

# Canonium Learning Trust



## Sickness Absence Management Procedure (Sept 2021)\*

Adopted: 2021/2022



### Updates since last edition

#### September 2021

Appendix A	Pay during phased return	Correction: Employees are unlikely to receive SSP when on a phased return.
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#### January 2021

2	Scope	Inserted reference to other related policies, including leave of absence, flexible working and mental health and wellbeing.
4.3	Returning to work	Updated to include reference to phased return arrangements.
4.6	Reasonable adjustments	Updated to include reference to phased return arrangements.
4.6.1	Disabled employees	Inserted reference to physical and mental impairments.

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## **Sickness Absence Management Procedure**

### **1. Introduction**

This Procedure sets out the obligations and entitlements of employees who are absent due to ill-health and the procedures that will be followed to support and manage sickness absence.

#### **1.1 Policy statement**

The Trust Board is committed to promoting good health and wellbeing amongst its entire staff and recognises its statutory responsibilities in relation to health and safety, data protection and access to medical records regulations and the Equality Act 2010.

The sickness absence management procedure balances the needs of the Trust and its academies with the interests of individual employees. It is based on the following principles:

- To achieve a high level of attendance and minimise disruption to the operation of the Trust and its academies and additional staffing costs; and
- To provide a safe and healthy environment and treat all staff fairly and consistently and with dignity and sensitivity.

## **1.2 Communication**

Two-way communication is expected and is key to effective absence management. Employees will be expected to keep in regular contact with their manager to provide information about their absence. The Trust, will maintain contact with the employee to inform them of key work issues (where appropriate) to support the employee during the absence, and to facilitate an early return where possible.

Supportive and constructive communication and the degree thereof, will depend upon the nature of the ill health and agreed between the parties. In exceptional circumstances, where appropriate and agreed between the parties, contact may be through a third party.

## **2. Scope**

These procedures are applicable to all Trust employees including those employed to work in individual academies within the Trust and to staff who are employed to work centrally and/or support several or all Trust academies.

### **2.1 Time off for other reasons**

Employees must not take sick leave for reasons other than their own ill health.

As part of its commitment to supporting the health and wellbeing of employees, the Trust has a Leave of Absence Procedure setting out the approach to leave of absence for reasons other than sickness.

Employees should normally arrange non-urgent personal medical appointments (eg doctor, dentist, hospital, elective procedures) outside of their normal working time wherever possible.

### **2.2 Drug and alcohol misuse**

Employees are encouraged to disclose drug/alcohol problems so that the Trust can support them. Where possible and appropriate, drug and alcohol misuse will be treated as an ill-health issue and as such will be dealt with under the sickness absence management procedure. Employees will be expected, and supported, to follow an appropriate programme of support/rehabilitation.

Employees should not arrive at work under the influence of drugs and/or alcohol or any other substance that may impair their ability to carry out their duties. If, in the reasonable opinion of the Trust, an employee presents him/herself for work and the Trust considers they are not able to carry out their duties, this could lead to disciplinary action.

## **3. Roles and responsibilities**

### **3.1 It is the responsibility of the Trust Board to:**

- Monitor and review policies and procedures which safeguard the health, safety and welfare of staff and ensure they are implemented in a fair and reasonable manner;
- Depute a governor to implement the absence management procedures in the case of the absence of the head teacher; and
- Establish an appeals committee as required.

### **3.2 It is the responsibility of the head teacher and other line managers to:**

- Ensure that full attention is given to staff health, safety and welfare and to develop systems of work to minimise ill health and consequent absence;
- Ensure pre-employment health checks are carried out;
- Monitor and regularly review levels of absence and take action as appropriate;
- Ensure employees are aware of absence management procedures, including reporting requirements;
- Implement the absence management procedures fairly, sensitively and confidentially; and
- Make initial decisions related to warnings and dismissals.

