



## 08.1 (b) – Sickness Absence Management Procedure For Schools

(Procedure Agreed with All Recognised Trade Unions)

HR Consultancy

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# Sickness Absence Management Procedure

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## 1. Introduction

- 1.1 Regular attendance by school employees is critical in providing a good standard of education for the children. Employees should be aware of their responsibility to attend regularly and will be provided with support where appropriate. Where an employee's absence causes concern, the Headteacher/line manager will review absence levels and decide whether action is required under the relevant procedure. Levels of absence likely to trigger a review are detailed below.

## 2. Key Procedural Principles:

- 2.1
- take appropriate action promptly, consistently and confidentially;
  - maintain contact with the employee during their absence and keep documentation/notes of meetings/telephone calls;
  - keep comprehensive absence records, stored securely and confidentially, in line with GDPR/data protection regulations;
  - hold Return to Work discussions with staff on their return after any illness;
  - take account of the overall level of absence with recurrent absences and prompt action under the relevant long or short-term procedure; the school will be able to enter the process at any stage depending on the level of absence or circumstances of a particular case within the parameters of the Sickness Absence Management Policy;
  - seek medical advice/refer to OH when appropriate, to ensure decisions are based on up-to-date medical information - if an employee does not engage with consent/attendance at OH appointments, employment decisions will have to be taken without the benefit of that information;
  - employees have the right to be represented by a trade union official or accompanied by a work colleague, but not a practising lawyer, at all formal meetings held under these procedures, including Case Review meetings and meetings to discuss OH reports;
  - formal meetings should not be unreasonably delayed due to non-availability of the employee's companion; if there is a good reason that either the employee or their companion cannot attend, meetings will usually be re-arranged once within 5 working days;
  - seek HR advice as early as possible.

## 3. Notification Procedure

- 3.1 Employees should notify the school as early as possible before the beginning of the school day and in accordance with the **<name of school's notification procedure>**.
- 3.2 In the case of Headteachers, they should also notify the Chair of Governors.

- 3.3 Employees should provide an explanation of the absence and where possible, an indication of likely return date. Where an employee becomes ill during the school day and leaves the school site, they must inform their Headteacher/line manager before doing so.
- 3.4 It is expected that employees will keep their Headteacher/line manager updated on the nature and duration of their absence. They should notify them of their intention to return in advance and with as much notice as possible to enable cover arrangements to be managed.
- 3.5 If an employee fails to provide timely notification of their absence without good reason this may lead to disciplinary action and/or loss of pay. Employees should be made aware if this is being considered.
- 3.6 Arrangements should be made for teachers to notify the Headteacher/line manager of becoming fit to return to work during school holiday periods.
- 3.7 Non term-time only staff who become ill during the course of annual leave are eligible to reclaim those days affected as long as they have followed the proper reporting procedures. The school may also request evidence such as a GP certificate. Where an employee is absent due to sickness on a Bank Holiday, they will receive sick pay as normal, but no substitute days will be granted.
- 3.8 An employee who is absent for a whole year due to sickness may carry forward up to 4 weeks statutory annual leave (pro-rata for part-time staff). Any carry forward would include the 5 days maximum (pro-rata for part-time staff) permitted in the Annual Leave guidance.

#### **4. Certification**

- 4.1 The employee will also be required to complete a Self-Certification form following each period of sickness absence (**Appendix 1 in Guidance document**).
- 4.2 In addition to completing the Self-Certification form any sickness absence lasting for more than 7 calendar days will require the submission of timely medical certificates, as necessary. Failure to provide a medical certificate in a timely manner (within one week of it being due), without good reason, may result in disciplinary action and/or loss of pay. Employees should be made aware if this is being considered.
- 4.3 All sickness absence should be recorded, including part days (and notified to School Employee Services on weekly absence returns). It is advised that records are kept on school personal files and used to check or confirm any patterns of absence which may require further discussion or investigation.

#### **5. Occupational Health Referrals**

- 5.1 A referral to Occupational Health may be made at any point where there is a concern about an employee's health and/or attendance record, with the employee's consent. They should be aware of the content of the referral. The

referral can be made by the Headteacher/line manager through HR Consultancy for Schools or through the school's OH provider if applicable.

- 5.2 Following an appointment, a report will be sent to the Headteacher/line manager and HR Consultant when employee has provided permission to release the report. The report will contain professional medical advice regarding health issues, likely timescales, where known and any recommendations.
- 5.3 If an employee refuses to provide consent to be referred or fails to attend appointments without good reason, they should be made aware that refusal to co-operate may have an impact on employment decisions, which will be made without the benefit of medical advice.
- 5.4 For further guidance on Occupational Health referrals refer to the Guidance document.

## **6. Counselling Referrals**

- 6.1 A referral for confidential counselling may be useful when an employee's psychological ill-health is impacting detrimentally on their ability to work effectively. If a school wishes to arrange counselling services, please contact your HR Consultant for further details of the services available and relevant charges.
- 6.2 Confidential counselling is also available for teachers from the Education Support Partnership (previously known as Teacher Support network) on its Employee Assistance Programme – telephone: 0800 056 2561 (24 hours) / website: [www.educationsupportpartnership.org.uk/about-us](http://www.educationsupportpartnership.org.uk/about-us).

## **7. Return to Work Discussions**

- 7.1 Return to work meetings should be held between the Headteacher/line manager and the employee after each sickness absence, regardless of duration or reason. It should be a supportive measure to ensure they are fit to be at work and to provide any updates and support. A Return to Work form (**Appendix 2 in Guidance**) should also be completed at this meeting. Further guidance on return to work discussions can also be found in the Guidance. Where there are concerns because of an emerging pattern of absence a Sickness Absence Monitoring meeting should take place (see Short-term Sickness Absence procedure – paragraph 9).

## **8. Short-term Sickness Absence - Definition and Trigger Points**

- 8.1 Defined as a period of sickness absence which lasts for less than 4 weeks. Usually this type of absence is of short duration of up to 7 days. This could also be repeated cycles of long-term sickness absence followed by either short-term sickness absences or by several weeks/months' full attendance.

