Sickness Absence – Reporting and Management
Model Policy, Procedure and Guidance for Schools

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1.1	July 2013	Sickness Absence – Reporting and Management; policy, procedure and guidance (new document)	
1.2	April 2017	Amended sections 4.6, 7.6, 18.1, 18.2 and 27.9 re. counselling Amended 3.3 to include reasons for monitoring sickness absence	
1.3	July 2022	New sections on disability, alternatives to dismissal, annual leave and long term sickness absence, and ill health retirement. Amended information on fit notes – any registered healthcare professional can issue.	

West Berkshire COUNCIL

Contents

1. Purpose 4
2. Applicability 4
3. Policy 4
4. Roles and Responsibilities 5
5. Disability 6
Procedure for reporting absence due to personal sickness or injury 6
6. Reporting absence due to personal illness or injury 6
7. Entitlement to sick pay 8
8. Return to work interview 8
Procedure for managing sickness absence 9
9. Overview of procedure for managing sickness absence 9
10. Making reasonable adjustments and redeployment 11
11. Informal meeting(s) 11
12. First formal stage 11
13. Second formal stage 12
14. Decision Hearing 13
15. Appeals 13
16. Alternatives to Dismissal 13
Guidance 15
Guidance for managing all types of sickness absence 15
17. Consistency of approach 15
18. Recording sickness absence 15
19. Seeking medical advice and occupational health referrals 15
20. Counselling referrals 16
21. Work related stress 16

22. Monitoring employees who are pregnant, disabled or who have had an accident at work 17

23. Redeployment 17

24. Convening formal meetings and dismissal hearings 18

25. Process at decision hearings 19

26. Appeal hearings 19

27. Written records 20

28. The employee's representative 20

Additional guidance on handling short term sickness absence 20

29. Informal handling of short term sickness absence 20

30. Formal handling of short term sickness absence 22

31. Second formal stage meeting – short term sickness 23

Additional guidance on handling long term sickness absence 24

32. Keeping in touch during long term sickness absence 24

33. Informal handling of long term sickness absence 24

34. Supporting a return to work 25

35. Formal handling of long term sickness absence 26

36. Annual leave and long term sickness absence 26

37. Ill health retirement 27

Appendix 1 – sick pay entitlements 29

1. **Purpose**

1.1 The purpose of this policy is to support the effective reporting, recording and management of sickness absence to reduce its impact on the school and provide appropriate support to employees.

1.2 The policy complies with employment legislation and good practice, and aims to encourage employees to achieve and maintain acceptable levels of attendance. It is designed to ensure fairness and consistency in the management of concerns about attendance.

1.3 This model policy, procedure and guidance has been developed for use in West Berkshire schools, in consultation with the recognised trade unions All maintained schools are recommended to adopt this policy and procedure.

2. **Applicability**

2.1 This policy applies to all employees of the school, including the Headteacher.

2.2 The application of the procedure may be modified where concerns about sickness absence may be handled under other relevant procedures, for the following staff:

- ECTs within their statutory induction period
- Support staff within their probationary period.

2.3 This policy applies to absence due to an employee's personal sickness or injury. It does not apply to absences connected to the illness or injury of relatives or hospital, dentist or appointments, medical screening or treatment for IVF (For details of these and other types of absence and how to record them see the Leave of absence (time off in term time) Procedure.

3. **Policy**

3.1 The school is committed to supporting the health, safety and welfare of its employees.

3.2 The school accepts that employees will sometimes be unable to attend work due to personal illness or injury. Such absence has an impact on the school and on the workload of other employees that needs to be minimised.

3.3 The school will:

- Record and monitor sickness absence and take action to tackle absence problems.
- Encourage and support employees in maintaining and improving good attendance levels
- Treat employees fairly and with respect, and maintain appropriate confidentiality.

- Make reasonable adjustments in accordance with the Equality Act to enable employees with disabilities to maintain good attendance levels.
- Offer a range of options, adopting a compassionate approach, where employees; poor health results in unacceptable long term absence or inability to maintain acceptable attendance.

4. **Roles and Responsibilities**

4.1 The Headteacher and the governing body are responsible for implementing this policy and procedure fairly and consistently, maintaining appropriate confidentiality, and for ensuring that systems are in place for securely retaining sickness documentation within the school.

4.2 This policy, procedure and guidance refers to sickness absence being reported to, and managed by the employee's 'line manager'. This may be the Headteacher, a head of department or other senior employee depending upon the management structure within the school.

4.3 The Chair of Governors will normally manage absences of the Headteacher.

4.4 Line managers are responsible for:

- Day-to-day management of sickness absence within their teams in line with this policy, procedure and guidance
- Making sure all employees reporting to them are aware of this policy, procedure and guidance
- Ensuring that sickness absence is accurately recorded
- Conducting return to work interviews with employees after each period of sickness absence
- Handling absence problems promptly and sensitively
- Conducting informal and formal meetings with employees with absence problems
- Maintaining appropriate contact with employees who are absent from work
- Retaining documentation within the school for the period specified in this procedure

4.5 Employees are responsible for:

- Familiarising themselves with and adhering to this policy and procedure
- Attending work regularly in accordance with their contract of employment
- Following the procedure for reporting absence due to personal sickness or injury and complying with the procedure for managing sickness absence.
- Attending meetings with their line manager and Occupational Health to discuss their absence as required
- Telling their line manager if their health is being negatively affected by any work related factors or if they have concerns about returning to work after a period of sickness absence
- Telling their line manager if they are taking prescribed or non-prescribed medication that may affect their ability to do their job or their safety

4.6 Where schools purchase the WBC Human Resources service, HR staff will provide Headteachers with specialist advice as outlined in this policy, procedure and guidance and will refer employees for confidential counselling or occupational health advice following discussions with the headteacher/line manager (or where appropriate chair of the governors).

5. **Disability**

5.1 The school is aware that sickness absence may result from a disability. At each stage of the procedure, particular consideration will be given to whether there are reasonable adjustments that could be made to the requirements of a job or other aspects of working arrangements that will provide support at work and/or assist a return to work, especially for those employees with a known disability.

5.2 If an employee considers that they are affected by a disability or any medical condition which impacts on their ability to undertake their work, they should inform their line manager.