### **3.3 It is the responsibility of all staff to:**

- Safeguard and maintain their own health and attend work for work when fit to do so;
- Comply and co-operate with the absence management procedure, including the sickness absence reporting procedures;
- Inform their line manager in general terms as soon as reasonably practicable of any health issues including the effects (including that of medication), prognosis and developments that impact on their ability to perform their normal duties and update the school on a periodic basis in line with this procedure; and
- Ensure medical advice and treatment, where appropriate, are received as quickly as possible.

## **4. The procedure**

### **4.1 Reporting sickness absence**

#### **4.1.1 When and to whom to report sickness absence**

The employee must make contact with their Headteacher/Head of School by no later than 8am on the first day of the absence. Contact should be by the employee themselves by telephone unless there are particular reasons why this is not possible.

Further contact must be made on subsequent days as agreed with the manager. Regular contact must be maintained to inform about progress and likely duration of absence.

If your ill health/sickness relates to an accidents or injury at work you must report this and record through the accident reporting procedure.

#### **4.1.2 What to report**

When making contact, the employee is responsible for reporting the following information:

- The nature of the illness and its likely duration
- Any work matter that needs attention during the absence
- When the illness commenced
- If the absence results from an accident at work, details of the person to whom the accident was initially reported.

#### **4.1.3 Sickness and annual leave / closure periods**

Where an employee falls sick during a period of planned annual leave, on a bank holiday or during a closure period, they must report the sickness immediately or as soon as contact can be made. Normal certification requirements apply during these periods. Statutory annual leave entitlements continue to accrue during periods of sickness.

Where an employee who works 52.14 weeks is on a period of certified long term sick leave and they wish to take a period of annual leave they must follow normal notice requirements for requesting the period of leave. If the period of annual leave is approved, the employee's period of sickness will be interrupted by the period of annual leave and will resume once the period of annual leave has concluded. Employee's will receive their normal pay for periods of annual leave and will revert to the appropriate level of sick pay thereafter.

#### **4.2 Sickness certification**

Self-certification and Doctors' Fit Notes must be provided in accordance with statutory and contractual requirements below. These timescales do not remove the requirement on all employees to continue to notify/report absence in line with agreed arrangements as set out in this procedure.

##### **4.2.1 Local Government Services and other support staff**

Day 1-7 A self-certification form

Day 8 onwards – Fit Note

##### **4.2.2 Teaching Staff**

Day 4-7 A self-certification form

Day 8 onwards – Fit Note

#### **4.3 Returning to work**

Where practicable, one day's notice should be given of fitness to return to work.

An employee will be expected to return to work immediately following the expiry of a Fit Note, unless a new note is obtained. It is open to an employee to return to work before the expiry of a Fit Note if they, and their manager, consider this appropriate. An appropriate risk assessment may be completed in these circumstances.

Where a Fit Note recommends a phased return to work the school will endeavour to accommodate the arrangements set out in the Fit Note. In the event that the school are unable to accommodate the phased return or any element of it, this will be discussed with the employee prior to their return to work and any alternative arrangements will be agreed and confirmed in writing. Phased return periods will not normally exceed a period of 6

weeks (see 4.6 below regarding reasonable adjustments). The employee will be notified of the arrangements relating to their pay during the period of phased return (see Appendix A for further information).

#### **4.3.1 Fitness to return to work during a closure period or planned annual leave**

Where an employee is unwell prior to a closure or during a period of planned annual leave becomes fit to return to work they must inform their manager as soon as practicable.

#### **4.3.2 Return to work meeting**

A return to work meeting will normally be conducted by the line manager as soon as possible following an employee's return to work following any period of absence. The purpose of this meeting is to discuss the period of absence, update the employee on work related matters and to identify any additional support that may be required

#### **4.4 Medical referral**

As appropriate, a referral to an Occupational Health Advisor may be required where an employee's absence or other issues indicate a potential health concern. In these circumstances, the employee will be advised of the process and the reasons for the referral. The purpose of the referral is to explore options to support the employee to minimise absence.

In certain circumstances, particularly those involving stress or depression, a referral may be made sooner, usually after 2 weeks absence, as evidence suggests that early intervention increases the chance of a successful return to work.