- 8.2 As a guide, 'trigger' points which should prompt a review of absence, but not necessarily result in action being taken:
- 5 episodes of sickness absence in a rolling 12-month period (or 2 to 3 absences in any one term); or
  - 10 or more working days (pro-rata for part-time staff); or
  - any other recurring patterns of absence which give rise to concern, for example absences Monday/Fridays, before/after school holidays or deadline dates.
- 8.3 Where a support member of staff is in their probationary period and absence is of a concern, this should be dealt with under the Probationary Procedure.

## 9. Short-term Sickness Absence - Informal Procedure

- 9.1 Where there is concern over the level of an employee's short-term sickness absence, a **Sickness Absence Monitoring Meeting** should be held. This is an informal meeting to express concern about the level of absence and to establish whether there is an underlying cause and where appropriate to outline the improvement needed. The employee should be given at least **2 working days'** notice of this meeting.
- 9.2 At this meeting the approach should be supportive, but the employee should be clear that levels of absence are causing concern, that the absences have an impact on the school and that an improvement is being sought. A Sickness Absence Monitoring Checklist (which can be found in the Guidance document, under section I) can be used to focus discussion at this meeting and also as a record that a meeting has taken place. A note of any agreed course of action should be attached to this form (**Appendix 3 in Guidance**).
- 9.3 Possible **outcomes** of such a meeting may be:
- 9.3.1 (a) The Headteacher/line manager may be satisfied with the employee's explanation and that absence levels will improve, therefore decides to take no further action at this stage.
- (b) The reasons for the absence are unclear **or** the Headteacher/line manager believes that the employee may have an underlying condition and seeks employee's consent to seek further medical information.
- if there **is an underlying medical problem**, appropriate support should be offered to the employee, such as counselling, specialist equipment, or professional support. Absence should continue to be monitored and the situation formally reviewed at a pre-agreed date;
  - if there is **no underlying medical problem**, it should be made clear to the employee that their current levels of sickness absence are not acceptable, agree a level for improvement and monitor.
- (c) There is good reason to believe the absence may be a conduct issue, e.g. it is unauthorised; the employee has been undertaking activities inconsistent

with their sickness absence; the employee has falsely certified themselves as sick, etc., and disciplinary action may be appropriate.

- (d) As part of the discussion it may become clear that the employee concerned is experiencing difficulties with their job or that their job is exacerbating another problem. If this is the case discussions should take place regarding what measures may need to be put in place.
- (e) If the employee is experiencing personal or domestic difficulties it may be appropriate to consider compassionate or other leave provisions, or other temporary adjustments to working arrangement.

9.3.2 Following consideration of the above, if the Headteacher/line manager is not satisfied with the employee's explanation, **or** feels that the current level of absence is detrimental to the operation of the school and cannot be sustained, the employee should be clearly informed that absence levels will be monitored. A level for improvement should be agreed and date set to review the situation (e.g. half/one term), standards required and possible consequences of failure to meet those standards should be clearly stated and possible support measures agreed.

#### 9.4 **Informal Stage – Review**

9.4.1 At the end of the agreed period the Headteacher/line manager will meet with the employee to review the absence record, any medical information and other relevant factors.

9.4.2 The review will determine one of the following:

- (a) extension of the informal stage;
- (b) absence levels have reached the standards required and no further action is necessary;
- (c) absence levels have failed to meet the standards required and it is necessary to call a meeting under the **Short-term Sickness Absence - Formal Procedure - Stage 1**.

9.4.3 In all appropriate cases the employee should be warned of the possibility of dismissal if the situation does not improve and account taken of the following:

- seeking further medical advice – medical advice may be sought at any stage of this procedure when it is deemed necessary and should certainly be considered **before the commencement of formal stages**;
- any underlying factors, e.g. performance, domestic or work-related problems;
- the likelihood of improvement in attendance;
- the possibility and likely effect of any adjustments to the job; and
- the effect on the organisation of past and future absences.

### 10. **Short-term Sickness Absence - Formal Procedure**

10.1 Advice should be sought from HR Consultancy for Schools before formal action is considered under this procedure. A HR Consultant may attend meetings where required. The three stages of this process are progressive and are

- intended to remind the employee of the expected attendance levels and be provided with an opportunity to improve.
- 10.2 Where warnings are issued as part of the procedure, it is not necessary to wait for the end of the review period if the absence level continues to be unacceptable and the employee hits a further trigger point.
- 10.3 In situations where an employee's absence has improved, but subsequently becomes a concern again, the overall level of absence will be taken into account in determining further action, which may include moving to the next stage of the Formal procedure.
- 10.4 At any meeting under this procedure, the Headteacher will share his/her concerns over the level and impact of the absence. The employee and/or his/her representative must have the opportunity to make representations (**see Guidance for Checklist of considerations**).
- 10.5 Where an employee refuses to attend an Occupational Health/medical appointment, every effort should be made to understand the reasons and to resolve as far as possible. However, if the employee continues to refuse, they should be informed that progression through the formal stages will continue with decisions based on information available at that time and this should be recorded.
- 10.6 **First Formal Meeting - Stage 1**
- 10.6.1 After review, if there has been little or no improvement in the level of absence a formal meeting should take place with the employee. The employee must receive at least **5 working days'** written notice of this meeting (with copies of supporting documentation) and is entitled to be accompanied by a trade union representative or colleague at this meeting (**Model Letter 1 in Guidance**).
- 10.6.2 At this meeting the employee should have an opportunity to explain their absences and any possible mitigating circumstances, as well as suggest/request any support or other measures which they think could help improve attendance.
- 10.6.3 After consideration of the above, the outcome should be confirmed in writing. If there is sufficient reason for ongoing concern the letter issued (**Model Letter 2 in Guidance**) should:
- (a) confirm that improvement is sought and any support that was agreed;
  - (b) indicate any further levels of improvement (to be set for a period of between 4 and 12 working weeks);
  - (c) confirm that further action under this procedure up to and including dismissal, will be taken if there is insufficient improvement.
- 10.7 **First Formal Meeting Stage 1 - Review**  
The Headteacher/line manager will review the case and should decide on one of the following **outcomes** and confirm this in writing:
- (a) sufficient improvement so no further action will be taken under the formal stages of the procedure; however it may be appropriate to continue to

