

Managing Staff Sickness Absence

**Procedures for
Employees in
Voluntary Aided and
Foundation Schools**

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This guidance is one of a series produced by a working party representing The National Society, London Diocesan Board for Schools, Southwark Diocesan Board of Education and several other dioceses. It is designed for use in Church of England and Church in Wales schools. Advice should be sought on the application of the procedures from the Diocesan Board of Education.

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Preface

1 It is recommended that governing bodies adopt procedures for managing staff sickness and absence. This document addresses the particular circumstances of Voluntary Aided and Foundation schools. It is strongly recommended that governing bodies adopt the procedures contained in this document.

2 In dealing with any cases of staff absence due to sickness, it is essential that adequate monitoring has taken place. The procedures recommended here should be adhered to closely and advice sought from the Diocesan Board and LEA at an early stage when implementing them. This will help to avoid the possibility of time-consuming and expensive problems.

3 Governing bodies have considerable responsibilities for the staff they employ. It is hoped that this document will enable governors to have an accessible point of reference to guide them through the stages of any absence procedure. **The need to seek professional advice at an early stage of any formal absence procedure cannot be overemphasized.**

4 This document incorporates the provisions of the Education (Health Standards) (England) Regulations 2003 (SI 3139), and DfEE Circular 4/99 with regard to fitness of teachers to teach. It also includes relevant guidance from the conditions of service for teaching staff (the Burgundy Book¹) and for support staff (the Green Book² and the Purple Book³). Eight trade unions and professional associations, covering teaching and support staff, have also been consulted. The revised text also incorporates changes necessary as a result of the School Staffing (England) Regulations 2003.

5 It is hoped that governing bodies of Voluntary Aided schools, Diocesan Boards and local education authorities (LEAs) will work in close partnership on this procedure. Foundation schools may wish to consult with Diocesan Boards and LEAs as well as with independent advisers.

6 A comprehensive set of contracts to meet the different needs of staff in Voluntary Aided schools has been produced by the same working party which produced these procedures. These contracts contain summaries of the procedures included in this book. As with the procedures, the trade unions and professional organizations have been consulted. Copies of contracts are available from the National Society and dioceses and on the National Society web site.

7 Throughout this document **bold type** is used to provide the reader with a quick point of reference to the subject of the paragraph.

8 This document has been produced by The National Society with the help of staff of the London Diocesan Board for Schools and the Southwark Diocesan Board of Education, in consultation with their legal advisers, Winckworth Sherwood.

¹ Available from the Employers Organisation for Local Government, Layden House, 76-86 Turnmill Street, London EC1M 5LG; Tel (020) 7296 6781

² Available as above

³ Available as above

Definitions

Capability A person is capable who is able to demonstrate that s/he is fit, qualified and able to discharge all the demands made in the work described in her/his contract of employment. If a person is ill or becomes disabled in some way after s/he has been appointed, s/he may be incapable (although still qualified) of doing the job.

Committee A body formally appointed by the governing body and given delegated powers of decision on behalf of the governing body. See Annex A (pp. 20-21) on the appointment of committees, including the absence and appeal committees.

Companion A companion may be:

- another employee
- a full time official employed by a trade union, or lay trade union official, as long as they have been reasonably certified in writing by their union as having experience of, or having received training in, acting as a worker's companion at hearings. Certification may take the form of a card or letter
- a legal representative

Competence A person's ability to demonstrate that s/he is able to meet all the professional demands made in the job. For a variety of reasons a person may be incompetent in an essential part of a job.

Counselling Within these procedures counselling means a confidential discussion in a one-to-one situation.

Delegated powers The governing body of a Voluntary Aided or Foundation school, with a quorum of half of the governors entitled to vote, may delegate to the headteacher or a committee the power of decision on particular matters; the matters thus delegated should be clearly described in the minutes of the meeting making the decision. The whole governing body remains responsible for decisions made by its committees.

Diocesan Boards of Education (in London, Diocesan Board for Schools) Those bodies which, under the Diocesan Boards of Education Measure 1991 as amended, exercise statutory functions in relation to Church Schools. In the Church in Wales the Diocesan Boards exercise non-statutory but similar functions.

Headteacher This includes a member of senior management delegated to act on behalf of the headteacher.

Line Manager An individual within the school who has delegated responsibility, under the control of the headteacher, from the governing body for the day to day management of an identified group of staff members. This would normally be a member of the leadership team.

Must Indicates something which is required by law or formal procedure.

Prejudiced To have listened to, or taken part in, discussion of an absence matter relating to a named person, or to be a companion or relation of the named person.

Shall Has the same meaning as given above for must.

Should Describes something which is generally accepted as good practice and is recommended.

Staff Describes all staff, both teaching and support, unless stated otherwise.

Unions and professional associations When reference is made in the text to unions, it is understood that this also includes reference to professional associations.

Untainted governor One whose ability to act fairly is not impaired by previous direct involvement in the subject matter or by discussion by the governing body.

Working day For the purposes of calculating timescales within this procedure, working day means:

- for teaching staff - a school working day when staff are required to be present, including days when pupils may not be present;
- for support staff - any day on which staff are contracted to work, excluding weekends and public holidays (for staff in residential schools, see individual contracts).

It is important to note that, for statutory medical certificates, days are counted as calendar days and not working days.

Abbreviations

DfES Department for Education and Skills

DB Diocesan Board

GB governing body

HT headteacher

LEA Local Education Authority

LM Line Manager

NATSOC The National Society

SD school days

PART A: Introduction

A.1 General

1.1. Governing bodies have a duty to be fair and consistent in any dealings with members of staff who are their employees. This is particularly important in Church schools, where the network of personal relationships within the school community has as its starting point the Christian gospel, which recognizes the uniqueness and value of the individual. When the issue concerns sickness on the part of the member of staff, governors will want to demonstrate compassion and sensitivity. Balanced with those attributes, however, they must also ensure that employees fulfil their contractual obligations where possible.

1.2 Governing bodies and headteachers will know that attendance levels of staff in schools are usually very good and compare favourably with those in other workplaces. These guidelines are made available to governing bodies and headteachers to assist them with their responsibilities to individual members of staff and the school community as a whole.

1.3 Prolonged or frequent occasional sickness can cause disruption in the workplace and can be unfair to colleagues. It is also important that governors have uppermost in their minds the need to maintain a high standard of education for the pupils in the school. Good attendance is necessary to maximize efficiency and effectiveness and it is essential that any policy designed to deal with sickness absence is fair and equitable, enabling governors to deal with each case on its own merits.

A.2 Protection from prejudice

2.1 As in all matters relating to individual staff or pupils, it is very important that the full governing body never discusses details of particular cases. Such matters must always be referred to the relevant committee. If this is not done the governing body is in danger of not having a sufficient number of untainted governors to sit on committees for formal hearings.

A.3 Types of absence

3.1 Staff may be absent from their employment for a number of reasons, both authorized and unauthorized. Unauthorized absence not due to sickness is usually dealt with under the disciplinary procedures. Procedures in this booklet deal with absence due to sickness.

3.2 There are four different types of absence due to sickness:

- occasional short-term absence;
- recurrent short-term absence where the causes differ and are apparently unrelated;
- recurrent short-term absence with an underlying medical condition; and
- long-term absence, where a member of staff is absent continuously for a considerable period of time.

Governing bodies will need to make clear to employees time limits for absence that may trigger action (see para. B.4, p.4). Where an employee finds it no longer possible to fulfil his/her duties due to sickness absence, this is an issue of being unfit to be able to carry out duties for which they are employed.

3.3 Managing sickness absence should not normally be seen as part of the disciplinary framework. Only where it can be demonstrated that an employee has misused the sickness procedure, or taken unauthorized leave not due to sickness, should the disciplinary procedure be invoked.

A.4 Legislation and DfES advice

4.1 The guidance in this document is based on the Education (Health Standards) (England) Regulations 2003 (SI 3139), and DfEE Circular 4/99. The Regulations provide that the governing body cannot appoint or continue to employ a teacher who does not have 'the health and mental and physical capacity' for teaching (see Annex C, p. 26). This is mandatory, but the decision on whether the teacher is or is not fit is for the governing body to take.

4.2 The Regulations apply to all teaching staff in Voluntary Aided and Foundation schools, but are not applicable to support staff. However, it is recommended that the procedures within this document are adopted for both teaching and support staff (see Annex D, pp. 27-28).

A.5 Stress-related illnesses

5.1 Governing bodies must take particular care in relation to absences where the employee claims either expressly or by implication that the cause of the absence is stress-related and that the stress originates from the work situation. Such a claim may or may not be supported by medical evidence. It is established that employers owe a duty of care towards their employees to protect their mental health and a breach of this duty of care by the employer may lead to a personal injury claim. If it appears that there may be a measure of responsibility for the stress on the school's part, serious consideration should be given as to whether dismissal is appropriate. The governing body may wish to consider rearranging the employee's workload, although it cannot continue to employ a teacher without 'the health or physical capacity' for the job (see para. 4.1, above).