#### **4.4.1 Co-operating with a referral to an Occupational Health Adviser**

Employees are obliged to attend appropriate appointments with an Occupational Health Adviser. Where an employee refuses to consent to the Occupational Health Adviser contacting their GP, decisions, which may have implications for their future employment, will be taken on the basis of the information available at the time.

#### **4.5 Medical suspension**

In certain circumstances, where it is felt that an employee is not fit to attend work, the headteacher or chair of governors may suspend an employee on medical grounds. Any such suspension will be on full normal pay. Normal pay may be sick pay where the period is covered by a Doctor's Fit Note. Suspension will be lifted, where appropriate, only after advice has been sought from an Occupational Health Adviser.

#### **4.6 Reasonable adjustments**

An important element of managing health and disability issues is the need to explore reasonable adjustments/alternative employment, and these options will be discussed with employees as part of the general management of ill health matters and /or in the light of any medical recommendations as necessary with a view to facilitating continued employment and/or an early return to work.

Reasonable adjustments may include:

- Phased return to work/amended hours (e.g. reduced hours following return to work and gradual increase back to full contractual hours after a period of time or temporary reduction in hours/days worked).
- Amended Duties
- Workplace Adaptions

Adjustments to facilitate an early return to work will be for a limited period which will be specified and which will usually not exceed 6 weeks. In other circumstances longer term or permanent contractual or other adjustment may be made.

While every effort will be made to accommodate the advice on Fit Notes or from Occupational Health Advisors, it is not legally binding and it will be for the Trust in discussion with the employee, to determine what adjustments if any are appropriate and possible.

Where reasonable adjustments cannot be accommodated the employee will be deemed to be off sick for the duration of the Fit Note. It is not necessary for an employee to obtain a new Fit Note until the expiry of the original.

### **Disabled employees**

Where an employee gives as the reason for absence an underlying health issue that could amount to a disability under the Equality Act 2010, the employee's manager should seek HR/Occupational Health advice before implementing this procedure. Managers should be aware that the Trust is under a duty to make reasonable adjustments for disabled employees. The legal definition of a "disability" is wide and managers should seek advice from their HR/legal advisers as to whether an employee falls within this definition.

### **4.7 Sickness absence recording and data protection**

Fit notes provided by employees will be copied and the original will be returned to the employee. Copies of self-certificates, Fit Notes and return to work forms will be held on employees' personal files in accordance with Data Protection requirements.

Where medical advice is sought on an employee, obligations under the Access to Medical Reports Act 1988 and data protection legislation will be met. In particular, the Trust will ensure that it obtains the employee's consent before seeking a medical report from the employee's own doctor or from Occupational Health Advisors. Information relating to an Occupational Health referral or report will not be shared any information with HR advisers without seeking the employee's prior written consent.

Any medical/health information concerning employees collected as part of this procedure will count within the "special categories of personal data" and as such will be kept confidential and stored securely in line with the Trust's retention schedule in the "restricted access" section of the personal file. Any personal data collected/recorded in line with this procedure will only be processed in line with the Trust's data protection policy/policy on processing special categories of personal data. In particular, managers will only record personal information required to manage sickness absence under this procedure and will only keep such information for as long as necessary.

## **5. Procedure for managing frequent short term sickness absence**

The following procedure will apply where an employee's level of absence causes concern.

Normally, this will be when the following triggers have been reached, although individual employee's absence records will be considered on a case by case basis:

- Three periods of absence in two consecutive half terms, or
- Unacceptable regular patterns of absence, for example regular Monday or Friday absence.

Where the absence is wholly or partly for a disability-related reason the trigger points referred to above may need to be modified as appropriate to take account of the employee's disability and other adjustments to the procedures set out in this policy may be necessary.