- monitor the situation and action may be resumed under Stage 1 if there is any further absence in the near future;
- (b) extension of the review period (e.g. 4 to 12 working weeks) failure to improve would lead to progression to Stage 2;
  - (c) progression to Stage 2 if the levels of improvement have not been achieved.
- 10.8 **Second Formal Meeting - Stage 2**
- 10.8.1 Where improvement has not been met during the review period laid down, a Second Formal Meeting will be convened (**rather than holding a First Review meeting as detailed above**). The employee must receive at least **5 working days'** written notice of this meeting (with copies of any supporting documentation) and is entitled to be accompanied by a trade union representative or colleague at this meeting (**Model Letter 3 in Guidance**).
- 10.8.2 Again, at this meeting the employee should have an opportunity to explain/discuss their absences and any possible mitigating circumstances, as well as suggest/request any support or other measures which they think could help improve attendance.
- 10.8.3 If it is determined that there is still reasonable/sufficient cause for concern, a final letter will be issued confirming the further improvement sought and timescales and that failure to achieve may result in dismissal (**Model Letter 4 in Guidance**).
- 10.9 **Second Formal Meeting – Review**
- If the required levels of improvement have **not** been met, the Headteacher/line manager will review the case, including cumulative absence record and all medical advice to decide on one of the following outcomes, again confirmed in writing:
- (a) sufficient improvement, therefore no further action will be taken under the formal stages of the procedure, however the employee should be made aware that action may be resumed under Stage 2 if sickness absence levels increase;
  - (b) extension of the review period (e.g. 4 to 12 working weeks) failure to improve would lead to progression to Stage 3;
  - (c) progression to Stage 3 if the levels of improvement have not been achieved.
- 10.10 **Panel Hearing (for Consideration of Dismissal) – Stage 3**
- 10.10.1 If dismissal is a consideration at the end of this review period, it will be necessary convene a hearing before a panel of Governors\* to consider the matter (**Model Letters 5 and 6 in Guidance refer**). The procedure for this meeting is given at **Appendix 2**. This includes the presentation of a report from the Headteacher/line manager, including any medical information received, and an opportunity for the employee to make representations against dismissal. The employee must be given at least **10 working days' notice**, in writing with copies of any supporting documentation. They will be entitled to be accompanied by a trade union representative or colleague at this meeting.
- 10.10.2 The panel of Governors\* hearing the case, having considered all relevant factors, must then determine whether in the light of the information presented,

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\* or those with delegated powers of dismissal (see Appendix 4)

the employee should be dismissed\*\*. The employee will normally be informed of the panel's decision at the end of the hearing, but the decision will be confirmed in writing within 5 working days of the hearing (**Model Letter 7 in Guidance**).

- 10.10.3 Appeals against a decision to dismiss will be carried out in accordance with the procedure given at **Appendix 3**.

## **11. Long-term Sickness Absence - Definition**

- 11.1 Long-term sickness is defined as a period of sickness absence which lasts 4 or more weeks. This could also be repeated cycles of long-term sickness absence followed by either short-term sickness absences or by several weeks/months' full attendance.
- 11.2 Headteachers/line managers should review the situation once the employee has been off sick for one month and as appropriate thereafter. This may involve a discussion with the employee and/or taking advice from HR Consultancy for Schools.

## **12. Long-term Absence Process**

- 12.1 Maintain contact with the employee whilst they are absent; this is important to fulfil your duty of care, to find out how they are, establish the likely length and nature of absence with the employee and keep them updated with what is happening at school if they wish to know. It may be useful to agree the frequency and method of contact with the employee.
- 12.2 **Case Review meeting**  
At least one should be held within 3 months of absence and can be held at any stage during the long-term procedure, to review the health and absence situation, consider latest medical advice and possible next steps. The employee may be accompanied by a trade union representative or colleague. A HR Consultant may also be present (**Model Letter 8 in Guidance**).
- 12.3 Consider whether/when an Occupational Health referral would be useful as a supportive measure and to obtain expert medical advice and whether the employee would benefit from offering confidential counselling or any adjustments.
- 12.4 If long-term sickness absence appears to have been triggered by the commencement of formal capability/conduct procedures, medical advice may be sought about the impact of the one on the other.
- 12.5 Once the medical opinion has been received, consideration will be given to the issues raised, usually discussed at a meeting for that purpose/Case Review meeting.
- 12.6 Possible outcomes of a Case Review include: an agreed return date; adjustments being arranged; further review; consideration of alternative

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\*\* Dismissal will normally be on the grounds of capability. HR Consultancy for Schools will advise.

employment; of ill-health retirement; or of dismissal, taking account of all factors, balancing out individual and operational needs.