5.2 The governing body must take account of stress levels and provide appropriate support and training to existing employees; it must be aware of the demands being imposed on employees and any possible sources of stress, and react appropriately. For example, some schools are making counselling services available to staff, which is one way of offering support. The LEA may be able to advise on this area. The Health and Safety Executive publish very helpful advice on managing stress at the workplace which is available from their website.

A.6 Disability Discrimination Act 1995

6.1 The Disability Discrimination Act 1995 makes it unlawful for employers to discriminate against disabled employees and requires employers to make reasonable adjustments in certain circumstances to facilitate the continued employment of employees who become disabled during the course of employment. The definition of disability is unique to the Act: 'A person has a disability for the purpose of this Act if he has a physical or mental impairment which has a substantial and long-lasting effect on his ability to carry out normal day-to-day activities.' Long-term is defined as more than 12 months and the other aspects of the definition, for example, in relation to progressive illness, are considered at length in the Act or in guidance accompanying it.

6.2 Whilst the Act does not say anything directly about sickness absence procedures or dismissals, governing bodies will need to be able to show that any less favourable treatment of a disabled person is objectively justifiable and will need to consider whether any reasonable adjustment to working conditions or practices could be made to assist the employee to continue in employment. An occupational health doctor will be able to advise on this.

B Monitoring

B.1 Consistency

1.1 In seeking to act fairly and consistently, governing bodies may have to take action should a member of staff continue to be absent from the school. Before any action is taken, it is essential that adequate monitoring has taken place. Only through accurate and consistent monitoring is it possible to demonstrate that an employee has an unacceptably high level and/or a repeated pattern of absence.

1.2 It is important to ensure that accurate records of staff absence are maintained, detailing the reasons for each absence and the duration. Staff must be made aware of the notification procedure of the school so that the records are kept up to date and any entitlement to sick leave can be clearly established (see model absence procedure at Annex D, pp. 27-28). The procedure for staff to notify the school when they are going to be absent due to sickness should therefore be clear, structured and well known.

B.2 Certification of absence

2.1 It is recommended that, after any period of absence, all members of staff are asked to complete the requisite form detailing the reason for their absence:

- for any one absence of up to six sessions (3 days), staff should complete a basic pro-forma (see example at Annex E, p. 30);
- single absences of seven or more sessions (totalling less than 7 calendar days) require completion of a self-certification form (see example at Annex E, p. 31);
- if a member of staff is absent for 7 calendar days or more at any one time, a medical certificate must be supplied.

2.2 As part of the day-to-day management of the school, the headteacher should ensure that records of all staff absence are maintained and should monitor the levels of staff absence on a regular basis.

2.3 Monitoring the absences of staff will ensure that any repeated pattern of absence becomes apparent. This may reveal an underlying cause of the absence.

Table 1: **Summary of stages in certification**

Length of each absence	Type of certification completed
Up to 3 working days (inclusive)	Basic school form
More than 3 and up to 7 days (inclusive)	Self-certification form
More than 7 calendar days	Medical certificate

B.3 Alcohol- and drug-related issues

3.1 It could be the case that absence monitoring of a member of staff brings to light underlying problems related to alcohol or drugs. In such cases medical advice should be sought, if appropriate, and relevant support given, where possible. However, the procedures in this booklet should still be followed. Some LEAs have alcohol and drug policies that schools may choose to adopt.

3.2 In cases where a member of staff is present at work and is unable to meet the requirements of his/her post because of the effects of alcohol or drugs, misconduct procedures should be initiated (see separate handbook, Grievance and Discipline Procedures).

B.4 Time limits triggering action

4.1 The governing body will need to decide on appropriate 'trigger points' for informal and formal action, should a member of staff's absence level reach these points. Such levels could be:

(a) Informal triggers:

- short-term sickness (see para. A.3.2, p. 1) - nine occasions in any 12 month period or three occasions in any 3 month period that give cause for concern;
- long-term sickness (see para. A.3.2, p. 1) - continuous absence for a period of 3 weeks or more (see also para. D.5.1, p. 12).

(b) Formal triggers:

- short-term sickness - 12 occasions in any 12 month period or four occasions in any 3 month period that give cause for concern;
- long-term sickness - continuous absence for a period of 6 weeks or more (see also para. D.5.1, p. 12).

4.2 In this context, occasion is taken to mean one working day or part thereof. This would mean that, should a member of staff be absent for half of a working day, this would count as an occasion. For part-time staff, the trigger points would be the equivalent periods, based on the number of hours worked. The periods of time should be measured from the first day of the week in which the first absence occurred.

4.3 It must be emphasized, however, that these trigger points are only a guide. The committee of governors must be flexible when considering the circumstances of each case. If an employee suffers from a known medical condition or, for example, is pregnant or is suffering from recurring problems as a result of an operation, then it would be inappropriate to subject him/her to a stressful formal monitoring procedure. If action results in the dismissal of a member of staff and that person then complains to an employment tribunal that the dismissal is unfair, the governing body will need to convince the tribunal that it has acted reasonably, having taken into account all relevant considerations.

4.4 Where formal procedures to manage staff absence are likely, advice should be sought from the Diocesan Board and/or LEA before any action is taken. The governing body as a whole will need to be aware of the process that has been adopted so that, once the appropriate trigger points are reached by any particular member of staff, the procedure can be started. This will then help to ensure that each member of staff is treated fairly and sickness absence is handled objectively.

4.5 Governing bodies will need to consider the extent to which they are in a position to delegate responsibility under these procedures to designated line managers and/or to the headteacher and the point at which members of the governing body should become involved. Two issues will be important in this

decision. The first is the size of the school and, therefore, the likely work involved compared with other aspects of the post holders duties. The second is the experience and seniority of those who could be designated line managers.

4.6 This publication recommends four distinct stages of activity in the case of short term absence and three in the case of long term absence. It is possible that, in larger schools, the line manager could assume responsibility for the initial informal stage related to short term absence, under delegated responsibility from the headteacher, if governors felt that this was appropriate.

C Short-term absence

C.1 Introduction

1.1 On occasion, members of staff, rather than being absent for one continuous period, exhibit a pattern of absence over a period of time. In such instances, it is particularly important that the employer has detailed records of absence, which would include the length of and the reason for each absence and the pattern shown.

1.2 It may be the case that the absences are related to one underlying medical cause, but it can also be that the absences are unrelated and of an unacceptably high level. In both cases, action may be required. It is particularly important in such instances that the procedure of completing the forms outlined in paragraph B.2.1 (p. 3) is followed. This will then ensure that factual evidence is available.

C.2 Return to work - informal stages

2.1 It is good practice, and a means of showing pastoral care, for the headteacher or a line manager to see every member of staff, however briefly, after every sickness absence (see para. H.2, p. 19). However, if any member of staff's level of sickness absence reaches the trigger points in the school's procedure, the headteacher or line manager must meet with the member of staff (see para. C.3, p. 7).

2.2 At the meeting, the headteacher or line manager should discuss with the member of staff:

- the reason for the absence;
- whether the employee is fit, from a management point of view, to return to his/her post;
- whether there are any reasonable adjustments to the work environment that would aid the employee to maintain a better level of attendance;
- whether there are any underlying factors that may be affecting the member of staff's ability to fulfil his/her contract.

2.3 These informal meetings should be seen as part of the normal management structure. It would not normally be the case that the member of staff would be accompanied at the meeting. However, should the member of staff wish to be accompanied by a companion, this should be permitted. If the member of staff chooses to be accompanied, it may be desirable for the headteacher or line manager to be accompanied by a member of the senior management team of the school.

2.4 The headteacher or line manager should keep a brief summary of the discussion on the employee's file and send a copy to the member of staff.

2.5 Should any member of staff's absence reach the trigger point for formal action to be taken, the headteacher should inform the member of staff of this and invite him/her to a formal meeting to discuss the issue.

C.3 Formal meeting with the headteacher

3.1 When a decision is taken by the headteacher to move to a formal procedure (see para. 2.5 above), the headteacher should invite the member of staff to a meeting to discuss the situation. Written notice of the meeting should be sent to the employee (see Annex H, letter 1, p. 37). It should be explained in the letter inviting the member of staff to the meeting that the levels of absence are giving cause for concern and that there is a need to consider the absence on a more formal basis. The employee should be given a copy of the procedure to be followed, informed of his/her right to be accompanied by a companion and should be given 5 clear working days' notice of the date of the meeting.

3.2 At the meeting, the headteacher, who should be accompanied by a senior colleague or governor (who will not be present subsequently at any of the committees in the formal stages), should explain the nature of the absence and the concern. Any comments that the employee might wish to make regarding the nature of the illness(es) and the levels of absence should be taken into consideration.

3.3 The headteacher may be satisfied, following consideration of the member of staff's comments at the meeting, that the level of absence will not continue and that no further action (other than the normal monitoring of absence) is necessary. However, it may be appropriate to explain to the employee that the level of absence is unacceptable and a written warning given that it cannot be allowed to continue. Where this is the case, a review date should be set by which an agreed expected improvement in the absence level would need to be seen.

