

Managing Attendance at Work Policy

This policy (and code of practice) applies across all partner schools in the Stephen Sutton Multi-Academy Trust (SSMAT). It is available on the SSMAT website and is accessible from our schools' websites.

POLICY APPROVAL and REVIEW

Review date: **Nov. '20**

Approval needed by: **Full Trust Board**

Adopted: **Dec. '18**

Next review date: **Dec. '22**

1. Introduction / Overview

1.1 The main aims of this policy are:

- to ensure the wellbeing of SSMAT colleagues, through providing support, advice and help, where there are underlying health issues that are contributing to periods of absence; and
- to support the Trust's key aims by securing a strong staff attendance profile.

1.2 Whilst a certain level of sickness may be inevitable, a reasonable balance must be maintained between the needs of the business and the need for colleagues to take time off from work due to sickness. This policy outlines what is expected from managers and colleagues, when such situations occur (for both short and long term sickness absence), in order to ensure that support and treatment is consistent, lawful, fair and equitable. The associated Code of Practice (Appendix 1) details the responsibilities of both parties and the mechanisms that underpin the Policy.

1.3 The Trust expects colleagues to take responsibility for managing their own health and to engage fully in the attendance management process when sickness absence occurs.

1.4 The 'Bradford Factor' scoring system is used to monitor all sickness absence. Colleagues not meeting expected standards of attendance are managed under the terms of this policy.

1.5 Under the Bradford Factor' system, a score is obtained, over a 12-month rolling period, by squaring the number of absence periods and multiplying this by the total number of days of absence. For example, a colleague with four periods of absence (1 day, 5 days, 2 days and 1 day respectively) over the past 12 months would have a Bradford Factor score of 144 [$4^2 \times 9$].

1.6 In considering whether, or not, formal action is appropriate, sickness absences arising from (or related to) maternity, pregnancy, disability (Equality Act 2010), critical illness, or where the employer accepts that there has been an accident on duty, are normally discounted from the Bradford score. An exception to this may be where reasonable adjustments have been agreed and put in place, but sickness absence continues.

1.6 SSMAT manages attendance through the use of 'Return to Work Discussions', which are conducted each time a colleague returns to work following any period of sickness absence.

2. Principles

2.1 This policy (together with the associated 'Code of Conduct' – Appendix 1) provides a framework for managing attendance issues that is consistent with the following principles:

- Attendance-related issues are often complex and need to be handled with sensitivity;

- Appropriate action must be taken to identify and mitigate disability-related conditions and issues in the workplace;
- All colleagues have the right to be treated equitably and fairly;
- The procedures for handling sickness absence and attendance issues must be consistently applied; and
- Actions in relation to this policy and its procedures must be timely.

3. Stages and Options

- 3.1 The three stages of managing attendance are progressive and intended to reinforce the attendance standards that are expected from all colleagues, with support mechanisms to encourage this. The colleague's manager considers formal action (at the appropriate stage), where the Bradford Score is 150 or above, after taking account absences that are normally discountable.
- 3.2 The policy applies from the first day of employment and an employee must never unknowingly find themselves under consideration of the formal attendance procedure.
- 3.3 Sometimes conflict with others at work can contribute to sickness absence. In these circumstances, mediation can be particularly helpful, providing a process for the parties involved to explore their issues in a safe and confidential environment, paving the way to a successful return to work.
- 3.4 No action is taken, under the formal review stage, in respect of a trade union or professional association representative, until the circumstances of the case have been discussed with a senior representative, or paid official, of the trade union or professional association.

4. Further Information

- 4.1 Information recorded during this process may, on request, be disclosed to any party involved in the process (subject to exemptions). When a request for information is received, it needs to be established if the requested information is the requestor's personal data. The request would then be assessed to identify if there are any exemptions from release, e.g whether, or not, release could put another person at harm. Written requests for information are subject to the Data Protection (GDPR) Act 2018, the Trust's Data Protection (GDPR) Policy and the Freedom of Information Act 2000.