- 12.7 The number of reviews and length of time between each review will depend on the individual circumstances of any one case. HR Consultancy for Schools will advise upon the above considerations. It is important to act reasonably in all the circumstances. It is also important that an individual who has been absent for a long period is offered support to help them to return to work.
- 12.8 **Phased return**
- 12.8.1 With regards to return to work, account should be taken that an employee who has been absent for a long period may need extra support and flexibility to help them settle back into work. A phased return, allowing a return to work initially on a reduced hours/duties basis should be considered if appropriate, but should be meaningful to both parties. Employees should be fit to return at that point and the purpose of a phased return is to rebuild stamina in the role.
- 12.8.2 Details of the phased return should be agreed and kept under review. Usually, the employee should work at least half their contracted hours/duties at the outset, building up to full normal hours/duties, although the pattern of attendance may vary and should increase from week to week. The phased return should not normally exceed 4 weeks (or **exceptionally** up to 3 months). Where hours are required to be reduced beyond this period, the employee's contract the school should consider either a temporary or permanent reduction of hours.
- 12.8.3 Any arrangements must be clear and should be confirmed in writing. Ensure that accurate records are kept of any risk assessments and return to work meetings.
- 12.8.4 During a phased return, the employee is paid normal pay for when they are at work and sick pay (at the appropriate level – full/half/nil) for when they are not at work and you will need to ensure that School Employee Services (SES) or your school's payroll provider are informed so that they can correctly record sick pay entitlements. The hours not worked should continue to be recorded as 'sickness absence' and the hours worked as 'phased return'.
- 12.9 **Fit Notes and Return to Work**
- 12.9.1 Following an extended period of sickness absence an employee may request, or their doctor/Occupational Health may recommend, a return to work with certain considerations. The 'fit notes' allow two options. The GP can either state that the employee is **not fit to work** or they can state that the employee **may be fit for work** taking account of advice on the note. The advice may include **phased return/altered hours/amended duties/workplace adaptations**.
- 12.9.2 It is still possible to make such arrangements with an employee without formal advice from the GP. However, in some cases, HR may wish to seek further clarification from Occupational Health/doctor.
- 12.9.3 If it is not operationally practicable to make the adjustments advised or you feel that it is not appropriate for your employee to return to work at that stage, then

you need to explain the reasons to the employee and then treat the Statement as if it were a 'not fit for work' statement. The recommendations from a GP are not binding on employers.

- 12.9.4 Where an employee is signed unfit to work, the GP will indicate whether or not they wish to assess the fitness again at the end of the period. If the employee regains fitness and wishes to return to work before the end of the Statement period they may do so (unless you have grounds to believe they are not fit to work). The employee will not need to return to their GP to be 'signed fit'. It is not advisable for employees to return earlier where the GP has indicated they need to assess fitness again.
- 12.10 **Dismissal Decision Hearing**
- 12.10.1 If at the end of this review the Headteacher/line manager considers dismissal may be appropriate, it will be necessary to convene a hearing before a panel of Governors\* to consider the matter. Any such hearing is likely to take place within 12 months of the period of absence commencing. This includes an opportunity for the employee to make representations against dismissal. Employees must be given at least 10 working days' notice of this hearing, in writing with copies of any supporting documentation, including the Headteacher's report (**Model Letter 9 in Guidance**); the procedure for this meeting is given at **Appendix 2**. The employee has the right to be accompanied at the hearing by a colleague or trade union representative.
- 12.10.2 The panel of Governors\* hearing the case, having considered all relevant factors, must then determine whether, in the light of information presented/available, the employee should cease to work at the school\*\*. The employee will normally be informed of the panel's decision at the end of the hearing and the decision will be confirmed in writing within 5 working days of the hearing (**Model Letter 10 in Guidance**).
- 12.10.3 Any appeal against a decision to dismiss will be carried out in accordance with the procedure given at **Appendix 3**.
- 12.10.4 In the case of ill-health retirement, under the LGPS regulations employees must be dismissed in order to release their pension benefits. If an employee has been certified permanently medically unfit to work, they may not wish to contest a recommendation to dismiss and do not have to attend; HR Consultancy for Schools will advise on the process. Where the medical evidence does not support permanent incapability alternatives will need to be discussed.

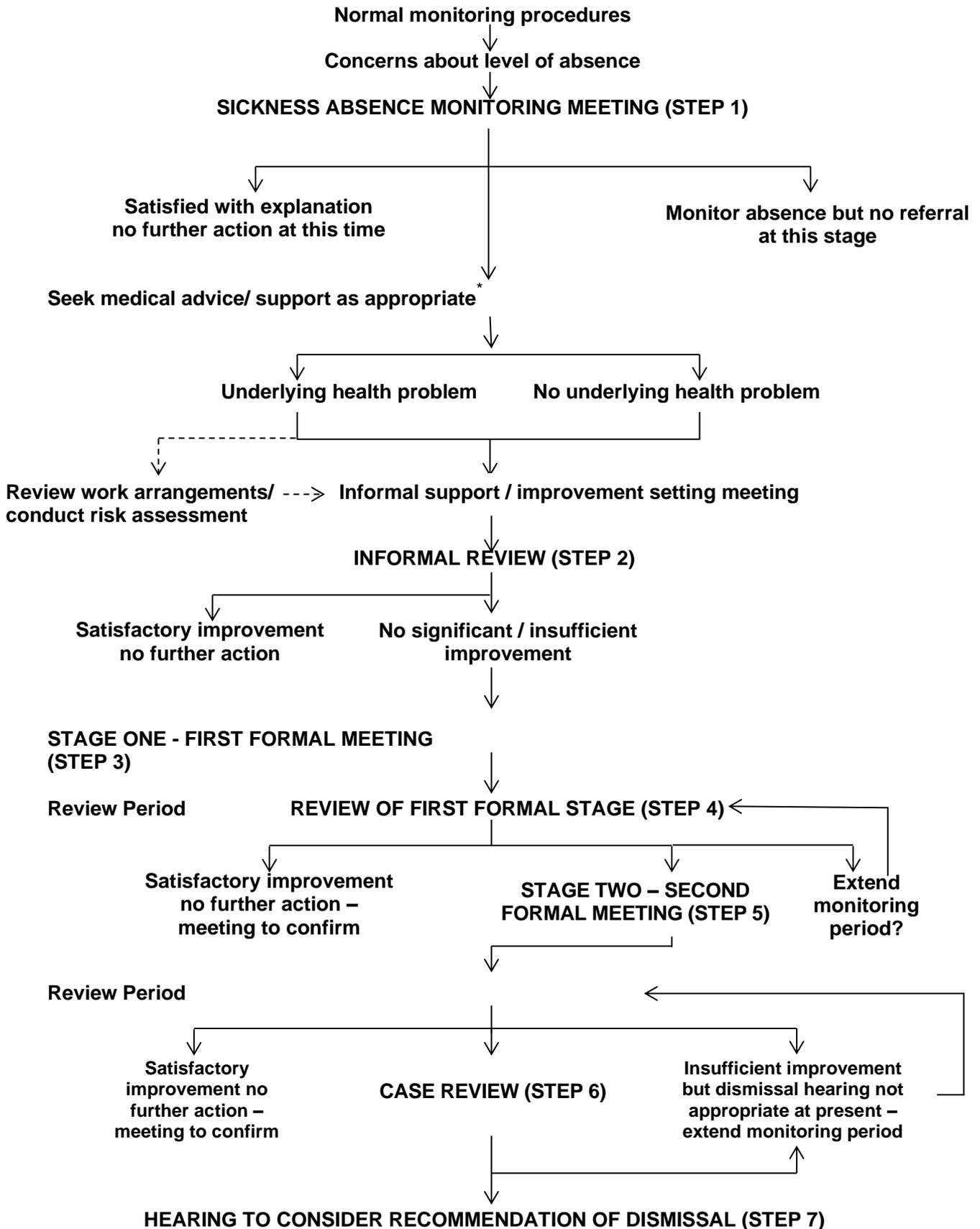
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\* or those with delegated powers of dismissal (see Appendix 4)