3.4 Written confirmation of the outcome of the meeting should be sent to the employee without delay (see Annex H, letter 3, p. 39). If a warning has been given and a review date has been set, this should be specified in the written confirmation, together with an indication of the expected improvement to the absence level that has been agreed. Two copies of the letter of confirmation should be sent to the member of staff with a request that one copy should be signed and returned to acknowledge receipt. Failure on the part of the employee to return the copy does not invalidate any possible subsequent procedures.

3.5 If over a period of twelve months further monitoring has shown no further cause for concern, then the written warning is removed from the employee's file.

C.4 Further action possible from formal meeting

4.1 The headteacher may consider it necessary at this point to require closer monitoring of sickness absence, such as medical certificates being required to cover absence from the first day. The governing body should meet the costs of obtaining first-day medical certificates. Again, any such requirement should be specified in the letter confirming the outcome of the meeting. Should it be decided that, as a result of prolonged or frequent absence, an independent medical examination is required, the member of staff should be informed of the referral and the reasons for the referral explained. (See section F on medical examinations, pp. 15-16.)

4.2 When closer monitoring of staff absence is decided upon, and indeed at any time when absence levels are being reviewed, this can be very stressful for the member of staff concerned. Continued support for the employee is of the utmost importance.

C.5 Review meeting with the headteacher

5.1 Where the decision of the first formal meeting between the headteacher and the member of staff was to review the situation at a given date and a subsequent meeting arranged, the employee should receive at least 5 clear working days' written notice reminding him/her of the review meeting and of the right to be accompanied by a companion.

5.2 Should the employee wish to present any evidence, including additional medical reports, as to his/her ability to fulfil the requirements of his/her contract of employment and achieve a satisfactory attendance level, this should be made available to all parties before the meeting.

5.3 Any such evidence should therefore be sent to the convenor of the meeting (normally the headteacher) by no later than 2 clear working days prior to the date of the meeting.

5.4 At the meeting, the current situation with regard to the employee's state of health is reviewed and any evidence is taken into consideration. Possible outcomes of the meeting are:

(a) That the employee's absence level has improved in line with the agreed target. No further action would be taken, other than the normal monitoring of sickness absence.

(b) That the agreed target has not been met but a limited improvement has been achieved. The headteacher may consider that:

- a further review period should be established (see para. C.5.6 below); and/or
- that a (further) medical report should be requested; or
- that, despite a more favourable outlook, the current level of absence cannot be sustained and that the procedure should move to the next stage, that of a formal hearing by the governors.

(c) That there are no indications of any improvement in the absence level. Where a medical report has been requested, and this does not give a clear indication of the likelihood of the employee returning to work without a continuance of the present absence level, the employee is informed at the meeting that the headteacher will refer the matter to governors for a formal hearing to consider the future employment of the member of staff.

(d) That there is an underlying medical condition that indicates that the member of staff is permanently unfit to resume his/her current duties but could work in some other capacity within the school. This may prove difficult to facilitate, but all appropriate avenues should be explored in accordance with the requirements of the Disability Discrimination Act 1995;

(e) That there is an underlying medical condition that indicates that the member of staff is permanently unfit to work.

5.5 Written confirmation of the outcome of the meeting, including details of any warning given and targets set, should be sent to the employee without delay. Should the outcome be an indication that the employee is permanently unfit to work, this should be referred to a formal hearing of governors.

5.6 After two review meetings to consider the level of absence, it would be usual to proceed to a hearing by a committee of governors.

C.6 Formal hearing by the governors

6.1 As a result of a meeting with the employee and/or receipt of medical reports and/or continued unacceptably high levels of absence, the headteacher may refer the matter to governors for a formal meeting. The clerk to the governing body will then convene a hearing by a committee of governors to consider the future employment of the member of staff. If it is decided to proceed to a formal hearing, the employee should be informed and given at least 10 clear working days' written notice of the hearing. The employee should also be told that s/he may be accompanied to the hearing by a companion and provided with all the documentation to be presented at the hearing (see Annex H, sample letter 4, p. 40).

6.2 If an employee has been declared permanently unfit and does not wish to contest that fact, s/he may choose not to attend the hearing, which would proceed as a formality.

6.3 The governors' committee taking part in stages 3-4 of the procedure must have a membership of at least one governor, but it is recommended that the membership should be three where possible (see Annex A, pp. 20-21), none of whom having had dealings with the case prior to the hearing. Should the employee wish the committee to consider additional evidence, including further medical reports, this should normally be supplied to the clerk to the governing body at least 5 working days in advance of the hearing and in any event early enough for it to be distributed to all parties before the hearing.

6.4 At the hearing the headteacher should detail the level of absence that has given cause for concern and refer to papers already circulated and any medical reports that have been obtained. (It may be appropriate for witnesses to be called, for example, the doctor who prepared the medical report.) The employee is then able to put his/her case. The committee members may put questions at any time (see Annex I, pp. 46-47).

6.5 Possible outcomes of the hearing are:

- (a) that the committee is satisfied that the employee is able to return to work and achieve acceptable attendance levels, either immediately or in the very near future and that no further action is required;
- (b) that a further review period would be appropriate, after which there would be a further hearing before the same committee of governors (if possible);
- (c) that the employee is unfit to carry out the duties for which s/he was employed and has a level of absence that cannot be sustained within the school and should be dismissed, with the required notice period (see Annex G, p. 35) on grounds of incapacity. The employee has the right to appeal against this decision.

6.6 The member of staff should be sent written confirmation of the outcome of the hearing without delay. If the decision was reached to dismiss the employee, s/he should be informed of her/his right to appeal against that decision. Any appeal must be addressed in writing to the clerk to the governing body and be received within 10 working days of the date of the hearing. (See section E relating to appeals, pp. 13-14.)

D Long-term absence

D.1 General

1.1 When members of staff are absent for long periods of time, this can be disruptive not only to the school, but also to the member of staff involved. Governing bodies should ensure that contact is maintained with the member of staff concerned so that the person does not feel isolated. This could be via the member of staff's trade union or professional association if requested. Maintaining contact also ensures that the school is aware of the ongoing situation. Home visits may be made, but only by prior arrangement with the employee. Unscheduled visits can be perceived as threatening and part of a 'checking-up' process.

1.2 Initially, any visits or contact made with the employee would be of an informal nature solely to maintain contact. Should the absence continue beyond the point at which the formal procedure is triggered (see para. B.4, p. 4), this should be made clear to the employee.

D.2 Formal meeting with the headteacher

2.1 When a decision is taken to move to a formal procedure, the headteacher should invite the member of staff to a meeting to discuss the situation. The meeting would normally be with the headteacher. Written notice of the meeting should be sent to the employee and s/he should be informed of her/his right to be accompanied by a companion or professional representative. The headteacher should also be accompanied by a senior colleague or governor. The employee should receive at least 5 clear working days' notice of the meeting.

2.2 Should the employee be unable or unwilling to attend the hearing and wish to authorize a third party to represent him/her, written confirmation should be sent to the headteacher and/or governors authorizing that person to speak on behalf of the employee. Should the employee be unwilling to attend the hearing and not authorize a third party to represent him/her, the meeting may be held in their absence if the headteacher is clear that the employee is delaying the procedure.

2.3 At the meeting, the headteacher should explain the concerns over the continued absence and establish the views of the employee as to the current situation. Possible outcomes of the meeting are:

(a) That the employee can indicate an anticipated date for return to work in the near future. Provided the employee returns to work on or before that date, no further action would be taken, other than the normal monitoring of sickness absence.

(b) That no anticipated date can be given, but a general improvement in health would seem to indicate a return to work in the medium term. A date would then be set at which the situation would be reviewed, pending further action if necessary.

(c) That there are no indications of a possible return to work. The headteacher may decide to request that the employee has an independent medical examination to establish whether or not s/he is likely to be able to return to full employment and, if so, at what date (see section F relating to medical examinations, pp. 15-16). Alternatively it may be appropriate to proceed directly to a formal hearing (see para. D.4, p. 12).

2.4 Written confirmation of the outcome of the meeting should be sent to the employee without delay. If a warning has been given and a review date has been set, confirmation should be included in the letter (see Annex H, letter 3, p. 39).

D.3 Review meeting by the headteacher

3.1 Where the decision of the formal meeting was either to review the situation at a given date or to refer the employee for an independent medical report, a subsequent review meeting should be arranged. Again, this meeting would normally be with the headteacher, who may choose to be accompanied by a senior colleague or governor. The employee should receive at least 5 clear working days' written notice of the meeting as before, and be reminded of the right to be accompanied by a companion.

3.2 Should the employee wish to present any evidence, including additional medical reports, as to his/her ability to return to work, this should be made available to all parties before the meeting. Any such evidence should therefore be received by the convenor of the meeting (normally the headteacher) no later than 2 clear working days prior to the date of the meeting.

3.3 At the meeting, the current situation with regard to the employee's state of health would be reviewed and any evidence is taken into consideration. Possible outcomes of the meeting are:

(a) That the employee can indicate an anticipated date for return to work in the near future. Provided the employee returns to work on or before that date, no further action would be taken other than the normal monitoring of sickness absence.