Stuart Jones; Nov. '18

Appendix 1 – Code of Practice (Managing Attendance at Work)

1. Reporting in Sick

Colleagues are required to contact their manager (or person appointed by their manager) personally, at the earliest possible opportunity on the first day of absence and, ideally, at least two hours before they are due or expected to start work.

- On **Day 4**, the absent colleague contacts their manager to update on their absence.
- On **Day 7**, the colleague contacts their manager again, and produces a doctor's note within 5 working days.
- From **Day 8** onwards, the colleague: produces ongoing doctor's notes until they return to work or employment ceases; updates their manager, at least every two weeks, about their progress; and engages with Occupational Health Service (OHS) regarding referral appointments and absence visits.

Failure to produce a doctor's note, within five working days of it being due, results (except in exceptional circumstances) in the withdrawal of occupational sick pay from Day 13 onwards.

2. Maintaining Contact during the Absence

For a **short-term absence**, the manager takes steps to find out why the colleague is not well, the nature of the illness and what steps they are taking to deal with it.

At the point that it becomes known that the absence will be for more than 20 days (i.e. a **long-term absence**), the manager arranges to meet with the colleague and also organises a referral to OHS, if one has not already been made.

3. Long-term Absence

Long-term absence review meetings take place at the colleague's home, at school or at another appropriate place, at the colleague's request. The manager, or a well-informed HR advisor, carries out the visit. Where there is any indication that the absence may be linked to disability or work-related issues, advice is sought, by the manager, from the Trust's HR consultants. The colleague is reminded that they have the right to be accompanied by a trade union representative, friend or family member.

During the meeting, the following issues are discussed:

- the cause of the absence and relevant details of the diagnosed illness;
- how long the absence is likely to last;
- the colleague's record of sickness-related absences, including the Bradford score (with disability-related absences discounted, as appropriate);
- any other factors at work, or at home, which may be contributing to the absence;

- any suggestions that could be considered, in order to help the colleague to return to work {These would need subsequent discussion with the Head of School if they are not present};
- a referral to the Occupational Health Service, as appropriate [A referral will not be made without first discussing this the colleague concerned]; and
- possible outcomes if the colleague feels unable to return to work (e.g. a reduction in working hours, a reduction in responsibility, an application for retirement through ill health, voluntary resignation, redeployment, dismissal).

Where an absence continues, the manager arranges a second formal absence review meeting, normally at around the eight week absence period. The same provisions apply for this meeting as applied for the first meeting. In addition to the issues discussed in the first meeting, it is often appropriate to discuss whether medical notes from the colleague's GP should be requested.

Further absence reviews are arranged, as appropriate, in order to monitor and re-evaluate the situation. In most circumstances, absence review meetings generally take place every four to six weeks.

In the event that the employee remains absent, a final formal absence meeting should be arranged (again with all the provision made for the previous meetings). The following should be discussed at the final review meeting:

- the reason for the continued absence;
- how long the absence is likely to last;
- the colleague's record of sickness-related absences, including the Bradford score (with disability-related absences discounted, as appropriate);
- the medical advice already obtained, whether a further referral should be made to the Occupational Health Service and whether information should be sought from the colleague's GP;
- consideration of the colleague's ability to return to work in their substantive role, taking into account the colleague's capabilities and the needs of the school, and any adjustments that can reasonably be made;
- consideration of any redeployment options and whether any adjustments can be made to assist redeployment;
- the way forward, the action that will be taken (together with a time-scale for review, as appropriate) and a warning that the colleague may be at risk of dismissal.

In the event that the colleague (in the context of medical advice given) indicates that they are unable to return to work for the foreseeable future, and taking into account the needs

of the school, the Head of School (or nominated manager) (with support from the Trust's HR consultants) should arrange to authorise that this matter is considered by a meeting of the Governing Body's Staff Dismissals Panel to consider their continued employment.

4. Return to Work (RTW) Discussions on Return from Sickness Absence

The RTW discussion enables a manager to identify the cause of the absence and is carried out as soon as possible, ideally on the day of return and normally within 10 days.