### **5.1 Informal procedure**

The line manager will address each individual period of absence at a relevant return to work meeting. Once the employee's absence level reaches the trigger point, having regard to the reasons for absence, the employee may be invited to attend an informal absence review meeting. At this meeting:

- An action plan will be agreed (including setting an appropriate target for attendance and referral to Occupational Health where appropriate)
- A monitoring period will be set e.g. one term/two consecutive half terms
- The employee will be alerted that they may enter formal process if no / insufficient improvement

As soon as possible, following the informal absence review meeting, the employee will be given a written record of the key points and any action agreed.

If the employee's attendance does not improve or deteriorates during the monitoring period, at the end of the monitoring period (or earlier if deemed appropriate) the line manager will consider whether to enter the formal procedure (see 5.2 below).

### **5.2 Formal procedure**

#### **5.2.1 Formal absence review meeting**

If an employee's attendance record does not improve, is not sustained or deteriorates at the end of the monitoring period (or earlier if deemed appropriate). The formal procedure will commence and they will be required to attend a formal absence review hearing with their line manager (or governors if appropriate). The employee will be given at least 5 working days written notice of the hearing and this will include the right to be accompanied by a trade union representative or work colleague. The employee should make every effort to attend this meeting and may make written and verbal representations.

The purpose of the formal absence review meeting is to:



- Review and discuss key issues relating to the employee's persistent/patterns of short term absence and their failure to meet the targets set for attendance within the required timescales
- Identify appropriate support, guidance and monitoring systems
- Consider whether it is appropriate to issue a warning and set further targets for attendance

Where a warning has been issued, the employee will be notified of their right to appeal.

Within 5 working days of the formal absence review hearing, the employee will be notified in writing of the outcome of the hearing. Notes of the meeting will also be provided as soon as possible after the hearing.

Following the first formal absence review hearing, where a first warning has been issued, the employee will be required to attend interim review meetings.

- If, during the period of the warning, the employee's attendance improves to the required levels the formal process will conclude on the expiry of the warning.
  - If any subsequent periods of absence (which reach the trigger point) occur within 12 months of the expiry of the warning (the procedure will normally be resumed at the formal stage).
- Where absence levels do not improve or deteriorates during the life of a final warning, a further hearing (s) may be held, the outcome of which will could be a further warning and subsequently dismissal.
  - Warnings/dismissal under this procedure will normally be on the grounds of lack of capability due to ill-health.

### **5.3 Appeals**

The employee will have the right of appeal against any formal sanctions/dismissal. Such an appeal must be made in writing, clearly setting out the grounds, to the headteacher, within 5 working days of receipt of the written notification of the outcome of the hearing,

Employees may be asked for clarification of the grounds for their appeal where this is not clear.

An appeal hearing will be convened without undue delay the decision of Appeal is final, subject to the employee's rights at law.

The Appeal procedure will be the same as the hearing procedure (see 5.2.1).

### **6. Long term sickness absence**

Where an employee is on long-term sickness absence (usually defined as absence for 4 weeks or more), the following procedure will apply.

Where the absence is wholly or partly for a disability-related reason the procedure set out below may need to be modified as appropriate, to take account of the employee's disability and the duty to make reasonable adjustments. Further advice and guidance should be sought from HR and/or Occupational Health Advisors.

### **6.1 Referral to an Occupational Health Advisor**

It will normally be appropriate to make a referral to an Occupational Health Advisor after 4 weeks of the absence depending on the nature of the illness, to provide information about the employee's long-term prognosis and to explore options to facilitate an early return to work where appropriate. In certain circumstances, particularly those involving stress or depression, a referral may be made sooner, usually after 2 weeks absence, as evidence suggests that early intervention increases the chance of a successful return to work.

Subsequent referrals will be made as and when required, including prior to any formal hearing

### **6.2 Review meetings**

Following a referral to an Occupational Health Advisor, a meeting will be arranged with the employee to discuss the on-going absence. The purpose of the meeting will be to discuss the long-term prognosis and any strategies which may support the employee's return to work.

Depending on the nature of the ill health, and the prognosis, further such meetings may take place.

A written record will be made of the key points of any meetings and any action agreed and this will be shared with the employee.

