



MARISH

Academy Trust



Managing Attendance Policy

Annex 2

Procedure for Dealing with Long-Term Absence

Approved by:	Strategic Board	Date: September 2022
Last reviewed on:	September 2022	
Next review due by:	September 2024	

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1. Procedure for Dealing with Long-Term Absence

Long term absence is a continuous period of sickness absence of 4 working calendar weeks or more.

Where the reason for the absence is due to a medical condition defined as a disability under the Equality Act 2010, reference should be made to the “Disability - reasonable adjustments” guidance (see Paragraph 11.3 of the Managing Attendance Policy).

See Paragraph 7.9 of the Managing Attendance Policy for details about maintaining regular contact with an employee during their sickness absence.

2. Stage 1 – First Sickness Absence Review Meeting (Long-Term)

The line manager/designated person should set up a First Sickness Absence Review Meeting (Long-Term) as soon as is reasonably practicable, but it is recommended that the meeting should be held **no later than 3 working weeks** after the employee reaches a continuous period of absence lasting 4 working calendar weeks.

The employee will be given at least **5 working days’** written notice of the meeting. The letter will state date, time and place of the meeting, the reason for the meeting and the employee’s right to be accompanied to the meeting by a trade union representative or a work colleague. A copy of the Managing Attendance Policy and the Procedure for Dealing with Long-Term Absence (this procedure) will be enclosed with the letter.

If the employee wishes, the meeting may take place at another appropriate mutually agreed venue rather than their normal place of work. If the employee is unable to attend due to their ill health, they may ask their representative to attend on their behalf or they may wish to send in a written submission to be considered at the meeting.

The objectives of the meeting are:

- To review the employee’s sickness absence record and to explore any underlying medical causes for their absence, including any medical evidence e.g., outcome of referral to Occupational Health.
- To provide an opportunity for the line manager/designated person to review the implications of the employee’s absence on service delivery.
- To provide the employee with an opportunity to explain their sickness absence.
- To consider services that might assist the employee such as the services available from the school’s Employee Assistance Programme, if available and where appropriate.
- To consider options that might help the employee return to work.
- To inform the employee that if they have not returned to work after 2 working months from the date of the First Sickness Absence Review Meeting (long-term review period), the case will progress to the Second Sickness Absence Review Meeting (Long-Term).
- To inform the employee that if long-term absence continues, after these procedures have been exhausted, consideration will be given to dismissal at the Contract Review Hearing stage.

The outcome of the First Sickness Absence Review Meeting (Long-Term) will be confirmed to the employee in writing **within 5 working days** of the meeting.

During the 2 working month review period the line manager/designated person should maintain regular contact with the employee.

If the employee returns to work during the review period (within 2 working months from the date of the First Sickness Absence Review Meeting (Long-Term)), long term sickness absence standards will be set at the return to work meeting which are:

- If the employee has a further period of absence of 4 weeks during the fixed 12-month review period, the case will proceed to the Stage 2 - Second Sickness Absence Review Meeting (Long-Term). The fixed 12-month period will start from the date of the employee's return to work.

If satisfactory attendance levels are maintained, there will be no further formal meetings under this procedure.

3. Stage 2 – Second Sickness Absence Review Meeting (Long - Term)

If the employee breaches the long-term attendance standards within the fixed 12-month review period, the line manager/designated person should set up a Second Sickness Absence Review Meeting (Long-Term) as soon as is reasonably practicable, but should not be any later than **3 working weeks** after a continuous period of 4 working weeks of absence.

OR

If the employee continues to be on sickness absence for 2 working months or more from the First Sickness Absence Review Meeting (Long-Term), the line manager/designated person should set up a Second Sickness Absence Review Meeting (Long-Term) as soon as is reasonably practicable, but should not be any later than **3 working weeks** after the end of the 2 working month review period.

The employee will be given at least **5 working days'** written notice of the meeting. The letter will state the date, time and place of the meeting, the reason for the meeting and the employee's right to be accompanied to the meeting by a trade union representative or work colleague. A copy of the Managing Attendance Policy will be enclosed with the letter.

At the employee's request, the meeting may take place at another appropriate mutually agreed venue rather than their normal place of work. If the employee is unable to attend due to their ill health, they may ask their representative to attend on their behalf or they may wish to send in a written submission to be considered at the meeting.

The objectives of the meeting are:

- To review the employee's sickness absence record and to explore any underlying medical causes for their absence, including any medical evidence.
- To provide an opportunity for the line manager/designated person to review the implications of the employee's absence on service delivery.
- To provide the employee with an opportunity to explain their sickness absence.

- To consider services that might assist the employee such as the services available from the school's Employee Assistance Programme, if available and where appropriate.
- To consider options that might help the employee to return to work.
- To consider at this stage whether the employee would benefit from being redeployed to another post within the school.
- To inform the employee that if they have not returned to work after 2 working months from the date of the Second Sickness Absence Review Meeting (Long-Term), the review period, the case will progress to Contract Review Hearing where consideration will be given to dismissal.