Managers complete the relevant paperwork to show that a RTW discussion has taken place. RTW discussions take place following every absence to ensure that a colleague never unknowingly finds themselves under consideration of the formal attendance procedure.

5. Disability and 'Reasonable Adjustment'

The Equality Act (2010) places certain obligations on employers, namely:

- It is unlawful to discriminate against a disabled person, for reasons related to their disability; and
- Employers are expected to make 'reasonable adjustments' for disabled people.

In addition to the 'reasonable adjustments' that employers are expected to make when employing colleagues with a disability, reasonable adjustments should also be made on a temporary basis to aid an early return to work. Examples of reasonable adjustments are:

- adjustments to the workplace, including new equipment or adaptations made to existing equipment;
- a change in working hours;
- a reduction in working hours (either (in some circumstances) without a reduction in pay, on a short-term basis, or more generally, with a corresponding reduction in pay);
- time off work for medical appointments, recovery and rehabilitation;
- training for a colleague and, as appropriate, their workmates; and
- alternative work.

Colleagues should always be consulted on the types of reasonable adjustment that they believe will be beneficial. When making decisions on reasonable adjustments, managers take into account the financial, technical and practical issues that may have a significant adverse effect on its ability to deliver an effective service.

6. The Right to be Accompanied

Employees have the right to be accompanied by a companion at any meeting that forms part of the formal attendance management procedure. A companion may be a trade union representative, a fellow worker, or an official employed by the trade union.

7. Occupational Health Service (OHS)

Managers can make referrals to the Occupational Health Service (OHS). The OHS will need to be provided with details of the absence(s), including any relevant background information, and details of the job role and specific duties normally undertaken by the colleague concerned.

The OHS can advise on:

- the current and future ability of the colleague to carry out the duties of their post;
- their ability to carry out duties of a different nature;
- the support that could be provided to enable them to return to work and/or to improve their attendance profile;
- whether further information from their GP is needed in order to fully assess their condition [Written permission must first be obtained from the colleague to do this, normally obtained through the OHS];
- whether the OHS will be able to support an application for ill-health retirement.

A confidential written report is returned to the originator of the OHS referral and is retained on the colleague's personal file. The content is discussed with the colleague and the Head of School and all courses of action are explored. Every effort is made to accommodate any recommendations made by the OHS in relation to supporting a return to work. All decisions made by the school (and the reasons for those decisions), regarding reasonable adjustments, are recorded.

Where the recommendations of the OHS are considered inappropriate, advice is sought from the Trust's HR consultants before determining a course of action, which will often include further discussion with the OHS and may include referral to an independent medical advisor.

SSMAT meets the costs of referral to the OHS.

8. Non-attendance at Formal Meetings

At any stage of the formal process, if an employee declines to attend a meeting, or is prevented from attending, the meeting may still proceed in their absence, at the discretion of the person(s) conducting the meeting.

The person(s) conducting the meeting may request that the employee be offered a further opportunity to attend, no later than two weeks from the original date. If non-attendance is due to sickness, the employee must produce a doctor's note that states that they are physically unable to attend the meeting.

9. Formal Stages

During any stage of the formal process, where two same stage warnings (e.g. two Stage 1s) have been issued within the preceding two years, the formal procedure will generally

be escalated automatically to the next stage, if the sickness absence standards are breached.

Stage 1

This applies when the Bradford Score is at least 150. The manager (usually their line manager) reviews the colleague's attendance record and considers the actions appropriate to the stage. These considerations are documented by the manager and retained on file against the absence record.

Where the formal process is to take place, the manager arranges a formal meeting with the colleague (usually within 14 calendar days of the colleague returning to work, but in all circumstances as soon as is reasonably practical). A minimum of 14 calendar days' notice of the meeting is given (in writing), clearly stating that the meeting is being convened under the formal attendance procedure.

Some absences may be disability-related and so managers may need to determine these (with assistance from the Trust's HR provider and/or OHS, as required), and decide if reasonable adjustments are possible to enable the colleague to complete the tasks demanded by the job.

Taking into account the circumstances, the manager will either issue a Stage 1 written warning or decide that no further action is needed.

