight weeks and the total period covered by the contracts is more than 13 weeks;

P313 Improving attendance and ill-health absence management – model policy for schools

- have average weekly earnings less than the lower weekly earnings limit for National Insurance liability;
- was entitled to incapacity benefit, disablement allowance or maternity allowance in the previous eight weeks;
- has done no work under his/her contract of employment;
- has provided leavers' statements to the school as their new employer, showing that they have been due 28 weeks' SSP from their former employers, and the gap between the first day of the PIW with their new employer and the last day of SPP shown on the leavers' statement is eight weeks or less;
- is outside the European Union on the first day of a PIW;
- is in legal custody.

SSP is only paid for 'qualifying days'. NCC arrangements allow for every day of the week to be regarded as qualifying days for SSP purposes, notwithstanding the number of days an employee normally works in the week. SSP is payable for sickness absence which lasts for four calendar days or more. The first three days of absence are classified as 'waiting days' during which SSP is not payable and normal payment arrangements will apply (unless the sickness occurs within 14 days of a previous period of sickness for which SSP was payable and is therefore 'linked' for the purposes of attracting SSP payments).

Employees not entitled to SSP

The HR Shared Service Centre will inform employees if they have no entitlement to SSP or when their entitlement has expired. In some circumstances employees who do not receive SSP can claim State Sickness Benefit.

Entitlement to SSP while on maternity, paternity or adoption leave

Maternity leave

An employee may not receive SSP throughout the whole of her 39 week period of entitlement to Statutory Maternity Pay (SMP) or Maternity Allowance (MA) even where the employee returns to work during this 39 week period. The employee's SSP entitlement commences afresh at the end of the 39 week period. An employee who does not qualify for either SMP or MA may not receive SSP for an 18 week period.

Paternity leave

An employee cannot be paid Statutory Paternity Pay (SPP) and SSP at the same time. If an employee is sick prior to commencing their period of paternity leave, then the paternity leave should be postponed, however the 56 day period in which the employee can take their paternity leave is not extended,

Adoption leave

An employee cannot be paid Statutory Adoption Pay (SAP) and SSP at the same time. Where the employee is sick prior to the commencement of adoption leave, the adoption leave should be postponed until the employee is well.

P313 Improving attendance and ill-health absence management – model policy for schools

Where the employee becomes sick during their adoption leave, SAP should not be paid during any week of their adoption leave where the employee is entitled to SSP. SAP may be paid during the waiting days to receive SSP.