(b) That no anticipated date can be given, but a general improvement in health would seem to indicate a return to work in the medium term. The headteacher may wish to recommend to the governors that:

- a further review period be established; or
- further medical report be requested; or
- despite a more favourable outlook, the current level of absence cannot be sustained and that the procedure should move to the next stage, that of a formal hearing by the governors.

(c) That there are no indications of a possible return to work. Where a medical report has been requested, and this does not give a clear indication of the likelihood of the employee returning to work, the employee is informed at the meeting that the headteacher will refer the matter to the governors for a formal hearing to consider the future employment of the member of staff. The medical report may indicate that there is a possibility of the member of staff returning to work, either in a part-time capacity, or with a temporary change to less onerous duties. The practicalities of such options would need to be considered before agreement is given, although there may be a requirement under the Disability Discrimination Act 1995.

(d) That there is an indication that the member of staff is permanently unfit to resume his/her current duties, but could work in some other capacity within the school. This may prove difficult to facilitate, but all appropriate avenues should be explored in accordance with the requirements of the Disability Discrimination Act 1995;

(e) That there is an indication that the member of staff is permanently unfit to work.

3.4 Written confirmation of the outcome of the meeting, including details of any warning given and any targets set, should be sent to the employee without delay (see Annex H, letter 3, p. 39).

3.5 Should the outcome be an indication that the employee is permanently unfit to work, this should be referred to a formal hearing by governors (see para. G.3 relating to costs, p. 18).

D.4 Formal hearing by the governors

4.1 If, as a result of a meeting with the employee and/or receipt of medical reports and/or continued absence, the headteacher recommends to the chair of the governing body that a formal hearing be convened, the procedure outlined in paragraph C.6 (pp.8-9) should be followed.

D.5 General note

5.1 There can be situations that arise where an employee is absent for a relatively long period of time, but which do not necessitate formal procedures for managing the absence. Where, for example, a member of staff has a planned operation that has no unforeseen complications and there is a period of convalescence that is anticipated, this would not normally trigger the procedure. However, should there be complications that delay the employee's return to work indefinitely, the situation would have to be reviewed.

E Procedures for absence and appeal hearings

E.1 Procedure for a hearing by the governors

1.1 Subject to the detailed agenda in Annex I (p. 46-47) and the procedure outlined below, the chair of the hearing is responsible for the conduct of the proceedings and for any variance s/he considers appropriate. The chair:

- welcomes those present and makes introductions;
- stresses that hearings are private meetings and that all information brought to the committee is strictly confidential to the people present;
- outlines the procedure to be followed during the hearing;
- asks all attending the hearing, including witnesses, to remain available to the committee for a short period of time after they withdraw from the hearing, in case the committee needs to clarify any point (see Annex I).

1.2 Witnesses will normally only be present during a hearing to give their evidence and be questioned, and will then withdraw.

1.3 In order to obtain clarification or to refute misinformation, it may sometimes be necessary for one of the parties to be given permission to ask further questions of a witness.

1.4 The chair of the hearing may decide to **adjourn** the meeting for a short period or for a number of days if new evidence is brought which all parties have not had time to consider, or for any other good reason. If there is an adjournment, the reconvened committee must comprise the same membership. Either party may request an adjournment.

1.5 The chair of the hearing explains how the decision will be imparted (see 1.9 below).

1.6 The employee, headteacher and witnesses withdraw. They may have been asked to **remain available** for a short period of time, in order to clarify any particular point.

1.7 Consideration of the matter will take place in the presence of the clerk and any legal, LEA or diocesan advisers. If any further information is required, then all parties should return. An opportunity should be given to each party to question or comment on this additional information.

1.8 The hearing then reaches its decision.

1.9 The parties concerned are notified either by being recalled to hear the decision, or by telephone or letter.

1.10 The clerk to the committee writes to the parties concerned, confirming the decision and providing information about any right of appeal. The letter is copied to the Diocesan Board and LEA (see Annex H, letter 5, p. 41).

E.2 Appeal hearings against dismissal

2.1 The clerk to the governing body shall arrange for the appeal committee to meet within 15 working days of receipt of the written notice of appeal. The parties involved shall be given at least 10 clear working days' notice of the time and place of the hearing.

2.2 The clerk to the governing body of a Voluntary Aided school must notify the Diocesan Board and LEA of the date of the hearing. Copies of relevant documents should also be sent to the Diocesan Board and LEA.

2.3 Copies of documents to be placed before the committee should be given to all those attending the appeal not less than 5 clear working days before the hearing.

2.4 The appeal committee will normally re-hear the evidence that was presented to the first hearing. New evidence may be submitted to the appeal committee, in particular medical reports that have become available since the hearing.

2.5 The procedures followed by the appeal committee are described in paragraph E.1 above.

2.6 The decision of the appeal committee shall be final. The appellant should be notified of the outcome within 5 days of the date of the appeal hearing.

2.7 The employee may at any time withdraw an appeal by writing to the clerk of the governing body.

F Medical examinations

F.1 Requests for medical examination

1.1 Where there is concern over a member of staff 's prolonged or frequent absence due to sickness, it may be appropriate to ask for the employee to undergo an independent medical examination.⁴ This examination would be to determine the employee's capacity to carry out his/her job and would not be an opportunity for a 'second opinion' in relation to the diagnosis of the employee's illness(es). Under the relevant terms and conditions of employment (see para. G.2, pp. 17-18), the member of staff is required to comply with the request and does not have a right to refuse to attend an examination.

1.2 Within Voluntary Aided schools, it is normal practice to ask the Occupational Health Doctor retained by the LEA to carry out such an examination, although an independent examination could be arranged, should that be seen as desirable. Foundation schools should arrange for the examination to be carried out by an independent medical examiner, and again it may be appropriate to contact the Occupational Health Doctor.

1.3 The Education (Health Standards) (England) Regulations 2003 give the right to a teacher to submit a statement containing evidence or other matter relevant to the examination to the appointed medical practitioner, and also for the examination to be attended by a qualified medical practitioner appointed for the purpose by the person being examined. The governing body should also extend these rights to support staff.

F.2 Information required

2.1 When requesting medical examinations, governing bodies (normally the headteacher) should ensure that all relevant information is supplied to the doctor. This would include:

- details of duties and responsibilities of the employee's post (full details should be given rather than a brief outline);
- any particular areas of concern in relation to the duties and responsibilities of the post;
- the absence record of the employee, with reasons for the absence;
- any other relevant information.

2.2 The governing body or headteacher will need specific information from the medical examiner and this should be made clear when the request for the examination to be carried out is submitted. The examiner should be asked to comment on:

- the likely date for the staff member to be able to return to full employment duties; or, if this is not possible,
- the likelihood of the member of staff being able to return to full employment at some time in the future;
- whether a further referral is necessary;
- whether the employee would be able to fulfil the full duties and responsibilities on return or whether a temporary change to the duties and responsibilities would be desirable. It should be

⁴ Independent medical examination – carried out by someone who is not or has not been responsible for the clinical care of the individual.

noted that, although such a change may be indicated as desirable by the medical examiner, it will not always be possible for the governing body to comply with such a recommendation;

- the application of the Disability Discrimination Act 1995 and whether any reasonable adjustments are recommended to facilitate continued employment;
- the possibility of the absence level recurring at a future date;
- whether there is likely to be an underlying cause for the absence, if the medical examination has arisen because of persistent short-term, seemingly unrelated absences.

2.3 Requests for information from the employee's general practitioner and/or consultant - it could be the case that the medical examiner would wish to approach the employee's own general practitioner and/or consultant for relevant information from the employee's medical records. The agreement of the employee must be obtained before such an approach is made. Under the Access to Medical Reports Act 1988 the employee has the right to refuse access to the records and, in such instances, any decisions would be taken on the basis of available medical information.

2.4 It must be stressed that information from an employee's medical records would only be made available by the general practitioner or consultant to the appropriate medical examiner and this should be made clear to the employee when seeking permission to obtain any such information.

F.3 Refusal to submit to medical examination

3.1 The Education (Health Standards) (England) Regulations 2003 provide that, if a person without good cause fails to submit him/herself for a medical examination or refuses to make available medical evidence or information sought by the medical practitioner, then the governors may reach a conclusion in the matter, including a conclusion that the person no longer has the health or physical capacity to carry out that relevant activity, on such evidence and information as is available to them, notwithstanding that further medical evidence may be desirable. It is advisable for the governing body to extend this provision to cover support staff.

F.4 Requirement not to attend work

4.1 Generally, an employer is not obliged to provide work for an employee. An employer can require an employee to stay away from work so long as the employer continues to pay the employee and so long as the requirement is a reasonable one. If there is doubt about whether an employee is fit to return to work, in particular, after a lengthy absence, or if the absence is stress-related, it may be appropriate for the employer to require the employee to remain on sick leave until a further medical report is obtained or considered. If the employee's GP has certificated that they are fit to return to work and the report cannot be obtained before s(he) is due back at work, the employee should be suspended on full pay until the medical report is obtained. The circumstances must, however, justify this.

G Financial costs associated with absence

G.1 Different costs

1.1 There are two possible strands of financial costs linked to staff absence:

- the cost of any supply cover which may be necessary;
- the on-going payment of salary to a member of staff absent through sickness.