### **6.3 Returning to work**

Where an employee becomes fit to return to work, a re-integration meeting will normally be arranged with them before their return to work. This meeting will normally be informal and its purpose will be to support the employee's return to work.

It will sometimes be necessary to make alternative working arrangements and/or consider redeployment, on a permanent or temporary basis, to facilitate an employee's return to work.

Such issues will be discussed between the line manager and the employee (and trade union representative and HR Consultant as appropriate). Agreed arrangements will be confirmed in writing.

### **6.4 Formal action**

At an appropriate stage (usually, but not exclusively before 12 months absence), it may be considered that the absence is no longer sustainable. This may also be the case where there have been repeated long term absences.

In this case, suitable alternative employment options and ill health retirement (where the employee is in the Pension Scheme) will be explored where appropriate,

Where these options are not available, the matter may be considered at a formal hearing, the outcome of which could be the termination of employment on the grounds of lack of capability due to ill-health.

The employee will be given at least 5 working days written notice of the hearing and this will include the right to be accompanied by a trade union representative or work colleague. The employee should make every effort to attend this hearing and may make written and verbal representations. Where an employee's health prevents their attendance, the hearing may proceed in their absence and full account will be made of any written representations and/or presentations made on their behalf by their chosen representative.

The employee will be notified in writing of the outcome of the hearing within 5 working days. The notification will include notice where a decision is made to dismiss (and will specify any entitlement to pay during this period) and details of the right of appeal.

Notes of the meeting will also be provided as soon as possible after the hearing.

## **6.5 Appeals**

The employee will have the right of appeal against dismissal. Such an appeal must be made in writing, clearly setting out the grounds, to the headteacher, within 5 working days of receipt of the written notification of the outcome of the hearing. Employees may be asked for clarification of the grounds for their appeal where this is not clear.

An appeal hearing will be convened without undue delay the decision of Appeal is final, subject to the employee's rights at law.

The Appeal procedure will be the same as the hearing procedure (see 6.4).

## **7. Ill health retirement**

An employee who is in the Local Government or Teachers' Pension Scheme may apply for Ill Health Retirement.

### **7.1 Teaching staff**

A teacher may make an application for ill health retirement at any time. The application must be supported by medical evidence. This will ideally be provided by the Trust's Occupational Health Service where they have been seen recently, but may be provided by an employee's GP/specialist. The decision to grant ill health retirement rests with Teachers' Pensions.

#### **7.1.1 There are two levels of benefit:**

- Partial Incapacity Benefits (PIB) – where an employee is deemed to be unfit to continue teaching, but fit to undertake other employment
- Total Incapacity Benefit (TIB) – where the employee is considered unfit for any employment.

Different benefits apply to each type of retirement.

#### **7.1.2 Date of retirement**

If an employee is deemed unfit by Teachers' Pensions, the last day of service must be agreed as soon as possible under the Regulations and normal contractual notice periods cease to apply.

## **7.2 Support Staff**

In order to qualify for ill health retirement benefits, an Occupational Health Adviser is required to sign a Certificate of Permanent Incapacity indicating that the employee is permanently incapable of continuing in their role. The Trust will then determine whether ill health retirement is appropriate in the light of the Ill Health Retirement criteria including the availability of suitable alternative employment and the medical evidence.

### **7.2.1 There are three levels of benefit:**

Tier 1: where there is no reasonable prospect of the employee obtaining other gainful employment before their normal retirement age.

Tier 2: where, although the employee is unlikely to be fit to obtain gainful employment within 3 years, it is likely that they will be fit to do so prior to the normal retirement age.

Tier 3: where it is likely that the employee will be fit to obtain other gainful employment within a period of 3 years.

Different benefits apply to each Tier.

### **7.2.2 Retirement dismissal procedure**

Where a Certificate of Permanent Incapacity is signed, the employee will be invited to a formal hearing as set out in this procedure.