Stage 2

This applies when there is a Bradford score of at least 150 points, and where two further absences, or one absence of 10 days or more, have occurred during the 'life' of the previous Stage 1 warning. The manager will call the employee to a Stage 2 meeting with the Head of School.

A meeting is held to advise the employee that their attendance is unsatisfactory and, as deemed appropriate, a Stage 2 warning is issued. Following a further two absences, or one absence of 10 days or more, the colleague faces Stage 3 of the attendance procedure, at which point their dismissal will be considered.

Stage 3

This applies where a colleague has a Bradford score of at least 150 points, and where two further absences, or one absence of 10 days or more, have occurred during the 'life' of the previous Stage 2 warning. The Governors' Panel invites the employee to a formal meeting, allowing 14 calendar days' notice of the meeting.

Where the decision is to dismiss, the colleague is advised accordingly in writing and informed of the last day of service, setting out their appeal rights. The expiry, or otherwise, of a colleague's payments under the sickness absence scheme will not affect the decision.

Where a decision is taken not to dismiss at Stage 3, the employee will return to Stage 2 of the procedure. The attendance standards appropriate to that stage will apply, and any other measures and/or reasonable adjustments will be considered.

Where an employee fails to co-operate with efforts by the manager to establish the true medical position, e.g. fails to attend OHS, a decision concerning future employment will be made based on the information currently available.

10. Right of Appeal (Stages 1 and 2)

Where a manager chooses to issue a formal warning, the employee will have a right of appeal, at all stages, to a more senior manager (usually within 14 calendar days of the warning being issued, but this may be reasonably extended to provide opportunity for union representation).

11. Expired Attendance Warnings

Stage 1: A copy of the Stage 1 written warning should be kept on file, but will lapse after 6 months, subject to satisfactory attendance standards being maintained.

Stage 2: A copy of the Stage 2 written warning should be kept on file, but will lapse after 9 months, subject to satisfactory attendance standards being maintained.

Stage 3: Where a decision not to dismiss is made, this decision should be documented and retained on file. The employee will then return to their original stage 2 warning and its applicable expiry date.

12. Dismissal on the grounds of Ill Health

On the basis of employment law, termination of employment on the grounds of ill health constitutes dismissal, except where a colleague resigns from their post voluntarily. This is the case even where the colleague receives pension benefits as a result of being retired on the grounds of ill health retirement.

Dismissal on the grounds of ill health is a 'capability' judgement, whereby the employer must demonstrate that:

- correct procedures have been followed;
- the colleague has been kept fully informed throughout the process;
- reasonable adjustments have been considered and, where possible, implemented;
- the decision to dismiss is based on recent medical advice [Where a colleague has failed to cooperate in providing this, then the decision is made on the information available];
- the colleague's need for time to recover their health is not compatible with the need for the work to be done;
- all possible alternatives to dismissal, including redeployment, have been explored and rejected for good reasons.

Reference should be made to the provisions of 'The Education (Health Standards) (England) Regulations 2003' in relation to the health standards that relate to those employed to carry out a relevant activity.

13. Stage 3 Potential Dismissal Procedure

Advice from the Trust's HR consultants must be sought before progressing an attendance-related concern beyond a final written warning. (HR consultants will also generally have been engaged earlier in the process).

Following a decision to initiate Stage 3, the Clerk to the Governing Body will arrange for a panel of governors to be convened. The colleague will be invited to attend the meeting and will be entitled:

- to be represented by a trade union / professional association representative, or colleague;
- to be given a copy of any written material that is to be presented at the meeting;
- to be advised of: who will present the case for dismissal (usually the **Executive Headteacher**); the names of any witnesses; and who will hear the case.

The colleague will get the opportunity to put their case to the Panel, the composition of which will be consistent with the Trust's governance arrangements. [The Trust Board will generally be represented at the meeting].

The decision will be one of the following:

- the colleague continues to work at the school and no further action under the procedure is required;
- the period of time allowed for improvement, or for assessing the effectiveness of a reasonable adjustment, is extended, supported by a warning that dismissal may be reconsidered if improvements in attendance are not achieved; or
- the colleague ceases to work at the school.