The outcome of the Second Sickness Absence Review Meeting (Long-Term) will be confirmed in writing to the employee **within 5 working days** of the meeting.

During the review period the line manager/designated person should maintain regular contact with the employee.

If the employee returns to work during the review period (within 2 working months from the date of the Second Sickness Absence Review Meeting), long term sickness absence standards will be set at the Return to Work meeting, which are:

- If the employee has a further period of absence of 4 working weeks during the fixed 12-month review period, the case will proceed to Stage 3 - Contract Review Hearing. The fixed 12-month period will start from the date of the employee's return to work.

If satisfactory attendance levels are maintained, there will be no further formal meetings under this procedure.

4. Stage 3 - Contract Review Hearing

If the employee breaches the long-term attendance standards within the fixed 12-month review period, the line manager/designated person should arrange a Contract Review Hearing as soon as is reasonably practicable, but should not be any later than **6 working weeks** after a continuous period of 4 working weeks of absence.

OR

If the employee continues to be on sickness absence for 2 working months from the Second Sickness Absence Review Meeting (Long-Term), the line manager/designated person should set up a Contract Review Hearing as soon as is reasonably practicable, but should not be any later than **6 working weeks** after the end of the 2 working month review period.

The purpose of the Contract Review Hearing is to consider the employee's continued employment with the school.

A Contract Review Panel will consider the case at the hearing and the panel will consist of three governors. It should consist of the headteacher and two governors who are not staff governors and, ideally, not parent governors and who have not previously been involved in the case. If the headteacher is not suitable to be on the panel either because they have been previously involved e.g., at Stage 1 or 2 of the procedure, or could not be seen as being impartial, or for any other valid reason, another governor should replace them on the panel.

It is strongly recommended that a representative from Schools HR is also in attendance in an advisory capacity to the Panel.

4.1 Prior to the Contract Review Hearing

The line manager/designated person will prepare a report that includes:

- A chronological list of the dates and periods of sickness absence from the date that action was first taken under the Policy and the stated reasons for the sickness absences.
- A chronological list of the dates of action taken under the Policy. This will include, where appropriate:
 - Records of Return to Work Meetings
 - Records of the First and Second Sickness Absence Review Meetings (Long-Term)
- All available medical evidence, including a recent report from Occupational Health and, where appropriate, the outcome of any referral(s) to an independent specialist medical adviser. It is necessary to provide an up-to-date medical opinion, e.g., within the last two months.
- An assessment of the impact of the absence on the service area and colleagues.
- A summary of any previous efforts made to support and assist the employee, including any efforts made at redeployment, and reasonable adjustments which have been considered throughout the process.
- The employee's employment record and any other relevant information e.g. details of their job role, length of service etc.

The employee will be given at least **10 working days'** written notice of the Contract Review Hearing. The letter will state the date, time and place of the Hearing, include a copy of the line manager's/designated person's report with all attachments and a copy of the Managing Attendance Policy and Procedure for Dealing with Long-Term Absence, and advise the employee that they may be accompanied to the meeting by a trade union representative or a work colleague.

4.2 At the Contract Review Hearing

The Chair of the Contract Review Panel will state the objectives of the hearing which are:

- To confirm dates and periods of sickness absence since the beginning of the process and ensure records are up to date and accurate.
- To review the employee's sickness absence record in the light of any available medical evidence.
- To provide an opportunity for the employee to present their case.
- To review any previous efforts to assist the employee, including reasonable adjustments where the reasons for absence is due to a medical condition regarded as a disability under the Equality Act 2010.
- To review the type of work that the employee does and the impact of their sickness absence on service delivery and colleagues.
- To consider the availability of alternative work, where appropriate.

- To ensure all the appropriate procedures have been followed and that any proposed action is reasonable in all the circumstances; including referrals to Occupational Health as appropriate and confirmation that the employee has been advised that if the attendance standards were not met, dismissal would be considered.

The line manager/designated person will present the facts of the case at the hearing.

The employee or their representative will have the opportunity to respond to the information provided by the line manager/designated person.

The Contract Review Hearing Panel may ask questions of both parties and seek advice from appropriate sources prior to reaching their decision.

The Contract Review Hearing Panel may consider an adjournment to consider the information presented or seek further information. Where further information is provided, both sides will have the opportunity to comment.

4.3 Outcome of the Contract Review Hearing

The outcome of the Hearing will depend on the assessment by the Contract Review Hearing Panel of the facts and circumstances of the case. The Contract Review Hearing Panel may decide on the following outcomes:

- Dismissal or
- Give the employee a further and final opportunity to meet the attendance standards and reset the review period.

The Contract Review Hearing Panel may consider the following guidance in reaching a decision:

- It is important for the Contract Review Hearing Panel to consider the nature of the employee's illness and the medical prognosis. The key question is whether, taking account of all the circumstances of the case, the service area can be expected to wait any longer for the employee's return to work and, if so, how much longer.
- Dismissal will be considered when the employee is no longer able to carry out the main functions of their job and all options have been explored including reasonable adjustments to that job or whether an alternative job is available through the redeployment policy.