### **7.2.3 Ill Health Retirement Appeals**

An employee has the right of appeal against:

The decision to dismiss on the grounds of permanent incapacity (as set out in 6.5 above);

An employee may also contest a decision made in relation to the Local Government Pension Scheme under the Internal Disputes Resolution Procedure (IDRP). Details of this procedure will be notified to employees.

## Appendix A – Sick Pay allowances

Details of any entitlement to contractual sick pay are set out in employees' contract of employment. The scale of contractual allowances for full-time staff (pro-rata for part-time staff) is set out below:

### Teachers National Conditions

During the first year of service:	Full pay for 25 working days and (after completing four calendar months' service) half pay for 50 working days.
During the second year of service:	Full pay for 50 working days and half pay for 50 working days.
During the third year of service:	Full pay for 75 working days and half pay for 75 working days.
During the fourth and successive years' service:	Full pay for 100 working days and half pay for 100 working days.

*For the purpose of the contractual sick pay scheme, "service" includes all aggregated teaching service.*

### Local Government Services staff

During the first year of service (up to 4 months' service):	Full pay for 1 month
During the first year of service (after completing 4 months service):	Full pay for 1 month and half pay for 2 months.
During the second year of service:	Full pay for 2 months and half pay for 2 months.
During the third year of service:	Full pay for 4 months and half pay for 4 months.
During the fourth year of service:	Full pay for 5 months and half pay for 5 months.
After 5 years' service:	Full pay for 6 months and half pay for 6 months.

In the case of full sick pay periods; where staff are eligible for Statutory Sick Pay/Incapacity Benefit, this will be included in their contractual sick pay where appropriate.

In the case of half pay periods; sick pay will be an amount equal to half the employees normal earnings (for the relevant period) plus, where eligible, any Statutory Sick Pay/Incapacity Benefit, so long as the total sum does not exceed the employees normal pay.

*For the purpose of the contractual sick pay scheme, "service" refers to continuous service with any public authority to which the Redundancy Payments Modification Order (Local Government) 1983 (as amended) applies. The period for which sick pay will be paid and the rate of sick pay for any period of sickness absence will be calculated by deducting any periods of paid sickness absence during the twelve months immediately before the first day of the absence from the sick pay entitlement set out.*

The sick pay entitlement is calculated based on the length of service the employee has accrued when the sickness absence commenced.

### **Staff on other conditions of service**

Staff on local conditions of service may have an entitlement to contractual sick pay and should refer to their contract of employment.

### **Extensions to sick pay**

The Trust Board will consider any requests for an extension to sick pay on a case by case basis.

### **Pay during phased return**

Where an employee returns on reduced working hours for a limited phased return, they will receive normal pay for the time worked. For any normal hours not worked, contractual sick pay will be paid in accordance with the individual's outstanding sick pay entitlements. If an employee returns to work on their normal hours but carry out partial duties, they will receive full normal pay for the agreed period. Any period of phased return that is connected to the previous period of sickness is considered part of that sickness absence. Employees are unlikely to be entitled to SSP during a phased return as SSP is dependent upon being continuously absent for four full days or more.

### **Accidents at work**

Local Government Conditions - where an employee suffers an accident, injury or assault arising out of, or in the course of employment, they will be paid a sum equivalent to their sick pay entitlement and this period shall not count against their sick pay entitlement.

Where the employee exhausts their injury at work entitlement and are still absent from work due to the injury, then they will receive no further pay. They would however be entitled to sick pay under the sickness scheme if they are absent due to illness at a later date, as long as it does not relate to the same injury at work.

Teachers' National Conditions - where a teacher suffers an accident, injury or assault arising out of, or in the course of employment, they will be entitled to full pay for a period not exceeding 6 calendar months. This period shall not count against their sick pay entitlement. Where the teacher remains absent beyond 6 months, they will then be entitled to their normal sick pay entitlement as determined by their length of service and any previous sickness absence.

### **Third party accident compensation claims**

Where employees are absent as the result of an accident for which damages may be recoverable from a third party, they must inform their line manager as soon as possible. The Trust may recover all or a proportion of the costs of sick pay / accident pay from the damages received by the employee.