Procedure for reporting absence due to personal sickness or injury

6. **Reporting absence due to personal illness or injury**

6.1 Employees should follow this procedure for **all** periods of absence due to personal sickness or injury. Failure to do so may result in action being taken under the school's disciplinary procedure.

6.2 An employee who is unable to attend work must notify the Headteacher (or other nominated manager) as soon as possible, and no later than 8.00am if they are due to report for work that morning.

6.3 The employee should leave a contact number so that his/her line manager can call him/her back if necessary.

6.4 The employee should normally contact the Headteacher (or other nominated manager) in person. Where this is not possible he/she should arrange for someone to do this on his/her behalf.

6.5 The employee should explain his/her reason for absence and an estimate of how long he/she is likely to be absent from work. The line manager or office will complete the top section of the self-certificate form and store it securely to be completed when the employee returns at the return to work interview.

6.6 Where absence continues longer than 3 days the employee should also contact the Headteacher (or other nominated manager) on the 4th and 8th day of absence to give an update on their health. (Part time workers who do not work the same number of days as full time workers should make contact at least once per week

during the first two weeks of absence), and then at intervals agreed between the employee and line manager. (See section 30 below for guidance).

6.7 Where the employee fails, without prior agreement, to report his/her absence in line with this procedure or local arrangements, the line manager should contact the employee.

6.8 On return to work the line manager must hold a return to work interview (also see section 7 below) with the employee to check that the employee is fit to return and to complete the self-certificate form, for **all** absences.

6.9 All absences of more than seven calendar days (including weekends and days not normally worked by the employee) must **also** be covered by a fit note from a registered healthcare professional or hospital certificate (where the employee has been an in-patient). The employee must obtain these fit notes/certificates and forward the originals to the line manager. The school will make a copy of each fit note/certificate received. The copy should be signed and dated to confirm that the school has seen the original.

6.10 Self-certificates and copies of fit notes must be stored securely by the school for three years after the end of the tax year to which they relate. The original fit note should be returned to the employee.

6.11 The fit note/certificate should state the period of time that it covers. If the employee remains unwell he/she should obtain further fit notes/certificates to cover the duration of the absence.

6.12 The employee does not need a certificate from a registered healthcare professional to say that he/she is fit to return to work at the end of a period of absence. However, if the line manager has concerns about an employee's fitness to return to work he/she should follow section 7.4 below. This is especially important where the fitness of the employee is safety critical (e.g. where he/she operates potentially hazardous equipment, drives, or climbs ladders at work), where the employee is responsible for the health and safety of children, or where the employee works alone

6.13 The employee should inform his/her line manager of any concerns about returning to work, for example where the employee is taking medication that he/she feels may affect his/her work, or feels he/she may have difficulty completing some aspects of his/her work. Where possible the employee should raise these concerns **before** returning to work.

6.14 If a member of support staff on a 52 weeks per annum contract is sick whilst on annual leave (excluding public holidays) he/she will be considered to be on sick leave from the date of a self or healthcare professional/hospital certificate to that effect. Annual leave will be re-credited from the date that the statement was signed. The employee must inform their line manager that he/she is unwell, and on sick leave, as soon as possible.

6.15 If an employee becomes unwell during the working day and needs to leave before his/her normal finish time he/she should inform his/her line manager. The

employee should be recorded as being absent from work from the time that he/she leaves work.

6.16 The line manager will ensure that **all** periods of sickness absence are accurately recorded in line with the school's administrative arrangements, and are notified promptly to the school's payroll provider.

6.17 Where sickness absence is due to a disability as defined by the Equality Act, is directly attributed to an accident at work, or due to pregnancy the line manager should seek advice from the school's Human Resources provider about how this should be managed.

6.18 If employees have any queries about how to report sickness absence they should raise them with their line manager.

7. Entitlement to sick pay

7.1 Details of employees' entitlement to sick pay are stated in their contracts of employment. See appendix 1 for details.

8. Return to work interview

8.1 After each period of sickness absence the line manager will meet the employee to complete a return to work interview. This will normally be held on the day that the employee returns to work. The purpose of this meeting is to support the employee's return to work and confirm the employee's reason for, and duration of, absence. The line manager and employee should discuss:

- The employee's reason for, and duration of, absence.
- The employee's current state of health to check that he/she is fit to return to work
- Whether the employee is taking any medication that may affect his/her ability to work or affect safety
- Any advice on the final 'fitness to work' statement from the registered healthcare professional
- Any reasonable adjustments or assistance needed to enable the employee to successfully and safely return to work
- Any problems that the employee may have at or outside of work that may be affecting his/her health or attendance
- Where appropriate, any concerns that the manager may have about the employee's level of attendance or patterns of absence that appear to be emerging
- Any work issues that have occurred during the employee's absence that he/she needs to be aware of
- Any other concerns that the manager or employee may have

8.2 The line manager will ensure that the entire duration of absence is covered by a self-certificate and, where required, statements of fitness to work and/or hospital certificates.

8.3 The line manager and employee will complete the remaining sections of the self-certification form and record key points of the return to work interview on the 'Return to work interview form'. The employee can request a copy of these forms. The self-certificate and return to work form should be stored securely within the school for a period of three years after the end of the tax year to which they relate.

8.4 Where the line manager is concerned that the employee may not be fit to return to work he/she should discuss this with the employee and complete a risk assessment. The manager may ask the school's HR provider to refer the employee to an occupational health adviser. Alternatively the HR provider may advise the employee to obtain a private certificate from a professional healthcare professional. The school should pay for the certificate. The employee will remain on sick leave whilst such medical advice is sought.

8.5 If it is believed that occupational stress was, or contributed to, the reason for sickness absence, the manager should use the 'Return to work interview – stress related absence' to guide the discussion with the employee. The manager and employee should agree actions as necessary arising from this discussion.

8.6 In schools that buy in to the WBC HR service the line manager should discuss with the employee whether he/she could benefit from a referral for confidential counselling or to occupational health. Prior to discussing this with the employee the manager should contact HR to discuss the matter and/or to seek further advice if required.

8.7 The completed 'Return to work' form should be filed securely within the service with the other sickness documentation for a period of three years after the end of the tax year to which it relates.