The decision is given to the colleague in writing and is also notified to the Governing Body.

Where the time for improvement has been extended, the **Executive Headteacher** prepares a report at the end of the prescribed time period and the Panel then reconsiders the matter through the same procedure as above.

Where a decision to dismiss is made, the colleague is notified of their right of appeal. The colleague is given notice, or pay in lieu of notice, in accordance with their contract, or with the statutory minimum, whichever is the greater.

In the event of a colleague exhausting, in part or in full, their entitlement to occupational sick pay and being given notice of the termination of their contract (without returning to work) on the

grounds of permanent incapacity, or some other reason related to the sickness absence, the colleague is paid full salary for the notice period, with normal deductions only.

Documentation relating to termination of employment is sent without delay to the Trust's payroll provider to ensure that the colleague is paid salary / notice pay up to the relevant date.

14. Right of Appeal (Stage 3)

A colleague may appeal against a determination that they should cease to work at the school by giving notice in writing within five working days of being notified of the decision. They should write to the Chair of the Appeals Panel, passing their letter to the Clerk of Governors, who will forward it on. The letter should outline the grounds for the appeal. The meeting will be organised as soon as possible, and within 15 working days, and all concerned will be advised of the date, time and venue. The composition of the Appeals Panel will comply with the Trust's governance arrangements [The Trust Board will generally be represented at the meeting].

The colleague will be invited to attend the meeting and will be entitled:

- to be represented by a trade union / professional association representative, or colleague;
- to be given a copy of any written material that is to be presented at the meeting;
- to be advised of: who will respond to the appeal (usually the Chair of the previous Panel); the names of any witnesses; and who will hear the case.

The time periods may be varied by mutual agreement.

The decision of the Appeals Panel is final.

15. Annual Leave

If a colleague, who is employed under National Joint Council terms and conditions, falls sick during a period of annual leave, a doctor's note should be provided and they will be regarded as being on sick leave for the period of annual leave that is covered by the note. A doctor may charge for this note and the cost will not be reimbursed by the school.

If a colleague's contract is terminated and they have taken more than their pro rata entitlement of annual leave, then the school will recover the costs via the final salary payment. Where an employee does not return to work before the end of the leave year, then the entitlement to leave would accrued. On the colleague's return to work or on termination of employment, the Head of School, or nominated senior manager, would discuss with them how the accrued leave would be taken or agree on a final payment.

Term-time only colleagues also continue to accrue annual leave during sickness absence, but the entitlement is offset by any period(s) of school closure that occur during that leave year, either before or after the sickness period. This means that, in most cases, a term-time colleague will not be owed any leave. On the rare occasion that there are insufficient school closures to accommodate leave during the year, the colleague is allowed to take any remaining leave during term time, but only in that leave year. Where there is not enough time before the end of the leave

year to take the remaining leave, the colleague is allowed to carry the leave over to the following leave year, but is required to take this leave during the remaining periods of school closure after the leave entitlement for that year has been accommodated. Unless agreed otherwise, the leave year is 1 April to 31 March.

For the purposes of accruing and taking leave entitlement, teachers are treated the in the same way as term-time only staff and the amount of leave is based on the statutory leave entitlement, which is currently 28 days, including bank holidays. The leave year for teachers is regarded as being from 1 September to 31 August.

16. Industrial Injury

All injuries and accidents at work must be reported to the school's Health and Safety Officer and recorded on the appropriate form. If a colleague believes that their health is being adversely affected due to their work conditions, this should be put in writing for the attention of the Head of School, who will ensure that a full investigation is carried out, with advice and support from the Trust's Health and Safety advisor, HR advisor and Occupation Health Service, as appropriate.

17. Medically Enforced Absence (Medical Suspension)

A medical suspension is used where the Head of School directs a colleague to refrain from working, on medical grounds on the basis that they are believed to be unfit for work. Medical suspension is done on full pay and should only be used as a last resort. Whenever a medical suspension is being considered, advice should be sought from the Trust HR consultants.