



The Federation of Angel Road Schools



Headteacher: Mr C Read

Improving Attendance and Ill-Health Absence Management Procedure

Contents

(If you are viewing this document online, click on the headings below to jump to the relevant section)

<u>1.</u>	<u>Introduction</u>	2
<u>2.</u>	<u>Notification of sickness absence</u>	2
<u>3.</u>	<u>Certification</u>	2
<u>4.</u>	<u>Recording absence</u>	3
<u>5.</u>	<u>Maintaining contact during sickness absence</u>	4
<u>6.</u>	<u>Short term sickness absence</u>	6
<u>7.</u>	<u>Return to work meetings</u>	7
<u>8.</u>	<u>Employees wishing to return but not certified as fit</u>	8
<u>9.</u>	<u>Employees not considered fit to return by the Headteacher, or where the GP's suggested modifications are unsuitable</u>	8
<u>10.</u>	<u>Trigger points within absence management</u>	8
<u>11.</u>	<u>Persistent short term sickness absence</u>	9
<u>12.</u>	<u>Absence management meetings</u>	9
<u>13.</u>	<u>Absence management review meetings</u>	10
<u>14.</u>	<u>Long term sickness absence</u>	10
<u>15.</u>	<u>Maintaining contact during long term sickness absence</u>	11
<u>16.</u>	<u>Preparation for a return to work (long term absence)</u>	12
<u>17.</u>	<u>Therapeutic return to work</u>	13
<u>18.</u>	<u>Phased return to work</u>	13
<u>19.</u>	<u>Temporary/permanent adjustment to duties/hours</u>	14
<u>20.</u>	<u>Medical redeployment</u>	14
<u>21.</u>	<u>Termination of employment</u>	15

1. Introduction

- 1.1 This procedure is linked to the Improving Attendance and Managing Ill-health Absence Policy. The division of responsibilities between managers and employees is outlined in the policy and reflected in the procedural guidance that follows.
- 1.2 All employees are expected to adhere to the policy and this procedure in line with their obligations under equality legislation. Managers must ensure that all reasonable adjustments or supportive measures are considered to allow equality of access and opportunity regardless of age, gender, ethnicity, sexual orientation, disability, faith or religion, gender identity, pregnancy or marital status.

2. Notification of sickness absence

- 2.1 Employees must text Chris Read on the first day of absence, on 07826 452713 by 7.30am. If you are unable to text please telephone the school office by 8.15am. Details of the illness and, if possible, the likely duration should be given. Clearly, with employees who have responsibility for a group or class of children, early notification is essential to ensure appropriate alternative arrangements can be put in place.
- 2.3 If the employee is unable to call in themselves to notify absence (e.g. lost their voice, or are in hospital etc), they must arrange for someone else to text or telephone on their behalf, in accordance with the timescales given above. The employee must make direct contact with Chris Read as soon as possible thereafter.
- 2.4 If the employee has started work, but has had to leave early due to sickness then they should ensure that Chris Read or the Deputy is informed that they have left work due to illness.
- 2.5 If the employee believes that their absence may have been caused or made worse by their work, they should inform Chris Read who will arrange for an Incident Report Form to be completed. Failure to inform the Headteacher of absence from work may lead to that absence being considered as unauthorised. This may result in possible disciplinary action or loss of pay, unless there are exceptional personal circumstance.
- 2.6 Chris Read will ensure that the HR Shared Service Centre is notified of the absence.
- 2.7 An absent Headteacher must take steps to inform the Chair of Governors of their absence and to ensure their Deputy Headteacher or other senior member of staff is aware that they will not be attending work.