While occasional short-term absence may not necessitate supply cover, recurrent short-term absence and/or long-term absence is likely to require cover; where this is necessary, the costs for long-term absence cover are usually met by the school buying into an insurance scheme. However, recurrent short-term absence is more difficult to manage because insurance cover is usually unobtainable.

1.2 The costs of on-going salary payment to the employee and supply cover (either by the insurance premium or by direct costs) are met from the school's delegated budget.

G.2 Rates of sick pay

2.1 Teaching staff - the following is an extract from the national conditions of service for teaching staff, the Burgundy Book:

Table 2: **Rates of Sick pay - teaching staff**

During the 1st year of service:	full pay for 25 working days and, after completing four calendar months' service, half-pay for 50 working days.
During the 2nd year of service:	full pay for 50 working days, and half-pay for 50 working days.
During the 3rd year of service:	full pay for 75 working days, and half-pay for 75 working days.
During the 4th and successive years:	full pay for 100 working days, and half-pay for 100 working days.

2.2 Support staff on National Joint Council Conditions for Local Government Services - The following is an extract from the national conditions of service for APT&C support staff:

Table 3: Rates of Sick pay - support staff

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.

2.3 There may, however, be local agreements in place which vary or improve on these time limits for both teaching and support staff. Such agreements may or may not be applicable depending upon whether the school has adopted them or whether the school is bound by any such agreement from a prior period.

G.3 Costs of notice period

3.1 Payment for the duration of a notice period is always at full rate, regardless of preceding absences. This payment is charged to the school's delegated budget.

3.2 Any dismissal on medical grounds will be with notice. It may happen that an employee has exhausted the entitlement to contractual or occupational sick pay and is only receiving statutory sick pay when the notice of dismissal is issued. In such circumstances, an employee is entitled under the burgundy book to be paid normal remuneration during the notice period even though s/he is incapable of work because of an injury or sickness. This means that an employee who has been receiving only statutory sick pay will be restored to full pay during the notice period, although statutory sick pay and other benefits are still taken into account.

H Need for confidentiality

H.1 Confidentiality

1.1 It is essential that confidentiality is maintained throughout the whole of any procedure, whether in the informal or formal stages. Employees must be secure in the knowledge that the governing body, as employer, will do all in its power to ensure that any matter relating to employees' absence remains confidential to the employee and those persons delegated by the governing body to deal with such issues.

1.2 Confidentiality is of particular importance when a member of staff is suffering from AIDS, has been diagnosed as HIV positive, or is suffering from a terminal condition.

1.3 In some circumstances, the medical advice received may state that the member of staff concerned should not be informed about all the details of his/her medical condition. The governing body must act appropriately in such circumstances and may need to modify procedure in line with the advice. It is strongly recommended that the governing body seek advice from the Diocesan Board or LEA in these circumstances.

H.2 Return to work interview

2.1 In some cases, the nature of the employee's illness may mean that the employee would wish that the return to work interview be conducted by a member of the same sex. Should such a request be made by a member of staff, efforts should be made to comply with the request, even to the extent of postponing the interview until the request can be met.

Annex A

Appointment of governing body committees

1 Quorum

1.1 The quorum for a meeting of the governing body is one-half of the members of the governing body in post, when powers are being delegated to a committee.

2 Staff committee

2.1 The School Staffing (England) Regulations 2003 give the governing body authority to delegate many of its powers on staffing matters to:

- The headteacher or
- One or more of the governors or
- One or more of the governors plus the headteacher

2.2 A decision to bring any matters arising from the management of staff sickness absence to the governors of a school will always have been preceded by some formal activity by the headteacher or line manager if the procedures outlined in this book have been carefully followed. It is therefore not appropriate for the governors to delegate to the headteacher the hearing stage of the procedures. It is strongly recommended that a hearing by the governors within the meanings used in this book should always be heard by members of the governing body, with the headteacher in attendance, but not a member of the panel. Therefore, each year, the governing body should appoint a group of governors to undertake the implementation of the sickness absence procedures should these be necessary. It is recommended that there should be three governors present at any hearing or appeal, However, given the variations in the size of governing bodies it is not always possible to achieve this.

3 Pool of governors for different committees

3.1 It is imperative that such committees are seen to be impartial, and governing bodies are advised to set up panel members (excluding the head) from which they can be formed. It is suggested that a pool of members of the governing body is nominated in order that a staff committee and the related appeal committees can each consist of at least three members, except in exceptional circumstances. A 'spare' governor is a reserve to be called upon if another member is ill or disqualified because they have an interest in the outcome or could not be seen to act impartially. Members will serve on the following committees as called (see para. 4 below):

(a) First committees and appeal committees for one or more of the following:

- staff discipline
- redundancy

- grievance
- capability
- absence (staff).

(b) Appeal committees to follow the first committee if required (recommended three, but at least two untainted governors). **The appeal committee cannot have fewer governors than the first committee.**

(c) The head cannot sit as a member of either committee because he or she is likely to have been involved earlier in the process.

3.2 To allow for illness, absence or previous involvement, it is prudent to have a pool of untainted governors from which to form the different committees.

4 Chair of committees

4.1 It is recommended that, at the time the governing body appoints a pool of governors from which the committees listed in paragraph 2 (see previous page) are formed, it also nominates two or three of the members of that pool to serve as chairs of the committees.

5 Order of calling to serve

5.1 The order in which governors will be called to serve on the various committees listed in paragraph 2 (see previous page) must be agreed at the time the pool of governors is appointed by the governing body, for example, in alphabetical order. **It is most important that the order of calling be decided at the beginning of the school year.** This is to protect the governing body against any charge of being biased in the selection of individuals to serve on particular committees. Chairs should be called in turn and other governors as agreed.

6 Untainted committees

6.1 Care must be taken to ensure that governors serving in the pool of governors listed in paragraph 2 (see previous page) always withdraw from any discussion by the governing body, a committee or elsewhere, concerning staff or pupils whenever formal procedures might follow. It is extremely unwise for the whole governing body to discuss personnel or pupil admission or exclusion matters. Governors in the pool described above must take particular care to remain untainted, otherwise a whole procedure could fail.

7 Terms of reference

7.1 It is essential that the governing body provide clear written terms of reference for the committees. Some of the following points may be included:

- full delegated powers of decision in matters relating to formal hearings dealing with staff or pupil issues;
- to treat all matters relating to a hearing as strictly confidential to the members of the committee;
- at the end of the procedure, including any appeal, the chair of the committee should provide a short written report to the next meeting of the governing body. This report should summarize briefly the nature of the incident and the outcome of the procedure.

Annex B

The role of the clerk to governors' absence and appeal committees

1 General

1.1 The Diocesan Board and the LEA should be consulted on clerking and advice arrangements. The clerk takes no part in the decision-making process and therefore the same person can act as clerk to both the hearing by the disciplinary committee and any subsequent appeal hearing. The clerk to the committee or appeal hearing may be the clerk to the governing body or someone else appointed by the chair of the governing body, but for the appearance of justice it is better for an alternative person to be found to clerk any appeal.

2 Responsibilities

2.1 The role of the clerk to either a governors' absence hearing or an appeal hearing is vitally important. The role may be separated into two areas of responsibility:

- (a) to carry out administrative responsibilities;
- (b) to provide legal and procedural advice throughout the proceedings.

2.2 One person may be appointed to assume both areas of responsibility or two people may be appointed. The specific functions to be carried out within the two areas of responsibility and the person responsible are summarized below:

Table 4: **The role of the clerk**

Responsibility	Person responsible
1 To ensure all concerned are properly notified of the meeting and of the procedures to be followed, and that they are sent a complete set of the documents which will be used at the meeting.	Clerk
2 To take full notes of the proceedings.	Clerk
3 To provide legal and procedural advice during the proceedings.	Diocesan Board, LEA or clerk
4 To assist in preparing the final written decision.	Clerk
5 To notify the employee of the decision of the committee.	Clerk
6 To keep a complete set of documents in case they are needed for an appeal or tribunal.	Clerk

3 Hearing date

3.1 The clerk to the governing body's involvement will begin by arranging the hearing date. It is important to consult as widely as possible on this, taking into account the time scales provided for and the availability in particular of any representative of the employee. The statutory right to accompaniment allows for an adjournment where the colleague or union representative is unavailable to attend.

4 Notification

4.1 The letter notifying the employee of the hearing, sent by the clerk to the governing body, must include the following and should be copied to the Diocesan Board and LEA:

- date, time and place of the hearing;
- names of the members of the disciplinary or appeal committee;
- agenda for the hearing (see Annex I, pp. 46-47);
- name of the person(s) presenting or answering the case and any witnesses they may call;
- supporting documents/evidence;
- a statement of the right to be accompanied by a companion;
- a request that all documents to be submitted to the committee be sent to the clerk to the governing body by a stated date, this date to allow for the clerk to the governing body to send out copies by the required deadline;
- a request that the names of any witnesses and copies of written statements detailing their evidence to the hearing be notified to the clerk to the governing body by a stated date (see the model letters in Annex H, pp. 37-45).