Procedure for managing sickness absence

9. Overview of procedure for managing sickness absence

9.1 The procedure for managing concerns about an employee's attendance consists of the following stages:

- Informal meeting(s)
- First formal stage
- Second formal stage
- Dismissal hearing

Depending upon the circumstances of the case it may be appropriate to adjourn a meeting pending further information or action or to hold more than one meeting at any stage.

9.2 An employee has the right to appeal against a warning issued at the first formal meeting and/or the decision to dismiss.

9.3 Concern about an employee's attendance may be triggered by one or more of the following:

- Three or more sickness/injury absences in a rolling three month period.
- Unacceptable patterns of absence; for example a pattern of calling in sick the day before or after a weekend or bank holiday, or before or after a period of school closure or annual leave.
- A period of long term absence of more than 28 calendar days (long term sickness absence) where the return to work date has not been specified or is of concern to the line manager

Where reasonable concerns about an employee's attendance occur that do not fit into one of the above triggers, the line manager may still take action under the procedure.

9.4 The employee may be referred to an occupational health adviser and/or asked to obtain advice or information from his/her GP, specialist or consultant at any stage of the procedure. Further information about seeking medical advice can be found in section 18 below.

9.5 The employee will normally be given 10 school working days written notice of formal meetings and hearings and will have the right to be accompanied by a trade union representative or work colleague. This timescale can be altered by mutual consent.

9.6 The employee will be informed in writing of the outcome of all formal meetings and hearings under the procedure, normally within 5 school working days of a decision being made.

9.7 Guidance on arranging and holding formal meetings and dismissal hearings under this procedure can be found in section 23 of the guidance below.

9.8 Those authorised to act under this procedure are as follows:

Action concerning	**Informal handling**	**First and final formal stages**	**Appeal against action at first formal stage**	**Dismissal**	**Appeal**
Headteacher	The Chair of the Governors	The Chair of the Governors	A governor not previously involved in the case. (Larger schools may have a panel of up to three governors	Panel of three governors not previously involved in the case.	Panel of three governors not previously involved in the case.
Other employees	Line manager, senior manager or Headteacher	Line manager, senior manager or Headteacher	Headteacher (or, where Headteacher involved at an earlier formal stage, a governor)	Headteacher (if not previously involved in the case and has delegated powers to take a dismissal decision) or a panel of three governors not previously involved in the	Panel of three governors not previously involved in the case.

				case.	

10. **Making reasonable adjustments and redeployment**

10.1 Headteachers/line managers must comply with the requirements of the Equality Act. This includes making reasonable adjustments to enable disabled (as defined by the Act) employees to improve their attendance levels and/or successfully return to work.

10.2 Headteachers/line managers may also consider making reasonable adjustments on a temporary or permanent basis for employees who are not disabled.

10.3 Where an employee is unable to return to his/her role following long term sickness absence but could return to another role, or where the Headteacher believes that an employee could achieve an acceptable level of attendance in another role, redeployment opportunities will be sought.

10.4 Reasonable adjustments and/or redeployment may be considered at any stage of the procedure as appropriate to the individual case.

11. **Informal meeting(s)**

11.1 An informal meeting between the manager and employee will normally be held where one of the trigger points has been reached.

11.2 The meeting will discuss the reasons for absence, the prognosis (if known), and reasonable ways of supporting the employee in reducing his/her sickness absence and/or making a successful return to work and, where appropriate, to set targets for improved attendance.

11.3 If an informal meeting is not held when a trigger point is first reached it does not preclude the line manager convening one at a later date if he/she has concerns about the continued level of sickness absence. If necessary, more than one meeting may be held at this stage.

12. **First formal stage**

12.1 **In cases of frequent short term absence or unacceptable patterns of absence** a first formal meeting will be arranged where an informal approach has not improved attendance to a satisfactory level.

12.2 The meeting will review the reasons for and details of the employee's absence, any medical information and advice available and whether there is any support that could help the employee achieve an acceptable level of attendance. It may be necessary to adjourn the meeting in order to obtain further information or advice. Targets for expected attendance and any requirements for reporting or certificating absence will be set.

12.3 Unless the line manager considers it appropriate to continue with informal handling, a warning will be issued that the employee's continued employment will

be at risk if he/she does not meet the level of attendance expected/targets for attendance within a specified timescale, and maintain an acceptable level of attendance. The warning will be confirmed in writing, normally within 10 school working days of the decision, and will be effective for one year.

12.4 Where an employee has a higher than acceptable level of absence before the end of the specified timescale a meeting under the second formal stage may be held before the end of the timescale.

12.5 **In cases of long term sickness absence** a first formal meeting will normally be arranged where the employee does not return to work within a reasonable period, or where medical advice indicates that he/she will be permanently unfit to return to work in their role or is permanently unable to do work of any kind.

12.6 The meeting will review the reasons for and details of the employee's absence, any medical information and advice available and whether there is any support that could help the employee make a successful return to work.

12.7 Where appropriate a warning will be issued that the employee's continued employment will be at risk if he/she does not make a successful return to work within a specified period.

12.8 **In all cases** the line manager will meet informally with the employee at the end of the period specified in the warning to review whether or not there are still concerns about the employee's attendance and/or return to work. Where concerns remain a meeting will be arranged at the second formal stage.

13. Second formal stage

13.1 **In cases of short term absence or unacceptable patterns of absence** a second formal stage meeting will be held where attendance has not improved to a satisfactory standard within the timescale specified at the first formal stage meeting, or where it becomes a cause for concern again whilst the warning is still effective (i.e. one year from the issue of the warning).

13.2 **In cases of long term sickness absence** a second formal stage meeting will be held where the employee does not make a successful return to work within the timescale set out at the first formal warning. Where medical advice states that the employee will not be able to work again in any capacity, and there are no reasonable adjustments that would enable him/her to do so, the employee may request in writing that the second formal stage is omitted and that a dismissal hearing be convened.

13.3 **In all cases** the meeting will review the case so far and look at whether there are any further options for reasonably supporting the employee in reaching an acceptable level of attendance or making a successful return to work.

13.4 At the second formal stage meeting, having considered the facts of the case and the employee's views, the manager may decide it is appropriate to convene a dismissal hearing, or may decide upon alternative action.