Dismissal will be with paid contractual notice. Employees will not be required to work during their notice period.

Where dismissal is considered, there will be a final period to explore all reasonable alternative options to dismissal. This final period will start from the date of the letter confirming the outcome of the Hearing and will be the employee's contractual notice entitlement.

As an alternative to dismissal, the Contract Review Hearing Panel may decide to set a further review period in line with the medical advice and prognosis. However, this review period should be no more than 2 months from the date of Contract Review Hearing. If the employee has not returned to work within the 2-month period, a further Contract Review Hearing will take place.

During the review period, the line manager/designated person should maintain regular contact with the employee.

If the employee returns to work during the review period (within 2 months from the date of the First Review Meeting), long term sickness absence standards will be set which are:

- If the employee has a further period of absence of four weeks during the fixed 12-month review period, the case will proceed to a further Contract Review Hearing. The fixed 12-month period will be the 12-month period from the date of the employee's return to work.

If satisfactory attendance levels are maintained, there will be no further formal meetings under this procedure.

If the employee breaches the long-term attendance standards within the fixed 12-month review period, the line manager/designated person should arrange a further Contract Review Hearing as soon as is reasonably practicable, but should not be any later than **6 working weeks** after a continuous period of 4 weeks of absence.

OR

If the employee continues to be on sickness absence for 2 months or more from the date of the Contract Review Hearing, the line manager/designated person should set up a further Contract Review Hearing as soon as is reasonably practicable, but should not be any later than **6 working weeks** after the end of the 2-month review period.

The outcome of the Hearing will be confirmed in writing to the employee **within 5 working days** of the Contract Review Hearing.

5. Notice Periods

The period of notice for **support staff** is one week's pay for each year of service in the post up to a maximum of 12 weeks.

The period of notice for **teachers** must be as stated in the Conditions of Service for School Teachers (Burgundy Book). Notice to terminate employment must be given by the specified dates (by 31st October to end employment on 31st December, by 28th February to end employment on 30th April and by 31st May to end employment on 31st August) and notice pay will be to the end of that term. Teachers who have over 8 years continuous employment are entitled to longer notice based on their total continuous service, which is calculated based on one week for every complete year of service up to a maximum of 12 weeks.

The notice period starts from the date when the employee is informed that they are to be dismissed.

6. Appeal Hearing

The employee has the right to appeal against the decision to dismiss.

6.1 Grounds of Appeal

The appeal is against the dismissal decision reached at the Contract Review Hearing and is not a re-hearing of the case. The employee can appeal on the following grounds:

- The severity of the action and/or
- The finding of the Contract Review Hearing on a point of fact and/or

- A failure to adhere to agreed procedure.

6.2 Prior to the Appeal Hearing

If the employee wishes to appeal, they must submit their written case statement to the Chair of Governors **within 10 working days** of the date of receipt of the letter confirming the outcome of the Contract Review Hearing. The employee's case statement must clearly state the reason(s) for the appeal and any supporting information.

The Chair of the Contract Review Hearing Panel should prepare a management case statement detailing the decision taken at the Contract Review Hearing, explaining the reasons for this decision, and answering any issues that may have been raised in the employee's statement. This should be sent to the employee at the same time as notification of the Appeal Hearing. If this is not possible, this should be sent to the employee at least **5 working days** before the date of the Appeal Hearing.

The Appeal Hearing should be convened **within 6 working weeks** from receipt of the employee's appeal. The employee should be given at least **10 working days'** written notice of the Appeal Hearing.

The appeal will be heard by an Appeals Committee consisting of three governors who are not staff governors and, ideally, not parent governors and who have not previously been involved in the case. The Chair of the Contract Review Hearing Panel will be required to present the management case at the appeal and, for the purposes of this procedure, will be known as the 'Presenting Officer'. In the absence of the Chair of the Contract Review Panel being available to present the case, this responsibility will fall to one of the other two members of the Contract Review Panel.

6.3 At the Appeal Hearing

The Chair of the Appeals Committee will state the purpose of the appeal which is to consider the grounds of the appeal.

The Chair will explain the procedure to be followed:

- The employee and/or their representative will present relevant information in support of their appeal.
- The Presenting Officer will have the opportunity to respond and provide information relevant to the appeal.
- The Appeal Committee may ask questions of the Presenting Officer and employee and seek advice prior to reaching their decision.
- The Appeal Committee may adjourn to consider the information presented or seek further information before reaching their decision. Where further information is provided, both parties will have the opportunity to comment.

6.4 Outcome of the Appeal Hearing

The Appeal Committee will ask both parties to withdraw whilst the decision is considered.

Once a decision has been reached, both parties will be recalled and advised of the decision which will be confirmed to the employee, in writing, **within 5 working days** of the decision, which could be one of the following:

- Dismiss the appeal and uphold the decision to terminate employment
- Uphold the appeal and reinstate the employee, setting a new review period and triggers
- Any other action they might consider to be appropriate and reasonable depending on the circumstances of each case.

Long-Term Absence Flowchart