\*\* dismissal will normally be on the grounds of capability. HR Consultancy for Schools will advise.

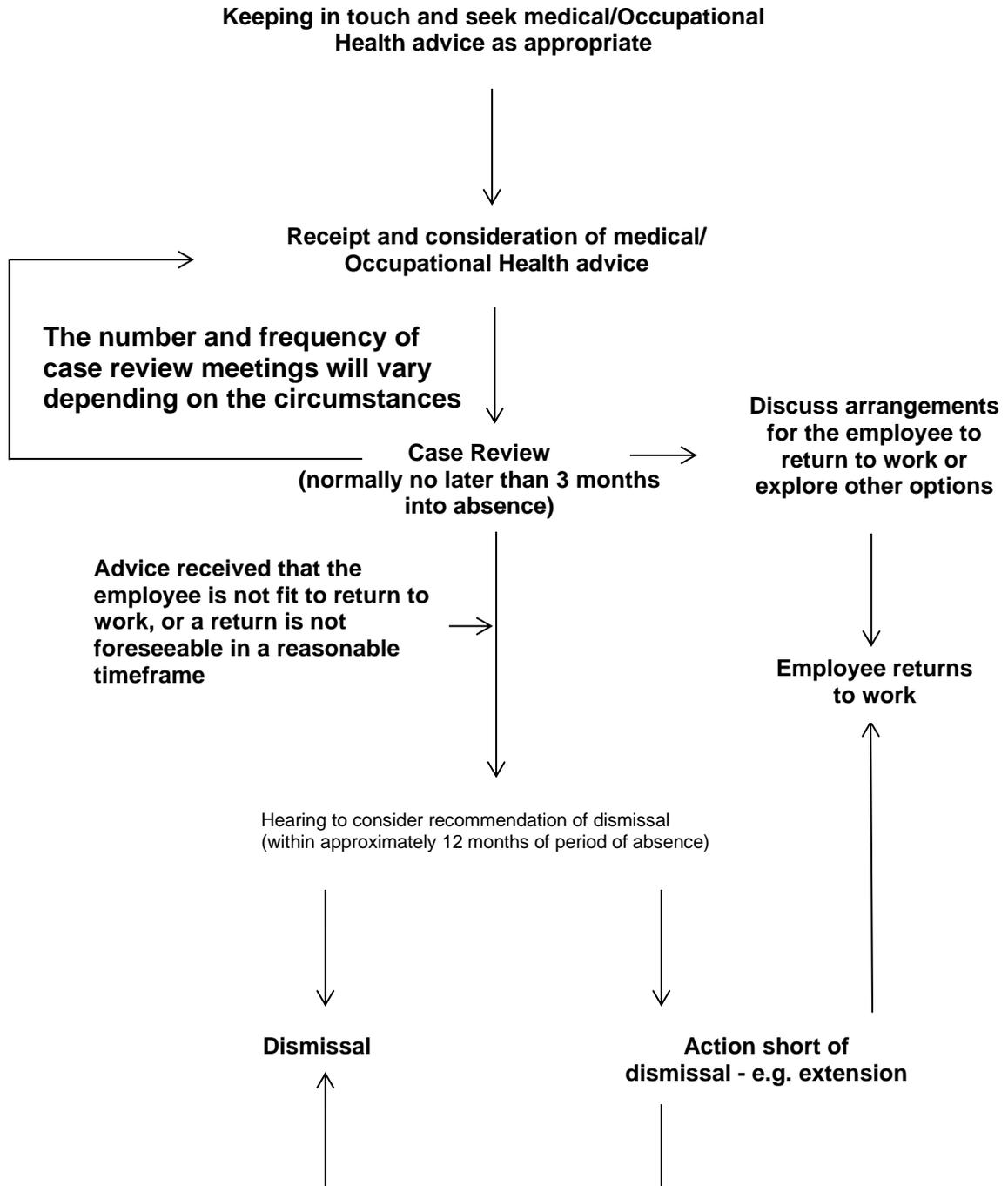
Appendix 1 – Short and Long-term Sickness Absence Flow Charts

**SHORT-TERM SICKNESS ABSENCE FLOWCHART**



\* Occupational Health/medical advice may also be sought at successive stages of this procedure.

## LONG TERM SICKNESS ABSENCE FLOWCHART



## Appendix 2

### Procedure for a Hearing in relation to a proposed Dismissal

Where the relevant procedure has been exhausted and the Headteacher believes dismissal is appropriate, he/she should arrange for a hearing to consider recommendations for dismissal. HR Consultancy for Schools has the right to be represented at this meeting as adviser to the decision makers\*. (A HR Consultant will attend as adviser to the decision maker(s) on behalf of HR Consultancy for Schools.)