14. **Decision Hearing**

14.1 The decision hearing will consider whether there are any other options to consider or whether to terminate employment.

14.2 The chair of the hearing may decide that employment should be terminated, with appropriate notice, on grounds of capability, or may recommend alternative action in the light of evidence presented at the hearing.

14.3 The employee will be informed in writing, within 5 school working days, of the reasons for the decision to dismiss, or to recommend dismissal. This will also include the date on which the employment contract will end, the appropriate period of notice and his/her right to appeal.

14.4 Once the decision to dismiss has been taken, the governing body will issue notice of dismissal (for foundation or voluntary aided schools) or notify the local authority of its decision (for community and voluntary controlled schools). The local authority must issue notice of dismissal within 14 days of notification from the governing body decision.

14.5 The period of notice will be the statutory minimum or contractual notice (for teachers, this will be notice in accordance with the Burgundy Book), whichever is the longer.

15. **Appeals**

15.1 The employee may appeal against a decision to dismiss, or a decision at the first formal stage to issue a warning.

15.2 The appeal must be made in writing, addressed to the Headteacher, (or if the Headteacher has issued the warning, or the employee is the Headteacher, or the appeal is against dismissal, to the clerk of the governing body) within five days of the written notification of the decision, setting out the grounds for the appeal.

15.3 The appeal will review the earlier decision, taking into account the grounds of the appeal. The appeal can overturn the earlier decision, confirm it or recommend alternative action. The appeal decision is final.

16. **Alternatives to Dismissal**

16.1 The Headteacher may, at any stage in the procedure, initiate a protected conversation with an employee in order to offer a settlement agreement. Where the employee is a member of a trade union, this would be initiated through the representative and any buy back school will be supported by Human Resources.

16.2 If a settlement agreement is not reached, this process does not prevent the Headteacher from chairing a decision hearing.

16.3 The purpose of any protected conversation will be to offer a compassionate and pragmatic alternative to dismissal on grounds of capability. In cases of long-term absence, this may be where the timescale for a successful return to work is

unknown and the employee has already been absent for more than six months, or has exhausted their entitlement to full sick pay.

16.4 The Headteacher will agree the terms of any settlement agreement and will agree to fund the legal fees of the employee (maximum of £350 plus VAT).

16.5 The terms of any settlement agreement will not exceed any remaining entitlement to sick pay and notice.

Guidance

The following section provides guidance on managing absence. It is broken down into three main sections:

Guidance for managing all types of sickness absence – this guidance should be followed for cases of short term sickness and cases of long term absence

Additional guidance for managing short term sickness absence

Additional guidance for managing long term sickness absence

Note: where an employee has a mixture of short and long term sickness absence the guidance in all three sections should be used.

Headteachers/line managers can obtain further advice from their Human Resources provider.

Guidance for managing all types of sickness absence

17. Consistency of approach

17.1 Each case should be treated on its merits, but managers should apply the same standards to all employees. It is important that some employees are not singled out for formal action whilst the absence of others is ignored.

17.2 Line managers should handle sickness absence with empathy and respect for the employee. The aim is to support employees where possible, whilst maintaining the interests of the school.

18. Recording sickness absence

18.1 Schools must inform Payroll of sickness absence by completing a 'Monthly Staff Absence Report' on SIMS. Guidance on running this report is available from the MIS team.

19. Seeking medical advice and occupational health referrals

19.1 Headteachers may wish to seek advice from the Council's external occupational health provider, or the employee's GP or consultant or specialist in order to:

- Assess whether there may be an underlying cause for short term absence
- Gain a better understanding of the employee's condition and prognosis
- Seek advice on how to support the employee in improving attendance or making a successful return to work
- Seek advice on making reasonable adjustments for disabled employees
- Seek advice relating to redeployment

19.2 Where the school does not purchase HR services from the Council the school will be charged for referrals to Occupational Health.

19.3 When to refer an employee to occupational health will depend upon the circumstances of the case. For example, an employee who is absent due to stress/depression/mental health may benefit from an early referral to gain advice about reasonable adjustments that can be made to help the employee return to work, whereas it may be more appropriate to refer an employee who is recovering from an operation to occupational health towards the end of the 'normal' recovery time. Further advice can be sought from the school's HR provider.

19.4 Headteachers should contact HR where they wish to refer an employee.

19.5 The Headteacher/line manager and employee will complete an occupational health referral form which will be sent to the occupational health provider. The employee will be informed of the date, time and location of the appointment. The employee must inform his/her manager as soon as possible if he/she is unable to attend the appointment

19.6 Referrals to occupational health should be seen as a positive way of supporting the employee's recovery and return to work or in improving attendance. Some employees may feel concerned about being referred. Managers should explain that a referral is a supportive measure, as occupational health can provide specialist advice about support the employee will need when he/she returns to work or that can help the employee achieve an acceptable level of attendance.

19.7 It may be appropriate to adjourn a meeting to seek medical advice, reconvening the meeting to discuss the report when it is available.

19.8 Seeking medical advice may not provide all the answers, and line managers will need to consider this information in the context of the needs of the school.

20. **Counselling referrals**

20.1 In schools who buy into the WBC HR service, if the line manager believes that the employee may benefit from independent confidential counselling he/she should discuss this with HR and then complete a counselling referral form. The costs of the counselling must be met by the school.

20.2 Where the referral is approved by HR, the employee will be referred to a counsellor for up to six sessions. The counsellor will contact the employee to arrange the sessions.

21. **Work related stress**

21.1 Where it is known or suspected that the employee's absence may be due to, or partially due to, work place stress, the manager should use the return to work interview form to record any support discussed and agreed to assist the employee to return to the workplace.

22. **Monitoring employees who are pregnant, disabled or who have had an accident at work**

22.1 Where an employee with a disability is expected (following medical advice) to have a higher level of absence than an employee without a disability, the trigger point for the employee will be adjusted to allow for this. Managers should seek advice from the school's HR provider.

22.2 The Equality Act protects pregnant women from unfavourable treatment in employment on grounds of pregnancy or maternity. Managers must not take pregnancy related absence into account when managing attendance. Where an employee has pregnancy related illness after the beginning of the fourth week before the expected week of child birth, maternity leave automatically begins the day after the first day of her absence. Managers should seek further advice from the school's HR provider.