5 Names and documentation

5.1 The names of each party's witnesses, together with their witness statements, must be supplied by the clerk to the governing body to the other party and to the members of the committee as many days as possible before the hearing. Any other documentation to be submitted to the committee must be circulated in a similar fashion.

5.2 The clerk to the governing body should prepare an indexed bundle of papers with numbered pages running from the beginning to the end of the bundle. This saves time and confusion at the hearing, particularly if there are many documents.

5.3 It is helpful if the index is split into headed sections; for a committee where dismissal could be an outcome these might include:

- documents submitted by the headteacher;
- documents submitted by the employee;
- correspondence concerning the hearing;
- copies of procedures;

- the employee's contract of employment.

5.4 For an appeal hearing, these documents might include documents considered by the initial committee, any further documents submitted by the parties and correspondence.

5.5 If new evidence or documentation is presented during the hearing, the clerk to the hearing should advise the chair of the committee as to whether or not it should be taken or whether the hearing should be adjourned.

5.6 The chair of the committee may decide to adjourn the meeting for a short period or for a number of days if new evidence is brought which all parties have not had time to consider, or for any other good reason. If there is an adjournment, the reconvened committee must comprise the same membership. Either party may request an adjournment.

6 Previous warnings

6.1 Where no action has been taken for more than twelve months following a written warning, the warning should be removed from the employee's file.

6.2 It is the responsibility of the clerk of the governing body to the hearing to ensure that any warnings to do with sickness absence remaining on the employee's file are made available to the committee at the appropriate moment.

6.3 The reason for keeping a warning on file is that it will be referred to by the staff absence committee when it is reaching a decision on the appropriate sanction to impose.

6.4 All warnings should include clearly stated advice that further transgression could lead to a more severe penalty, up to and including dismissal.

7 Notes of hearing

7.1 During the hearing the clerk to the hearing, or someone else, takes a detailed note of the evidence presented, verbatim if possible. If the clerk wishes to record the hearing on audio-tape, s/he should obtain the agreement of all parties.

8 Written statement

8.1 After the parties withdraw, the clerk to the hearing and the Diocesan Board and LEA as appropriate stays with the committee, advises on law and procedure as required. The clerk notes the committee's discussion. The clerk should draw the committee's attention to the requirement to produce a written statement which contains:

- a review of the evidence presented to them;
- their findings on that evidence;
- the reasons for reaching their decision.

8.2 S/he may wish to check the precise wording of the written decision with the committee at this stage. It is important that the written statement following the hearing of the staff absence committee gives the details described above, so that, if there is an appeal, the appeal committee can see clearly the evidence given to the initial committee and the reasons for its decision.

8.3 The committee may delegate to the clerk to the hearing the production of the written decision, which must then be approved by all members of the committee and normally be signed by the chair of the committee.

9 Notification of decision

9.1 As soon as possible, and within 5 days of the hearing, the signed decision must be sent to the employee by the clerk to the hearing, or the clerk to the governing body, together with a covering letter (see Annex H, letter 5, p. 41).

10 Retention/disposal of documents

10.1 At the end of the hearing all copies of papers should be given to the clerk. S/he will then arrange for the retention of a set of papers for future reference by the clerk to the governing body and dispose of the remainder.

Annex C

The Education (Health Standards) (England) Regulations 2003

Paragraph 6: Health standards

(1) A relevant activity may only be carried out by a person if, having regard to any duty of his employer under Part II of the Disability Discrimination Act 1995, he has the health or physical capacity to carry out that activity.

Paragraph 7: Health Standards - Procedures

1 If it appears to an employer that a person may no longer have the health or physical capacity to carry out a relevant activity, the employer: -

(a) must afford the person an opportunity to submit medical evidence and make representations to him;

(b) must consider such evidence and representations and any other medical evidence available to them, including such evidence which has been furnished in confidence on the ground that it would not be in the best interests of the person concerned to see it; and

(c) may require the person, or at his request shall arrange for him, to submit himself for examination by a qualified medical practitioner appointed by the employer and, if the person fails to submit himself for such examination without good reason or refuses to make available medical evidence or information sought by the medical practitioner, the employer may reach a conclusion in the matter, including a conclusion that he no longer has the health or physical capacity to carry out that relevant activity, on such evidence and information as is available to him, notwithstanding that further medical evidence may be desirable.

2 At any time before such medical examination as is referred to in paragraph 1(c) is undertaken, the employer or the person himself, may submit to the appointed medical practitioner a statement containing evidence or other matter relevant to the examination: and the examination may be attended by a qualified medical practitioner appointed by the person being examined.

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Annex D

Model sickness absence procedure for use by staff

If you are unable to come to work because of illness or injury:

1 On the first day of absence

- you must notify your headteacher/line manager⁵ as soon as possible, giving the reason for your absence and, where possible, your expected date of return;
- if you are unable to notify your headteacher/line manager⁵ yourself, you must arrange for a relative or companion to notify the responsible person at the school on your behalf;
- if your absence is as a result of an injury at work, you must inform your headteacher/line manager⁵ so that s/he can ensure that an accident report is completed.

2 On the fourth working day of absence

- if you are still unfit for work, you must notify your headteacher/line manager⁵ of the position regarding your absence;
- you should inform your headteacher/line manager⁵ if you have contacted your doctor;
- if possible, you should give some indication as to the expected date of your return to work.

3 After 7 calendar days' absence

- if you are still unfit for work, you must notify your headteacher/line manager of the position regarding your absence;
- you must submit a medical certificate by no later than the 8th calendar day of absence;⁶
- you must continue to submit medical certificates to cover your continued absence;⁶
- if your first medical certificate covered a period of more than 14 days, or if your absence was covered by more than one certificate, you must obtain a final medical certificate as to your fitness to return to your duties.

Failure to comply with these requirements without good cause may affect your entitlement to pay for the absence period.

4 Return to work

On your return to work, you must ensure that you complete the appropriate form, giving reasons for your absence, and arrange for the form to be signed by your headteacher/line manager⁵. Forms are available from the school office.

⁵ The procedure should make clear which person at the school is to be notified

⁶ Statutory requirements relating to medical certificates

5 Monitoring

All sickness absence will be monitored and recurrent short-term or long-term absence will be dealt with in line with the Absence Management Procedure.

Annex E

Sample forms

- 1 Sickness form for absences up to and including 3 days.
- 2 Self-certification form for absences of more than 3 and less than 7 days.
- 3 Form requesting independent medical examination.

2 Self-certification form for absences of more than 3 and less than 7 days

See paragraph B.2.1. (p. 3)

Private and confidential

Name

Address

.....

.....

Date of birth/...../.....

National Insurance number/...../...../...../.....

First day of absence and
time of leaving work Time Date

Date and time of return
to work Time Date

Details of sickness
causing absence

.....

.....

Was your absence due to an accident at work
or an industrial injury? YES / NO

If so, has this been reported to your line
manager and recorded in the accident book? YES / NO

Signature of employee Date

Signature of line
manager Date

3 Form requesting independent medical examination

See paragraph F.1 (p. 15) and Annex H, letter 7 (p. 43).

CONFIDENTIAL - REFERRAL FOR MEDICAL EXAMINATION

Name

Address

.....

.....

Date of birth/...../.....

Date of referral/...../.....

Reason for referral

.....

.....

Is it likely that the employee will return to full employment in the near future? YES / NO

What is the expected date of return to work?/...../.....

Will the employee be able to fulfil his/her full range of duties? YES / NO

If not, would a temporary change of duties be desirable? YES / NO
(please give details if yes)

Are there any reasonable adjustments that could be made to the work environment to aid the employee? YES / NO
(please give details if yes)

Is absence level likely to recur at a future date? YES / NO
(please give details if yes)

Is there an underlying cause for the absence level? YES / NO
(please give details if yes)

Does the employee in your opinion have a disability within the definition of the Disability Discrimination Act 1995? YES / NO
(please give details if yes)

Is a further referral necessary/advisable? Necessary/advisable/not required

Is there any specific recommendation or information you wish to make?
Please give details.

Please find attached employee's attendance record and details of work undertaken.

Signature of medical examiner

Date of examination/...../.....

Date of signature/...../.....

Annex F

Procedures for review meetings by headteacher

1 Preliminary stage

1.1 Before the formal review meeting, as part of the monitoring programme, the headteacher, or an appropriate colleague, will have discussed with the employee the progress being made to meet the target. If necessary, concern should be expressed at these interim stages if progress is not being made.

1.2 The employee must be reminded of the previously arranged date for the review meeting at least 5 clear working days beforehand, and told that the purpose of the meeting is to:

- § review the agreed target;
- § consider whether the target has been satisfactorily attained;
- § consider what further action is necessary.

2 During the review meeting

During the meeting the following procedure is recommended.

2.1 The headteacher should remind those present of the previously arranged target.

2.2 The headteacher should, at this stage, inform those present of any interim meetings that may have taken place.

2.3 The employee is then invited to comment on whether s/he considers the target to have been met.

2.4 The headteacher should then comment and state whether s/he is satisfied with the progress and give acknowledgement and appreciation of any improvements, as appropriate.