The Headteacher/line manager ('Management') may be accompanied by a separate HR Consultant, who may speak on his/her behalf.

Although the decision maker(s) will take notes of the proceedings, there is no obligation on them to make these available to the employee. The employee and/or his/her representative is at liberty to make their own notes during the proceedings. The use of tape recorders, cameras, etc. for this purpose is not allowed.

Copies of any information/papers which it is proposed to present at the hearing should be circulated 5 working days in advance. Material not previously circulated or referred to will only be admitted with the agreement of both parties.

Adjournments may take place at any stage of the hearing before a decision is given. An adjournment allows for proper consideration of all matters raised. Further checking may take place if necessary, where facts are in dispute. If new facts emerge, consideration should be given to whether the hearing needs to be reconvened following further investigation.

The employee and his/her representative shall be given not less than 10 working days<sup>\*\*</sup> notice of the date, time and place of the hearing<sup>\*\*\*</sup> which shall take place in accordance with the following procedure:

- (a) The decision maker(s) to introduce those present, explain the purpose of the hearing, outline the order of business and remind those present of the confidential nature at the proceedings.
- (b) The decision maker(s) to clarify that it is not intended to make available notes of the hearing. No unreasonable restrictions will be placed on the employee or their representative if they wish to make notes for their own use.
- (c) Management shall put the case in the presence of the employee and his/her representative, calling any witnesses as appropriate.

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\* depending on who has the delegated powers to dismiss, the decision maker(s) may be  
(a) nominated Governor (or Governors), and/or  
(b) the Headteacher (see Appendix 4).

\*\* working days = days during which the school is open, including training days.

\*\*\* where the chosen representative cannot attend on the date proposed, the employee can offer an alternative time and date so long as it is reasonable

- (d) The employee (or his/her representative) shall have the opportunity to ask questions of management and witnesses.
- (e) The decision maker(s) and officer adviser shall have the opportunity to ask questions of management and witnesses.
- (f) The employee (or his/her representative) shall put his/her case in the presence of the management, calling witnesses as appropriate.
- (g) The management shall have the opportunity to ask questions of the employee (or representative) and witnesses.
- (h) The decision maker(s) and officer adviser shall have the opportunity to ask questions of the employee (or representative) and witnesses.
- (i) The management and the employee (or his/her representative) shall have the opportunity to sum up their case in turn if they so wish but must not introduce any new factors.
- (j) The management, his/her adviser, the employee and his/her representative shall all withdraw.
- (k) The decision maker(s) and the HR Consultant representative shall deliberate in private, only recalling the management and the employee (and his/her representative) to clear points of uncertainty on information already given. If recall is necessary, both parties shall return even though only one is concerned with the point giving rise to doubt.
- (l) The decision maker(s) shall announce the decision to the management and the employee (and his/her representative) in person.

If the decision maker(s), after considering the information presented, determine that the employee should be dismissed, the employee shall be advised accordingly and the dismissal will take place with the notice prescribed by the employee's contract of employment.

The employee will be informed of their right of appeal against the decision to the Appeals Panel of the Governing Body. The decision of the panel will be notified to the employee in writing within 5 working days\*\* of the hearing.

A copy of the letter shall at the same time be sent to School Employee Services with a covering letter requesting that the employee be dismissed following appropriate notice.

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\*\* Working days = days during which the school is open, including training days.

## Appendix 3

### Procedure for Appeals

Where an employee wishes to appeal against the decision to dismiss he/she must:

- (a) lodge the appeal in writing;
- (b) state his/her reasons for wanting to appeal\*;
- (c) send this letter to the Clerk to the Governing Body within 10 working days\*\* of receipt of the decision to dismiss.

If the employee appeals against the decision of the dismissal hearing the matter shall be dealt with by the Appeals Panel of the Governing Body. HR Consultancy for Schools has the right to be represented at the meeting as adviser to the panel. (A HR Consultant will normally attend as adviser to the panel on behalf of HR Consultancy for Schools.)

The Headteacher/line manager ('Management') may be accompanied by a separate HR Consultant, who may speak on his/her behalf where appropriate.

Although Governors will take notes of the proceedings, there is no obligation on the panel to make these available to the employee. Employees and/or their representative are at liberty to make their own notes during the proceedings. The use of tape recorders, cameras, etc. to record proceedings of the hearing is not allowed.

Adjournments may take place before a decision is given. An adjournment allows for proper consideration of all matters raised. Further checking may take place if necessary, where facts are in dispute, to decide which version is most probable. If new facts emerge, consideration should be given to whether the hearing needs to be reconvened following further investigation. Material not previously circulated or referred to will only be admitted with the agreement of both parties.

The employee and his/her representative shall be given not less than 10 working days\*\* notice of the date, time and place of the meeting of the Appeals Panel at which the appeal is to be heard. The panel shall hear the case in accordance with the following procedure:

- (a) Chair of the panel to introduce those present, explain the purpose of the meeting, including the confidential nature of proceedings, and outline the order of business.
- (b) Chair of the panel to clarify that it is not intended to make available notes of the meeting. No unreasonable restrictions will be placed on the employee or their representative if they wish to make notes for their own use.

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\* Where the appeal is against an opinion of permanent medical unfitness the Appellant may wish to introduce further medical evidence. If so, the Appellant must present this a minimum of 5 working days **in advance** of the appeal hearing so that further advice can be sought if required.

\*\* Working days = days during which the school is open, including training days.