22.3 When an employee has been absent from work due to industrial disease, accident or an assault arising out of, or in the course of employment with the school, their absence from a work related incident will be recorded separately and therefore not taken into account when looking at triggers when managing attendance.

23. **Redeployment**

23.1 In cases of long term sickness absence where the employee will not be able to return to his/her own role within a reasonable time but redeployment to a suitable alternative role would enable him/her to return to work, the line manager should discuss this with him/her.

23.2 In cases of short term sickness absence, where the line manager, with Occupational Health advice, considers that redeployment could help the employee to reach and maintain satisfactory levels of attendance he/she will discuss this with the employee.

23.3 In considering redeployment the line manager and employee should refer to the section on redeployment in the model Redundancy Procedure for schools.

23.4 The manager and employee should discuss:

- The current impact of the employee's ill health or injury on his/her abilities
- The future prognosis
- The employee's skills
- Experience gained both inside and outside of work
- Types of work that may be suitable

23.5 The line manager should explain to the employee that there is no requirement to create a post for the him/her, but that he/she will be given prior consideration for any suitable vacancies that arise in the school.

23.6 The line manager should specify the period that redeployment will be sought for; normally between eight weeks and three months.

23.7 Information relating to the employee's health is classified as 'sensitive' under data protection regulations. The employee's line manager should take account of this if approached for a reference, internally or externally. The line manager should make sure that the information provided is factual and he/she may wish to discuss the reference with the employee and explain why he/she is/is not able to support the employee's application. Further advice can be sought from HR.

23.8 Where redeployment is not found within the specified period, or where the employee is not willing to consider redeployment, a decision hearing may be arranged.

23.9 Where an employee has applied for a vacancy within the specified period, but a decision has not been made about his/her suitability, a decision hearing will not be held until the decision has been made.

23.10 Where no redeployment is found, the Headteacher may initiate a protected conversation with an employee.

24. **Convening formal meetings and dismissal hearings**

24.1 No formal action will be taken against a trade union representative until, having consulted the employee, the circumstances of the case have been notified to a regional officer of the trade union concerned.

24.2 Where the employee or his/her representative is known to have a disability or language issues these should be reasonably addressed so that formal proceedings can take place fairly.

24.3 The employee must be informed in writing of:

- The reasons for holding the meeting (e.g. the specific problem with the employee's attendance/continued absence) and in the case of a dismissal hearing the reasons for considering dismissal
- The date, time and location of the meeting/hearing
- The name of the person chairing the meeting/hearing
- The right to be accompanied by a trade union representative or work colleague

24.4 In the case of a decision hearing the employee will be provided with copies of documents that management will refer to at the hearing, and the names of any witnesses that they will call with the letter. The letter will also inform him/her of:

- The requirement to provide the line manager/chair hearing the case with a copy of the documents that he/she will be relying on and the names of any witnesses that he/she will be calling at the hearing at least five working days before the hearing.
- The possibility that the hearing could result in his/her employment being terminated.

24.5 If the employee or his/her representative is unable to attend on the proposed date, the employee can suggest another date so long as it is reasonable and no

more than 5 school working days after the date originally proposed. An extension to this limit can be made by mutual agreement.

24.6 If an employee, or his/her representative, is unable to attend a hearing for reasons that were unforeseen when the hearing was arranged then another hearing will be arranged. If the employee is unable to attend a second time, the hearing will normally convene, as arranged, and a decision taken in the employee's absence.

25. Process at decision hearings

25.1 The Headteacher/line manager who has handled earlier stages of the procedure will attend the decision hearing to present the management case.

25.2 At the hearing options already explored and/or tested will be reviewed and any remaining options (if any) will be considered.

25.3 The management side and the employee will be given the opportunity to state their case, call witnesses and ask questions.

25.4 The hearing will normally be adjourned whilst the Headteacher/panel hearing the case reaches a decision.

25.5 If the Headteacher/panel believes that there are no reasonable alternatives, they may dismiss the employee, with due notice, on grounds of capability. In reaching this decision any mitigating factors and the likelihood of the situation improving in the future will be considered.

25.6 The employee will be notified in writing of the outcome, normally within five school working days.

26. Appeal hearings

26.1 This section refers to appeals against formal warnings, and against dismissal on the grounds of capability, under this procedure.

26.2 The appeal should be heard as soon as possible and not normally later than six school weeks after it was received.

26.3 Both parties must indicate at least five school working days in advance of the appeal hearing which, if any, witnesses they wish to call and provide copies of any documents that will be relied upon at the hearing. In exceptional circumstances an alternative timescale may be agreed.

26.4 The Headteacher/chair of the panel who issued the warning at the first formal stage OR dismissed the employee at the dismissal hearing will attend the appeal to present evidence. He/she may be supported by a representative of HR.

26.5 At the appeal the employee will be asked to explain his/her grounds for appeal and present evidence. The presenting manager will have the opportunity to respond. Where witnesses are called, both sides will have an opportunity to question them.

26.6 The chair, panel members and the representative from HR may ask questions throughout the appeal hearing.

26.7 If an employee, or their representative, is unable to attend an appeal hearing for reasons that were unforeseen when the hearing was arranged, the hearing will be postponed and another date will be arranged. If the employee is unable to attend a second time, the appeal hearing will normally convene, as arranged, and a decision taken in the employee's absence. If the employee notifies in advance that they do not wish to attend the appeal hearing, they will be invited to submit a written statement which will be considered by the appeal chair/ panel.

26.8 The Headteacher/ chair of the panel has the power to reinstate the individual whilst recommending further options for management of the sickness absence, or to uphold the dismissal decision.

26.9 The employee will be notified in writing of the outcome, normally within five working days.

27. **Written records**

27.1 Headteachers/line managers should keep written records of all stages of the procedure that they handle. These should be kept securely within the school. Records should be treated as confidential as appropriate and kept in accordance with the Data Protection Act.

28. **The employee's representative**

28.1 The employee is entitled to be accompanied at all formal meetings/hearings by a trade union representative or work colleague. In exceptional circumstances the employee may be allowed to be accompanied by an alternative representative, in which case HR advice should be sought.