3. Certification

- 3.1 Every absence has to be certified to ensure prompt and correct payment of contractual and statutory sick pay and to ensure that accurate records are maintained. Failure to comply with the certification procedures, without good reason, will result in loss of sick pay and possibly disciplinary action.
- 3.2 Should an absence continue into a school holiday, it is important that the employee notify the Headteacher during the school closure of continued sickness absence and provide appropriate certification or the date at which they are declared fit to return to work.
- 3.3 **Self certification**
Absence of up to seven calendar days can be 'self-certified' by the employee, i.e. the individual certifies that they are unfit to work.
- 3.4 **Medical certification**
Absence of more than seven calendar days must be certified for Statutory Sick Pay (SSP) purposes. In these cases, the employee must consult a doctor and obtain a Statement of Fitness for Work or Med 10 form, which they must immediately send to the school office.
- 3.5 The employee may present one of the following: -
- **Statement of Fitness for Work** - This will advise that the employee is either not fit for work or that they may be fit for work with some modifications/ adjustments.
 - **Med 10 medical statement** - A yellow form issued by a hospital to confirm an employee is, or has been, in hospital.
 - A certificate from a health care professional (physiotherapist, psychologist, etc) where the employee is receiving treatment through a National Health Service pathway with little involvement from doctors. The certificate should clearly identify the name, address and specialty of the health care professional. A certificate from this source should be judged on its individual merits.
- 3.6 Where there is continuing sickness absence, the employee must submit to the school office concurrent medical certificates to cover the whole period of the sickness absence.
- 3.7 The employee must ensure that appropriate and timely medical certificates are forwarded to the school office. The Headteacher must take reasonable action to pursue medical certificates where they have not been submitted and ensure that employees are aware of the consequences of non-submission.
- 3.8 **Return to work certification**
If the employee has been sick for more than 28 days the employee must provide a Statement of Fitness to Work which states that they are fit to return and under what circumstances.
4. **Recording absence**
- 4.1 **Sickness Absence Report Form** - SA1 (F313)

All employees and their Headteacher must complete a Sickness Absence Report Form for any period of sickness absence. Potentially, a school could have alternative reporting arrangements but they should ensure that the areas covered by the Sickness Absence Report Form are included in any system.

4.2 The Sickness Absence Report form contains 6 parts:-

- *Part 1 – Notification of absence* - When the individual reports their absence (see 4.1 above) the Headteacher should complete Part 1 of the Sickness Absence Report Form SA1. The Headteacher should also complete an Incident Report Form if the employee states that their absence is work-related.
- *Part 2 – Absences of one week or less* - If the absence is expected to be seven calendar days or less the Headteacher should retain the SA1 form. When the employee returns to work they should complete Part 2 of the form and the Headteacher should complete Part 4. The completed SA1 form should then be retained on the employee's file with appropriate notification being sent to the HR Shared Service Centre using the monthly Staff Absence Return form.
- *Part 3 – Absences greater than one week* - Once it is known that the individual is going to be on sick leave for more than seven consecutive calendar days the Headteacher should complete Part 3 and Part 4 of the SA1 form. The Headteacher should send the appropriate notification to the HR Shared Service Centre of the continued absence using the monthly Staff Absence Return form.
- *Part 4 – To be completed by the line manager on return to work* - The Headteacher must complete Part 4 of the SA1 after any period of absence, however long or short, as above.
- *Part 5 – Receipt of evidence for Fitness for work* – Part 5 of the SA1 should be used to record details of Statement of Fitness for work or Med 10 form.
- *Part 6 – Record of working days absent* - Part 5 of the SA1 should be used to record details the actual working days absent and hours lost. Part 6 must be completed for any period of sickness absence, including any part days absent.

4.3 **Medical certificates**

The Headteacher should ensure that copies of medical certificates are sent to the HR Shared Service Centre as they are received, i.e. not retained until the person returns to work. The original should be retained on the employee's personal file in school.

4.4 **School specific recording of absence**

Schools will have their own systems for recording employee absence often using computerised databases/spreadsheets. The requirements under 6.4.1 will be additional to those school specific recording procedures.