2.5 If there has not been satisfactory progress with regard to the attendance level, the headteacher must state this and give reasons, with clear examples relating to the identified target. The employee should be given an opportunity to respond.

2.6 The headteacher may conclude that, due to the seriousness of the situation, a warning be issued appropriate to the stage in the process. This conclusion should be clearly stated.

2.7 The following is then agreed:

- further targets to demonstrate improved attendance;
- dates by which targets are to be met;
- any support which may be necessary;
- interim reviews and monitoring;
- date and formal review of progress.

2.8 The headteacher will have in mind suitable targets prior to the review meeting as these would have become apparent from the outcome of the previous interim discussions.

3 Action following meeting

3.1 If the headteacher decides that the level of absence requires it, s/he may ask the clerk to the governing body to convene a formal hearing .

3.2 The clerk to the governing body then convenes a hearing by a committee of governors to consider the future employment of the member of staff.

4 Headteachers

4.1 When a headteacher is the subject of an absence procedure, the procedures described in this document are modified so that the chair of the governing body, or other designated governor, replaces the headteacher in initiating any action which has to be taken. References in this document to the chair of the governing body could, in this context, include another designated governor in place of the chair, if for any reason the chair were unavailable..

4.2 The nominated governor should always seek professional advice from the Diocesan Board or LEA.

4.3 Advice provided by the Diocesan Board and LEA will cover the following areas:

- procedures to be followed
- setting of targets
- monitoring progress
- participation in formal review meetings.

4.4 Should the procedure proceed to formal hearing stage, that is, a hearing by a committee of the governing body, the nominated governor will be responsible for presenting the governors' case. The nominated governor should be accompanied to the hearing by a representative of the Diocesan Board and/or LEA.

Annex G

Notice periods

1 Periods of notice for support staff vary and are given in each person's contract of employment, subject to any longer period required by statute (one week for each completed year of service after two years up to a maximum of twelve weeks). Teachers' periods of notice for dismissal are summarized in the table below and are based on the nationally agreed conditions of service included in the Burgundy Book.

Table 5: **Notice periods for employers' dismissal of teachers**

Date of Termination of service	Period of notice	Date⁷ by which notice must be given
30 April	Less than 9 years' continuous service - 2 calendar months	28 February
	9 years' continuous service - 9 weeks	21 February
	10 years' continuous service - 10 weeks	14 February
	11 years' continuous service - 11 weeks	7 February
	12 or more years' continuous service - 12 weeks	1 February
31 August	3 months	31 May
31 December	Less than 9 years' continuous service - 2 calendar months	31 October
	9 years' continuous service - 9 weeks	24 October
	10 years' continuous service - 10 weeks	17 October
	11 years' continuous service - 11 weeks	10 October
	12 or more years' continuous service - 12 weeks	3 October

⁷ The notice period finishes at midnight on the date given

Annex H

Sample letters

- 1 Invitation to initial formal meeting to discuss concerns over attendance record.
- 2 Invitation to subsequent review meeting.
- 3 Notification of outcome of initial/review meeting.
- 4 Invitation to attend formal hearing.
- 5 Notification of outcome of formal hearing.
- 6 Letter notifying an appeal hearing.
- 7 Request for an independent medical examination.
- 8 Letter requiring employee to undergo independent medical examination.
- 9 Request to employee for permission to contact employee's doctor.

1 Invitation to initial formal meeting to discuss concerns over attendance record

Sent in duplicate by the headteacher. See paragraph C.3 (p. 7).

Date (at least 5 clear working days' notice)

Dear

FORMAL MEETING TO DISCUSS ATTENDANCE RECORD

You will be aware from our informal discussions that there are a number of concerns about your attendance record. I write to invite you to attend a meeting to discuss these concerns.

The meeting will take place at (time) on (date) and be held in (place). (At least 5 clear working days' notice.)

You may be accompanied at the meeting by a companion, who may be a member of a union or professional association or legal representative. I should be grateful if you would notify me the day before the meeting of the name of any companion you may be bringing. At the meeting I shall be accompanied by(name).

As acknowledgement of receipt of this letter, please sign and return to me the enclosed copy.

Yours sincerely

(typed name)
Headteacher
CC: Chair of governing body

2 Invitation to subsequent review meeting

Sent in duplicate by the headteacher. See paragraph C.5 (pp. 7-8).

Date (at least 5 clear working days' notice)

Dear

MEETING TO REVIEW ATTENDANCE RECORD

At the formal meeting which took place on (date) you will recall that it was decided to hold a future meeting to review your attendance record. The meeting will take place at (time) on (date) and be held in (place). (At least 5 clear working days' notice.)

You may be accompanied at the meeting by a companion, who may be a member of a union or professional association or legal representative. If your chosen representative is unable to attend the hearing at the time given above, you may propose another date and time for the meeting to take place to me. Any such alternative date must be on or before [date of the fifth working date after the proposed meeting date] I should be grateful if you would notify me as soon as possible and no later than 2 clear working days before the meeting of the name of any companion you may be bringing. At the meeting I shall be accompanied by (name).

You may wish to produce written reports or evidence at the meeting in support of your case. You should ensure that copies of any written statements upon which you wish to rely at the hearing are given to me no later than 2 clear working days before the meeting. Similarly, at least 2 clear working days before the meeting I will send you copies of the written evidence and any relevant documents that I will be presenting.

In summary, the following information should be supplied to me as soon as possible and no later than 2 clear working days before the date of the meeting:

- 1 the name of any companion who will be with you at the meeting;
- 2 any written evidence or relevant documents you wish to be considered;
- 3 the names of any witnesses and copies of written statements detailing their evidence.

If there is any aspect of this letter or of the absence procedure to the extent that it applies to you that you do not understand, please contact me.

As acknowledgement of receipt of this letter, please sign and return to me the enclosed copy.

Yours sincerely

(typed name)

Headteacher

CC: Chair of governing body

LEA

Diocesan Board

Union representative (if appropriate)

3 Notification of outcome of initial/review meeting

Sent by the headteacher. See paragraphs C.3-C.5 (pp. 7-8).

Date (to be sent without delay after the meeting)

Dear

OUTCOME OF INITIAL/REVIEW (delete as appropriate) MEETING

I write to inform you of the outcome of the meeting which took place on (date) in (place). Present at the meeting were (names and designations of all present).

I explained to you the purpose of the meeting, which was to discuss your attendance record. I explained that the level of absence was giving cause for concern and your absence was discussed. You stated that

I sought to identify any problems or difficulties that you might be experiencing which could be contributing to your absence. You indicated that

Select wording as appropriate:

I am satisfied that you intend to return to work on (date) and that, should your future attendance record be satisfactory, no further action will be taken.

or

I advised you that your case would be referred to an independent medical adviser and that arrangements would be made for you to attend for a medical examination. A date was set for a review meeting to give further consideration to your attendance. The review meeting is to be held on (date) at (time) in (place), by which time the following targets for improved attendance should have been met:

or

I advised you that your attendance record was not satisfactory. You were given a formal written warning that if your attendance continued to be unsatisfactory it could ultimately result in your continued employment being placed in jeopardy.

or

The results of the independent medical examination indicated that you were unfit to continue in your present post/ permanently unfit to work. It is therefore necessary for me to ask you to attend a formal hearing of a committee of governors. You will be notified of the date of the hearing as soon as possible.

or

Having considered the details of your attendance record, together with your evidence and issues which were addressed at the meeting, I regret that it has become necessary for me to ask you to attend a formal hearing of a committee of governors. You will be notified of the date of the hearing as soon as possible.

If you need further advice or assistance or if you have any queries over the content of this letter, please feel free to contact me.

Yours sincerely

(typed name)

Headteacher

CC: Chair of governing body

LEA

Diocesan Board/union representative (if appropriate)

4 Invitation to attend formal hearing

Sent in duplicate by the clerk to the governing body. See paragraph C.6 (pp. 8-9).

Date (at least 10 clear working days' notice)

Dear

FORMAL HEARING TO CONSIDER ATTENDANCE RECORD

At the meeting with the headteacher which took place on (date) you will recall that it was decided that it was necessary to hold a formal hearing to consider your attendance record. The hearing will take place at (time) on (date) (at least 10 days' notice) and be held in (place). A copy of the agenda for the hearing is enclosed, together with written evidence and documents currently available and a copy of the formal sickness procedure adopted by the governing body.

The hearing will be before a committee of three governors and the purpose of the hearing will be to consider concerns relating to your attendance record. You should be aware that consideration will be given to your continued employment. You may be accompanied at the hearing by a companion, who may be a member of a union or professional association or legal representative. If your chosen representative is unable to attend the hearing at the time given above, you may propose another date and time for the meeting to take place to me. Any such alternative date must be on or before [date of the fifth working date after the proposed meeting date] I should be grateful if you would notify me as soon as possible and no later than 5 clear working days before the hearing of the name of any companion you may be bringing. At the hearing the headteacher will be accompanied by (name).