28.2 The employee's representative may confer with the employee during formal meetings, hearings and appeals, explain the employee's case, ask questions, sum up and respond to views expressed at the hearing so long as the employee is happy for him/her to do so. Unless there are exceptional circumstances and the chair of the meeting/hearing/appeal permits it, the representative may not answer questions on the employee's behalf. The employee's trade union representative may also support the employee in seeking a settlement agreement at any stage in the process.

Additional guidance on handling short term sickness absence

29. **Informal handling of short term sickness absence**

29.1 Managers should normally hold an informal meeting with an employee when they have reached one of the trigger points listed in section 9.3 of the procedure. However, there may be cases where the manager does not consider this necessary or appropriate. For example, where the employee has a high level of sickness absence caused by a known underlying cause and where the level of absence is expected to return to a satisfactory level within an acceptable

timescale. The manager should record the reasons for not holding an informal meeting.

29.2 Informal handling of sickness absence issues should be positive and supportive, with the aim of finding ways to support the employee in improving his/her attendance to an acceptable level.

29.3 In preparation for holding a meeting the manager should review any information that he/she already has about the employee's absences, without prejudging the situation. This will help identify any potential areas to explore with the employee. The manager should consider:

- Information on any self certificates or doctor's statements – are the reasons the same or could they be linked?
- The proportion of absence covered by a statement of fitness to work
- Any further information given at return to work interviews
- Any other evidence about possible underlying causes for the absence
- Are any patterns of absence emerging?
- Is the employee taking their annual leave entitlement?

29.4 Meetings should be held in private and the employee should be encouraged to talk openly about his/her absence.

29.5 The manager should raise his/her concerns about the employee's absence levels and/or patterns of absence.

29.6 The employee should be asked to explain the reasons for his/her unacceptable absence, and explore whether there could be any underlying health issues, work place or external factors that are contributing to the his/her absence. The manager may decide to adjourn the meeting to investigate these further.

29.7 Where the manager suspects that periods of absence may have been caused by family or similar factors, rather than genuine personal sickness/injury he/she may decide it is appropriate to declare an 'amnesty' on previous incidents so as to encourage the employee to talk about the reasons for his/her absence without fear of disciplinary action. Having discussed the issues the manager should restate the boundaries of the sick pay scheme and make it clear that future abuse of the scheme would lead to disciplinary action.

29.8 The employee should be asked to suggest ways that he/she can improve his/her attendance and any reasonable support that the school could provide to help him/her improve attendance.

29.9 The manager should be supportive in identifying reasonable ways of assisting the employee in improving his/her attendance. This may include considering:

- Providing medical/other support e.g. seeking advice from occupational health about whether there could be an underlying health problem. Occupational health may recommend confidential counselling.
- Encouraging and supporting changes in lifestyle e.g. support in giving up smoking

- Supporting the employee finding external sources of support (e.g. help groups), where appropriate
- Practical support to assist attendance e.g. change of hours, flexible working, support with resolving domestic or travel to work issues
- Addressing work related issues e.g. equipment, workload, work processes
- Reviewing the nature and level of the employee's role

29.10 Whilst being reasonable in providing support to the employee, the manager should also consider the operational needs of the school.

29.11 The line manager should also explain the impact the employee's absence is having on the school, the employee's responsibility for attending work, set targets and timescales for improved attendance and, where appropriate, expectations for reporting and certificating absence.

29.12 The line manager may decide to ask the employee to supply fit notes from a registered healthcare professional for each period of absence or where absence may be falling into an unacceptable pattern, e.g. for absences immediately before or after annual leave. Permission from the Headteacher should be sought before requiring this as the employee will be entitled to reclaim charges for statements from the school. The line manager should inform the employee of how he/she can claim this.

29.13 The line manager should explain how the employee's attendance levels will be reviewed and that if the specified improvement is not made that formal action may be taken under the procedure.

29.14 Following informal meetings the line manager should:

- Investigate and, where reasonable, take action to resolve any work place factors identified
- Implement support measures and actions agreed in the meeting e.g. asking the school's HR provider to refer the employee to occupational health
- Make a file note of actions and targets set and provide a copy of the file note to the employee.
- Where the manager decides no further action is required following the informal meeting, he/she should keep a note of the reasons for this
- Continue to review attendance and the support measures.

30. **Formal handling of short term sickness absence**

30.1 Formal meetings should consider:

- Informal and formal action taken so far and whether any targets set have been met within the specified timescales and sustained
- Any new medical advice or information received since the last meeting
- Whether medical advice indicates that the employee has an underlying health issue or disability
- The effectiveness of any support put in place
- Whether redeployment should be considered.

30.2 The employee should be asked to comment on these points.

30.3 The line manager may wish to adjourn the meeting to consider the employee's response and reach a decision.

30.4 The line manager holding a **first formal meeting** may decide that:

- No further action is required
- The matter should continue to be handled informally. The line manager should inform the employee of the reason(s) for this decision, targets for attendance required, timescales and any support that will be put in place to help the employee to achieve targets set. The employee should be informed that formal action may be taken in future if these targets are not met and an acceptable level of attendance maintained. The line manager should keep notes of the key points of the meeting and should give a copy of these to the employee.
- A warning should be issued specifying targets, timescales and support (if appropriate) for achieving an acceptable level of attendance. The employee should be warned that his/her employment may be at risk if he/she does not reach the targets set and maintain a satisfactory standard of attendance. The warning should be provided in writing and be effective for 12 months.

30.5 Where a warning is issued the line manager will meet informally with the employee during the specified period in order to discuss progress.

30.6 At the end of the specified period the line manager will meet informally with the employee. Where targets have been achieved and sustained improvement is expected the employee should be informed of this. The employee should be informed that he/she is expected to maintain a satisfactory standard of attendance, that the warning issued at stage one will remain effective for the remainder of the 12 months from the date of the stage one meeting, and that if the employee's attendance becomes of concern within that period a final formal meeting will be convened.

30.7 Where targets have not been reached the line manager should inform the employee that a second formal stage meeting will be arranged.