- (c) The Appellant shall give a short simple statement without any elaboration or explanation of the remedy being sought (if this is not already included in written submission).
- (d) The Management shall put the case in the presence of the Appellant and his/her representative, calling witnesses as appropriate.
- (e) The Appellant (or his/her representative) shall have the opportunity to ask questions of the Headteacher and witnesses on the information given by them.
- (f) The panel and HR Consultant shall have the opportunity to ask questions of the Headteacher and witnesses.
- (g) The Appellant (or his/her representative) shall put his case in the presence of the Management, calling witnesses as appropriate.
- (h) The Management shall have the opportunity to ask questions of the Appellant (or representative) and witnesses.
- (i) The panel and HR Consultant shall have the opportunity to ask questions of the Appellant (or representative) and witnesses.
- (j) The Management and the Appellant (or his/her representative) shall have the opportunity to sum up their cases in turn if they so wish but must not introduce any new factors.
- (k) The Headteacher, his/her adviser and the Appellant and his/her representative shall all withdraw.
- (l) The panel and HR Consultancy for Schools (or representative) shall deliberate in private only recalling the Management and the Appellant (and his/her representative) to clear points of uncertainty on information already given. If recall is necessary, both parties shall return even though only one is concerned with the point giving rise to doubt.
- (m) The panel shall announce the decision to the Headteacher and the Appellant (and his/her representative) in person.

The decision of the Appeals Panel shall be notified in writing to the Appellant within 5 working days<sup>\*\*</sup>. There shall be no further right of appeal under this procedure. However, nothing in this procedure shall be construed to limit an employee's rights under the Employment Rights Act 1996 or any other enactment.

Where the appeal is upheld, a copy of the letter shall at the same time be sent to School Employee Services with a covering letter requesting that the employee be reinstated.

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<sup>\*\*</sup> Working days = days during which the school is open, including training days.

## Appendix 4 - Delegation of Authority to Dismiss

### Dismissal of Staff other than Headteacher

Under the School Staffing (England) Regulations 2009 the Governing Body may delegate its power to determine that any person employed or engaged by Worcestershire County Council to work at the school should cease to work there (Community, Voluntary Controlled, Community Special and Maintained Nursery) or to dismiss its staff (Foundation, Voluntary Aided, Foundation Special) to:

- (a) one or more Governors and the Headteacher (which may be called a Staff Dismissal Committee)
- (b) one or more Governors
- (c) the Headteacher.

For the purposes of Appeal rights, the Governing Body must appoint a Dismissal Appeal Panel. This should be a panel of three Governors, other than in exceptional circumstances. No Governor to whom the power to dismiss was delegated may sit on the Dismissal Appeal Panel. The Headteacher may not sit on the Dismissal Appeal Panel.

#### Dismissal of the Headteacher

Under the School Staffing (England) Regulations 2009 the Governing Body may delegate its power to determine that the Headteacher should cease to work at the school or be dismissed to one or more Governors.

For the purposes of Appeal rights, the Governing Body must appoint a Dismissal Appeal Panel. This should be a panel of three Governors, other than in exceptional circumstances. No Governor to whom the power to dismiss was delegated may sit on the Dismissal Appeal Panel.

**For ease of understanding, those who have the delegated authority to dismiss will be referred to in these proceedings as 'Decision-Makers'.**

#### Rights of Attendance/Advisory Rights

Where the Governing Body has delegated dismissal powers of staff other than the Headteacher to one or more Governors, the Headteacher has a right under the 2009 Regulations to attend at and give advice to all relevant meetings/hearings held by those Governors and they must consider that advice in coming to their decisions. That advice shall be given by the Headteacher in the course of the presentation of the case against the employee.

For community, voluntary controlled, community special and maintained nursery schools, Worcestershire County Council has a statutory entitlement to send a representative and offer advice to all proceedings relating to dismissal and those to whom the function has been delegated must consider that advice in coming to their decision.

**Note:** Reserves will only be used in emergencies and following consultation with HR Consultancy for Schools and the recognised trade unions. In the event of the Clerk to the Committee being unavailable a HR Consultant may act as Clerk at a particular meeting.

## Appendix 5 - . Local Government Pension Scheme (LGPS) Appeal Procedure

### Decisions and Applications for Adjudication of Disagreements

#### BACKGROUND

This procedure is in accordance with The Local Government Pension Scheme Regulations 2013 (as amended) Part 2, Regulation 72 Decisions.

All pension schemes are required to have a formal Internal Disputes Resolution Procedure (IDRP) and ours is called LGPS Appeal Procedure (here within known as the appeal procedure).

This procedure provides a guide to how the appeal procedure operates within the Local Government Pension Scheme and is provided for general information only. It does not cover every aspect of the Regulations. It is not an interpretation of the scheme regulations. In the event of any unintentional differences, the scheme regulations will prevail. This procedure does not confer any contractual or statutory rights.

#### FIRST INSTANCE DECISIONS

From the day a person becomes a member of the LGPS, to the day when benefits or dependant's benefits are paid, the employer (known as the Scheme employer) and the Pension Fund (known as the administering authority) have to make decisions under the Pension Scheme rules that affect you (or your dependants).

The Administering Authority must decide any question concerning:

- (a) a person's previous service or employment;
- (b) the crediting of additional pension under regulation 16 (additional pension); and
- (c) the amount of any benefit, or return of contributions, a person is or may become entitled to out of a pension fund.

A person's Scheme employer must decide any question concerning any other matter relating to the person's rights or liabilities under the Scheme.

#### NOTIFICATION OF DECISIONS

When you (this includes dependants) are notified of a decision you should check, as far as you can, that it is based on the correct details and that you agree with the decision.

The decision should be confirmed in writing to you as soon as is reasonably practicable. Where the decision is confirming that you are not entitled to a benefit the letter must

contain the grounds for the decision. If the decision is about the amount of benefit it must contain a statement showing how it is calculated.

Every decision letter must provide:

1. contact details where further information about the decision can be obtained;
2. information about the appeal process;
3. time limits within which the member can appeal; and
4. the job title and address to whom appeals may be made.

## ENQUIRIES

If you have any queries about the content of a letter you have received, or you are not sure which pension benefits you are entitled to, or you have a problem with your pension benefits, please contact the person who has written to you, be that your employer or the Worcestershire Pension Fund\*. They will try to deal with the problem as quickly and efficiently as possible.