Should you wish to present any written reports or evidence at the hearing, please let me have copies of the documents as soon as possible and no later than 5 clear working days before the hearing. Similarly, at least 5 clear working days before the hearing I will send you copies of the written evidence and any relevant documents which I will be presenting.

In summary, the following information should be supplied to me as soon as possible and no later than 5 clear working days before the date of the hearing:

- 1 the name of any companion who will be with you at the hearing;
- 2 any written evidence or relevant documents you wish to be considered;
- 3 the names of any witnesses and copies of written statements detailing their evidence.

The names of the governors who will be serving on the committee are (names). The headteacher will be calling the following witnesses to the hearing: (names).

As acknowledgement of receipt of this letter, please sign and return to me the enclosed copy. Failure to return the copy does not invalidate any possible subsequent procedures.

Yours sincerely

(typed name)

Clerk to the governing body

CC: Headteacher

Chair of governing body

Members of the committee

LEA/Diocesan Board/union representative (if appropriate)

5 Notification of outcome of formal hearing

Sent in duplicate by the clerk to the governing body. See paragraph C.6 (pp. 8-9).

Date (to be sent without delay after hearing)

Dear

OUTCOME OF FORMAL HEARING

Following the formal hearing of the governors' committee held on (date), I write to inform you of the outcome of the hearing. On the evidence presented to the committee, it was decided that:

Select wording as appropriate:

(a) you are able to return to work, either immediately or in the very near future and that no further action is required; *[make further amendments to letter as appropriate]*

or

(b) a further review period would be appropriate, after which there will be a further hearing before the same committee of governors (if possible);

or

(c) because you do not have the health or physical capacity to carry out the duties for which you were employed and should be dismissed. Your last day of employment will be **[Legal advice must be sought on the composition of this letter.]**

The committee considered the evidence presented to the hearing and had the following reasons for reaching its decision

Should you wish to appeal against this decision, you may do so by writing to me, stating the grounds of your appeal, within 10 working days of the date of the hearing.

As acknowledgement of receipt of this letter, please sign and return to me the enclosed copy. Failure to return the copy does not invalidate any possible subsequent procedures.

Yours sincerely

(typed name)

Clerk to the governing body

CC: Headteacher

Chair of governing body

LEA

Diocesan Board

Union representative (if appropriate)

6 Letter notifying an appeal hearing

Sent in duplicate by the clerk to the governing body.

Date (at least 10 clear school days' notice)

Dear

APPEAL COMMITTEE HEARING

In response to your letter of (date) stating that you wish to appeal against the decision of the committee of the governing body notified to you on (date), I write to inform you that an appeal hearing will be held at (time) on (date) and be in (place). (the appeal committee should meet within 15 school days of receipt of written notice of appeal) The procedures to be followed during the appeal hearing are the same as those used during the original hearing.

You may be accompanied at the hearing by a companion, who may be a member of a union or professional association or legal representative. If your chosen representative is unable to attend the hearing at the time given above, you may propose another date and time for the meeting to take place to me. Any such alternative date must be on or before [date of the fifth working date after the proposed meeting date] I should be grateful if you would notify me as soon as possible and no later than 5 clear working days before the hearing of the name of any companion you may be bringing. At the hearing the headteacher will be accompanied by (name).

I enclose details of the documents to be presented to the appeal committee. These include copies of all of the documents which were considered by the original committee and which the headteacher will present to the appeal committee. [I also enclose copies of new documents which the headteacher will introduce at the appeal.]

If you wish to submit any new documents please send them to me as soon as possible.

The following information should be supplied to me as soon as possible and no later than 5 clear working days before the date of the hearing:

- 1 the name of any companion who will be with you at the hearing;
- 2 any written evidence or relevant documents you wish to be considered;
- 3 the names of any witnesses and copies of written statements detailing their evidence.

The headteacher will be calling the following witnesses to the hearing: (names).

The names of the governors who will be serving on the committee are (names).

As acknowledgement of receipt of this letter, please sign and return to me the enclosed copy. Failure to return the copy does not invalidate any possible subsequent procedures.

Yours sincerely

(typed name)

Clerk to the governing body

CC: Headteacher

Chair of governing body

LEA

Diocesan Board

Union representative (if appropriate)

7 Request for an independent medical examination

Sent by the headteacher. See paragraph F.1 (p. 15).

Date

Dear

..... **(Name of employee and post held)**

I should be grateful if you would arrange to carry out a medical examination of (*name*) who is currently (*details of position held*). The reason for this request is that 's level of absence is giving cause for concern.

I enclose with this letter details of the work undertaken by and a copy of his/her attendance record.

When you carry out the examination, I should be grateful if you would respond to the following questions on the attached form (*see p. 31*):

- what is the likely date for to be able to return to full employment duties?
- or, if it is not possible to give an anticipated date,
- what is the likelihood of being able to return to full employment at some time in the future?
- is a further referral necessary/advisable?
- will be able to fulfil the full duties and responsibilities of the post on return or would a temporary change to the duties and responsibilities be desirable?
- is there a possibility of the absence level recurring at a future date?
- (*if the medical examination has arisen because of recurrent short-term, seemingly unrelated absences*) is there likely to be an underlying cause for the absences?
- is the employee in your opinion disabled within the definition of the Disability Discrimination Act 1995?
- (*add any other relevant questions*).

Thank you for your assistance in this matter.

Yours sincerely

(*typed name*)
Headteacher
CC: Chair of governing body
LEA

8 Letter requiring employee to undergo independent medical examination

Sent by the headteacher. See paragraph F.1.1 (p. 15).

Date

Dear

INDEPENDENT MEDICAL EXAMINATION

You will be aware that there is some concern over your attendance record and absence due to ill-health. The governing body has asked me to arrange for you to undergo a medical examination by an independent medical adviser.

Under the terms and conditions of your employment, you are required to comply with such a request. I have therefore contacted the medical adviser to ask that an appointment be made for you to undergo an examination. Should you be unable to keep the appointment for any reason, please contact both the medical adviser and me as soon as possible so that an alternative date can be arranged.

Should you have any queries regarding this or if there are further matters which you would like to discuss with me, please do not hesitate to contact me.

Yours sincerely

(typed name)
Headteacher
CC: Chair of governing body
LEA

Enclosed: copy of headteacher's referral letter to occupational health

9 Request to employee for permission to contact employee's doctor

Sent by the headteacher. See paragraph F.2.3 (p. 16).

Date

Dear

INDEPENDENT MEDICAL EXAMINATION - REQUEST TO CONTACT YOUR DOCTOR

As you know, the governing body has requested that you undergo a medical examination by an independent medical adviser. It could be the case that the medical examiner would wish to approach your own general practitioner and/or consultant for relevant information from your medical records. I write to ask for your permission for such an approach to be made, should it be considered necessary.

I would like to reassure you that the information from your medical records would only be made available by the general practitioner/consultant to the appropriate medical examiner and would not be available to anyone else. You have the right to refuse access to the records and, in that case, any decisions relating to your employment would be taken by the governing body on the basis of the available medical information. You also have the right to see and comment on the report before it is sent.

I should be grateful if you would complete and return the attached pro-forma, indicating whether or not you are willing for the medical adviser to approach your doctor.

Yours sincerely

(typed name)
Headteacher

From:

Address:

I am/am not (*delete as appropriate*) willing for an approach to be made to my general practitioner and/or consultant for access to relevant medical information. Should I agree to allow access to my records, I understand that this information will only be made available to the independent medical adviser. I do/do not want the opportunity to see and comment on the report before it is sent to the appropriate medical examiner.

Signed Date

Name, address and telephone number of:

Doctor

Consultant

.....

.....

Annex I

Model agenda for a hearing by governors (including Appeals)

1 Introductions

1.1 Having agreed the order of the agenda with the companion, the chair of the committee introduces her/himself and allows an opportunity for all others present to do so.

2 Nature of the hearing

2.1 The chair of the committee checks that all parties have the relevant documents and identifies the specific issue being considered.

3 Presentation by the headteacher

3.1 The headteacher⁸ presents the management's case. Witnesses⁹ (if any) are called.

4 Questions by the member of staff

4.1 The member of staff and/or companion may question the headteacher and witnesses.

5 Questions by committee members

5.1 Members of the committee may question the headteacher and the witnesses.

6 Presentation by the member of staff

6.1 The member of staff concerned and/or the companion, presents their case. Witnesses may be called.

7 Questions by the headteacher

7.1 The headteacher may put questions at this point in the procedure.

⁸ Where the action of the headteacher is being considered, the presentation would be made by the chair of the governing body.

⁹ Witnesses will normally only be present during a hearing to give their evidence and will then withdraw.

8 Questions by committee members

8.1 Members of the committee may question the member of staff, the companion and the witnesses.

9 Final statement by the headteacher

9.1 The headteacher may make a final statement.

10 Final statement by the member of staff

10.1 The member of staff and/or companion may make a final statement.

10.2 The parties then withdraw to allow the committee to discuss the findings and come to a decision. The clerk to the committee will remain, as will any Diocesan Board or LEA representative. The parties are usually asked to remain available for a short time in case the committee needs to clarify any point (see para. E.1.6, p. 13).