31. Second formal stage meeting – short term sickness

31.1 At the second formal stage meeting the manager will consider the facts of the case and, having listened to the employee's comments, will decide on whether a dismissal hearing should be arranged or to take another course of action

31.2 Where the manager believes that there is good reason to extend the timescales for achieving the targets, he/she may do so, and adjourn the second formal stage meeting until the end of the extended time.

31.3 With advice from the school's HR provider and approval from the Headteacher, the line manager may choose to initiate a protected conversation with an employee as an alternative to convening a decision meeting.

Additional guidance on handling long term sickness absence

32. Keeping in touch during long term sickness absence

32.1 Research shows that employees are more likely to make a successful return to work if long term sickness absence is deal with promptly. (Chartered Institute of Personnel and Development 2006).

32.2 It is important to keep in regular contact with the employee so the line manager can stay informed about his/her progress and so that the employee feels in touch with the workplace and valued. Lack of contact can make it harder for the employee to return to work. The line manager should agree with the employee how, and how frequently you will keep in contact. This will depend upon the nature of the employee's condition. The line manager can seek further advice from the school's HR provider.

32.3 Contact needs to be sensitive so the employee does not feel pressurised into returning to work before/he she is fit to do so.

32.4 Depending upon the reason for absence, contact early on may simply be to find out how the employee is and to show concern about him/her. As appropriate the line manager may also need to discuss his/her prognosis, when he/she is likely to be able to return to work, and whether there is anything the manager can do to support his/her return to work.

32.5 An employee can only be visited at home with his/her consent, and he/she may wish to have a trade union representative or work colleague present. As with any visit to someone's home the line manager should take steps to ensure his/her own safety. You can seek further advice from the school's HR provider.

32.6 The line manager should keep notes of when he/she contacts the employee and key points that discussed.

33. Informal handling of long term sickness absence

33.1 When handling long term sickness absence managers should be sensitive to the employee and his/her condition and to the needs of the service. Line managers should consider:

- Whether it is clear when the employee is likely to return to work
- Whether there is a clear prognosis (line managers can seek advice from the school's HR provider about referring the employee to occupational health or seeking a report from the employee's GP or consultant
- Whether there are there any supportive steps that the line manager can take to enable the employee to return to work

33.2 The line manager will normally hold an informal meeting with the employee when the employee has been absent for a period of 28 calendar days. However there may be cases where the line manager does not consider it appropriate to hold a meeting at that stage. For example, where the employee is recovering from an operation and the normal recovery time is longer than 28 days and the employee

is expected to return within a reasonable timescale. The line manager should record the reasons for a decision to delay the informal meeting and should continue to keep in touch with the employee.

33.3 The line manager should keep the employee's case under review and seek further medical advice as necessary.

33.4 Where the employee's continuing absence becomes of concern to the line manager he/she should discuss this with the employee and explain where it becomes necessary to convene a formal meeting under the procedure.

33.5 Where the employee appears to have made a snap decision to resign the line manager should seek advice from the school's HR provider before accepting the resignation.

34. **Supporting a return to work**

34.1 The line manager should consider medical advice and ask the employee what support he/she feels he needs to help him/her return to work.

34.2 Making reasonable adjustments on a temporary or permanent basis may enable an employee to return to work earlier. Line managers must comply with the requirements of the Equality Act. Reasonable adjustments must be made to support employees with disabilities (as defined by the Equality Act), including seeking redeployment where appropriate.

34.3 Examples of adjustments include:

- Providing a phased return – this could be on a part time or incremental basis
- Modifying an employee's work activities, equipment or location on a temporary or permanent basis
- Providing special equipment e.g. modified IT equipment or reference material
- Modifying work patterns or management systems to reduce pressure and give the employee more control
- Providing refresher training or buddy/mentor until the employee regains confidence at work
- Providing more supervision
- Altering working times
- Working at home
- Providing alternative parking
- Modifying access to the workplace
- Reallocate work amongst the team
- Allow time off for further medical appointments

34.4 Once appropriate measures have been identified the line manager should draw up a return to work plan. A return to work plan should not normally exceed four weeks although it might be extended to six weeks in exceptional circumstances (e.g. a disability or serious medical condition), and will normally be on full pay from the first return date, even where hours are reduced. The plan should include:

- The date the employee will return to work
- The goal for the plan e.g. supporting the employee in making a successful return to full time work after a gradual return to work.
- The time period of the return to work plan
- What impact it will have on the employee's terms and conditions
- When the plan will be reviewed
- Signatures of the employee and line manager

34.5 The line manager will need to keep the plan under regular review. The frequency of this will depend upon the circumstances of the case but should be sufficient to ensure that the plan is supporting the employee and to review his/her progress.

34.6 Where appropriate the line manager should complete a risk assessment, for example to assess any adjustments, the effects of any medication, and any implications for equipment made or lone working.

34.7 The line manager should also consider how to update the employee about what has happened during their absence e.g. changes in practices and procedures, training, new equipment.

35. Formal handling of long term sickness absence

35.1 At each stage of the formal process the line manager should:

- review the case to date
- consider the implications of any new medical information received and the need to seek further medical advice
- review any support and/or reasonable adjustments that can be made to enable the employee to return to work
- consider the likelihood of the employee making a successful return to work within a reasonable period
- consider the effect of the employee's continuing absence upon the school
- consider the appropriateness of seeking redeployment
- consider the employee's views

35.2 With advice from the school's HR provider and approval from the Headteacher, the line manager may choose to initiate a protected conversation with an employee as an alternative to convening a decision meeting. This may be particularly relevant where an employee has exhausted their entitlement to full sick pay and there is little prospect of a return to work in the foreseeable future.

36. Annual leave and long term sickness absence

36.1 Employees will continue to accrue annual leave during periods of sickness absence. Where long term sickness absence prevents an employee from taking their annual leave during a leave year, they may carry forward up to the maximum of their statutory entitlement (pro rata for part time employees), less any leave already taken in the year. For staff working term time only, any accrued entitlement is included in normal school closure periods.

37. **Ill health retirement**

37.1 In some circumstances an employee who is a member of a pension scheme (LGPS or Teacher's Pensions) may meet the criteria for ill-health retirement. Where this may be the case, the Headteacher should contact their HR provider for advice.