Many problems that members of the LGPS have are resolved in this way. They may be caused by misunderstandings or wrong information, which can be explained or put right easily. An informal enquiry of this kind may save you a lot of time and trouble.

## COMPLAINTS

If you are not satisfied with any decision affecting you, made in relation to the Pension Scheme, you have the right to ask for it to be looked at again under a formal appeal procedure. You should also use the appeal procedure if a decision should have been made by your employer or administering authority but it hasn't been.

There are also a number of other regulatory bodies, such as The Pensions Advisory Service (TPAS), which may be able to help you. They are described in the 'Additional Help' section below.

The appeal procedure has two stages. Many complaints are resolved at Stage One. Any complaint you make under this procedure will be treated seriously, and considered thoroughly and fairly.

You can ask someone to take your complaint forward on your behalf. This could be, for instance, a trade union official, your husband, wife or partner, or a friend.

No charge is made at any stage for investigating a complaint under the procedure however you are responsible for any expenses that you incur, e.g. your own (and/or your representative's) time, stationery, postage and where incurred, travel expenses.

Please remember that, before going to the trouble of submitting a formal appeal, your employer and/or Pension Fund welcomes the opportunity to try to resolve the matter about which you are dissatisfied in an informal way. It may be worth checking that they know you are concerned, and why.

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\* The Worcestershire Pension Fund is the administering authority that looks after the pension fund.

## THE PROCEDURE

### **Stage One**

If you need to make a formal complaint under this procedure, you should make it:

1. in writing, using the application form below; and
2. within 6 months of the date when you were told of the decision you want to appeal about.

Your complaint will be considered carefully by the person specified by the body that took the decision against which you wish to complain. This guide calls them the 'adjudicator'.

The adjudicator is required to give you their decision in writing, within two months from when they received your complaint. If they are unable to respond within this timeframe the specified person can send you an interim reply setting out the reason(s) for the delay and an expected date to be able to give a decision.

You can refer your complaint for reconsideration to the administering authority adjudicator, i.e. the Worcestershire Pension Fund, in the following circumstances.

Please note the timeframes as these are important for the adjudicator to take into account in determining whether your request for reconsideration is received in time to be actioned:

1. you are not satisfied with the adjudicator's Stage One decision, and you are within 6 months from the date the decision letter (notice) was received; or
2. you have received an interim letter from the adjudicator, but no decision letter (notice) has been given, 7 months from the expected decision date; or
3. you have not received a decision letter (notice) and no interim reply has been sent, 9 months from the date on which your appeal was made.

### **Stage Two**

You can ask the pension scheme administering authority to take a fresh look at your complaint in the circumstances described above. This review would be undertaken by a person not involved in the original decision or the Stage One decision.

You will need to send the administering authority your appeal in writing. The time limits for requesting a reconsideration are provided above. The administering authority adjudicator will consider your complaint and give you their decision in writing, within two months from when they received your completed appeal form. If they are unable to respond within this timeframe the adjudicator can send you an interim reply setting out the reason(s) for the delay and an expected date to be able to give a decision.

If you are still unhappy following the administering authority's adjudicator's Stage Two decision, you can ask the Pensions Ombudsman to investigate and determine any complaint or dispute of fact or law in relation to the Scheme.

## ADDITIONAL HELP

**At any time** if you are having difficulties in sorting out your complaint you may wish to contact:

### **The Pensions Advisory Service (TPAS)**

TPAS can provide free advice and information to explain your rights and responsibilities. To get information or guidance, you can look at the website:

[www.pensionsadvisoryservice.org.uk](http://www.pensionsadvisoryservice.org.uk) or you can contact TPAS by phone or post.

The **Pensions Helpline phone number** is 0300 123 1047. Lines are manned Monday to Friday 9:00am to 5:00pm (excluding public holidays). Alternatively you can write to:

The Pensions Advisory Service (TPAS)  
11 Belgrave Road  
London  
SW1V 1RB

If you have received a Stage Two decision and are not satisfied with that decision, and still think your complaint is well-founded, TPAS may be able to help to resolve your pensions appeal, complaint or dispute. Before asking for TPAS' help you must have already tried to settle it using the LGPS appeal procedure described above.

A TPAS adviser cannot force a pension scheme to take a particular step but, if they think your complaint is justified, they will try to resolve the problem through conciliation and mediation. TPAS would need copies of all relevant documents, including the correspondence about your appeal and how it was dealt with.

### **The Pensions Ombudsman Service**

The Pensions Ombudsman Service investigates complaints and settles disputes about pension schemes. However, before contacting the Ombudsman, the Pensions Ombudsman Service would normally expect you to have:

- been given a Stage One and Two decision under the above procedure; and
- asked for the help of TPAS.

The Pensions Ombudsman Service is completely independent and acts as an impartial adjudicator. The Ombudsman role and powers have been decided by Parliament. There is no charge for using the Pensions Ombudsman Services.

The Ombudsman cannot investigate matters where legal proceedings have already started but, subject to that, the Ombudsman can settle disputes about matters of fact or law as they affect occupational pension schemes.

The Ombudsman can also investigate and decide any appeal, complaint or dispute about the maladministration of a pension scheme. 'Maladministration' is about the way that a decision is taken, rather than about the merits of the decision. Examples of

maladministration would be unreasonable delay, neglect, giving wrong information and discrimination.

The Ombudsman's decision is final and binding on all the parties, subject to any appeal made to the High Court on a point of law.

To get information or guidance, you can look at the website: [www.pensions-ombudsman.org.uk](http://www.pensions-ombudsman.org.uk). You can contact by telephone: 020 7630 2200 Monday to Friday (excluding public holidays) 9:00am to 5:00pm or email: [enquiries@pensions-ombudsman.org.uk](mailto:enquiries@pensions-ombudsman.org.uk)

The Ombudsman is at the same address as TPAS:

The Pensions Ombudsman Service  
11 Belgrave Road  
London  
SW1V 1RB

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