37.2 Members of Teachers' Pensions may also be entitled to be considered for Ill-health retirement. HR can provide further information about this process.

37.3 The following information is relevant for LGPS members. Members of Teachers' Pensions may also be entitled to be considered for ill-health retirement. The school must seek further information from their HR provider

37.4 The employee must have two years' membership of LGPS or qualifying service under another pension scheme. Where an employee who is a member of LGPS chooses to be considered for ill-health retirement, the Council will arrange for them to be assessed by an Independent Registered Medical Practitioner (IRMP). The IRMP is likely to be employed by the occupational health provider contracted by the Council, but should not have had previous involvement in their case.

37.5 The employee will be asked to complete and sign a consent form (see appendix 3) to ensure that they fully understand the process and the implications of the conclusions of the IRMP. Where the IRMP decides that ill-health retirement at any level, applies to the individual, the Council will then need to consider the termination of their employment.

37.3 There are three tiers of ill-health retirement.

37.3.1 TIER 1

This is when the Independent Registered Medical Practitioner (IRMP) has certified that the employee is permanently incapable of efficiently discharging the duties of their current job because of ill-health or infirmity of body or mind and there is no reasonable prospect of being capable of undertaking any gainful employment before normal retirement age. Permanently incapable means that the employee will more likely than not be incapable until, at the earliest, aged 65. The definition of gainful employment is defined by Regulation 20(14) of the Local Government Pension Scheme (Benefits, Membership & Contributions) Regulations 2007 as "paid employment for not less than 30 hours in each week for a period of not less than 12 months.

In accordance with the LGPS Regulations, a tier 1 determination means that the employee would receive pension benefits equal to their accrued rights, with full enhancement of their prospective service to normal retirement age

37.3.2 TIER 2

This is when the IRMP has certified that the employee is permanently incapable of discharging efficiently the duties of their current job because of ill health or infirmity of body or mind.

It is also the Practitioner's opinion that whilst the employee is incapable of undertaking gainful employment within 3 years, they would be likely to undertake gainful employment before reaching their normal retirement age.

In accordance with the LGPS regulations, a tier 2 determination means that the employee would receive pension benefits equal to their accrued rights, with an enhancement of 25% of their prospective service to normal retirement age

37.3.3 TIER 3

This is where the IRMP has certified that the employee is permanently incapable of discharging efficiently the duties of their current job because of ill-health or infirmity of body or mind but that they would be capable of undertaking other employment within a period of 3 years.

In accordance with the LGPS regulations, a tier 3 determination means that the employee would receive the following pension benefits:

- payments of their accrued pension benefits, without enhancement
- pension benefits would be payable for a period of 3 years
- there will be a review of their situation after 18 months

If the employee finds gainful employment after their employment ends with the Council, they are required to notify the Council immediately, providing details such as pay and working hours etc. The Council will then consider the details regarding the employment and if this is deemed to be gainful employment according to the Regulations stipulated above, pension payments are stopped.

37.4 The employee should be offered the opportunity to appeal against the medical decision. Human Resources will arrange for an independent medical examination. The independent medical examiner should not have been treating the employee previously.

37.5 Where the IRMP determines that an employee does meet the criteria for ill-health retirement under any tier, the employee will be informed and a decision hearing will be convened to determine whether the employment should be terminated on grounds of capability (ill-health). The decision hearing will be chaired by the Head of Service/ Service Director with advice from Human Resources. The employee will be invited but is not under any obligation to attend if they do not wish to, or are not fit to attend.

37.6 The effective date of termination will then be the date notice expires. The reason for dismissal is that the employee is incapable of attending work for health reasons and has been declared unfit for employment (either permanently or currently). Where an employee would be better off taking their pension earlier, they can decide to forgo their notice payment.

37.7 Any termination of employment on health grounds is a dismissal on grounds of health capability and the dismissed employee must be offered the right of appeal.

Appendix 1 – sick pay entitlements

Teachers

Sick pay entitlements for teachers are set out in the Burgundy Book. These are summarised below.

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 then 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 fourth and subsequent years	full pay for 100 working days and half pay for 100 working days

For the purpose of calculating a teacher's entitlement a year is deemed to begin on 1st April and end on 31st March of the following year. Where a teacher starts service after 1st April in any year, the full entitlement for that year will be applicable. Where a teacher is on sick leave on 31st March in any year, no new entitlements shall begin until the teacher has resumed duty and the period from April 1st until the return to duty is regarded as part of the preceding year's entitlement for the purpose of this scheme.#

Support employees

Support employees are entitled to receive sick pay in accordance with West Berkshire Council's terms and conditions of employment. The entitlement is summarised below;

During 1st year of service	1 month's full pay and (after completing 4 months service) 2 months half pay
During 2nd year of service	2 months full pay and 2 months half pay
During 3rd year of service	4 months full pay and 4 months half pay
During 4th and 5th year of service	5 months full pay and 5 months half pay
After 5 years service	6 months full pay and 6 months half pay

Entitlement is calculated on a rolling year basis.

Appendix Three

Consent form for Consideration for Ill-Health Retirement under LGPS

Before we can arrange an assessment by an IRMP for Ill-health Retirement, you must sign and date this form to demonstrate that you fully understand the implications of your assessment.

- I wish to be assessed by an Independent Registered Medical Practitioner (IRMP) for Ill-Health Retirement.

- I have read the guidance about the benefits available to me under the LGPS ill-health retirement scheme, and understand the tiers of assessment.

- I understand that it is my responsibility to seek information about my pension entitlements directly from Berkshire Pensions.

- I understand that, if the IRMP assesses that I do fulfil the criteria for tier 1, tier 2 or tier 3, the Council will convene a decision hearing to decide whether my employment will be terminated with due paid notice. The decision meeting will normally act on the recommendation of the IRMP if he/she declares that I am unfit for work, and will issue notice to termination of employment due to (ill-health) capability. However, this is subject to any representations made by the employee and his/her representative.

- I have informed my line manager that I wish to be assessed for ill-health retirement.

- I understand that, if I do not agree with the assessment of the IRMP I can appeal their decision and also appeal against the decision to terminate my employment.

Signed: _____ Date: _____

Print Name: _____