5. **Maintaining contact during sickness absence**

- 5.1 When an employee is absent from work due to sickness maintaining contact is key to facilitating a successful return to work. It is important that Chris Read or the Deputy is kept informed of the employee's progress in order to:
- ensure that appropriate cover is provided and service delivery is maintained,
 - receive an update on progress and recovery.
 - ensure the employee knows when they must supply medical certificates.
 - explain and try to provide any support that may improve the employee's health or facilitate their return.
 - ensure the employee does not feel isolated, vulnerable, out of touch and undervalued which may have a subsequent adverse affect on both physical and mental health.
 - ensure the employee is kept up to date of news about the workplace.
 - determine any adjustments that may aid a return to work.
 - discuss support such as Occupational Health, the musculoskeletal scheme and the Norfolk Support Line where applicable.
- 5.2 The employee should maintain regular telephone contact with Chris Read or the Deputy during the early stage of sickness absence. The frequency and method of contact should be agreed when the employee first reports their absence as the frequency of contact will vary depending on the individual circumstances of each case e.g. when medical information/updates are available. As a general rule, over a five working day period, it would be expected that the employee should make contact with the Headteacher or Deputy on two occasions. Where the employee fails to maintain contact as expected or agreed, then the Headteacher or Deputy should contact the employee and request that contact be maintained.
- 5.3 Headteachers should not put off making contact or delegating it to someone else, unless there are good reasons for doing so, for example if other contact arrangements have been agreed with the individual. Where the absence of an employee is claimed to be the result of tensions between them and the Headteacher, attempts to identify mechanisms for contact must be made and this could be through a colleague or trade union contact. Even where tensions exist, the employee has a statutory obligation to keep the school informed of their absence and to provide appropriate certification.
- 5.4 Difficult subjects or unwelcome news should not be avoided, but should be handled sensitively. Headteachers should take care not to make inappropriate comments such as colleagues being under pressure because of the employee's absence.
- 5.5 ***Methods of maintaining contact***
Each case needs to be treated individually and with sensitivity. The approach taken with an employee who is absent due to planned, straightforward surgery is likely to be very different from a situation where the timescales or likelihood of return is unknown. In these circumstances the employee may feel isolated and anxious that their job is at risk.

- 5.6 In the majority of cases, ongoing contact during long-term sickness absence will take place by phone. However, other methods may be mutually agreed, for example:
- by letter or e-mail
 - visit to the employee at their home
 - visit to the workplace by the employee
 - meeting with other colleagues for lunch
 - maintaining contact with the team (e.g. social events)
 - keeping the employee up to date by sending them regular newsletters
 - therapeutic return to work programmes (see 16 below).

5.7 Whatever contact arrangements are decided upon, they should always be agreed with the individual, be flexible, regular and confidential.

5.8 ***What if the employee resists contact or refuses to engage in discussion about their absence?***

Normally, it is the employee's responsibility to keep the Headteacher informed about their absence. One aspect of the Headteacher's role is to ensure such discussions are handled sensitively. When an employee fails to do so, it would be appropriate for the Headteacher to take the initiative. Some employees, however, may request no contact or simply refuse contact. This reluctance may be due to low level anxieties that can be overcome through a supportive conversation. There may, however, be issues that the employee does not wish to discuss with their Headteacher, such as gender specific medical conditions, or when the illness is the direct result of work place stress (particularly relationship issues), where the thought of such contact may exacerbate their symptoms.

5.9 If an employee refuses to speak to their Headteacher and no suitable alternative arrangement can be made, then advice should be sought from HR Direct. If an employee refuses contact they must explain the reason for this, which if necessary may be done in writing, or via another person (e.g. trade union representative or work colleague). In these circumstances, the representative working directly with the Headteacher should be able to facilitate some arrangement whereby necessary information can be exchanged.

5.10 ***What if the employee feels they are not fit to maintain contact?***

If the employee states they are not fit to maintain contact or discuss their situation, advice should be sought from HR Direct, with a view to obtaining guidance from Occupational Health on the possible medical reasons for this.

6. Short term sickness absence

6.1 A short term sickness absence may be anything from one day, self-certificated through to a longer period of absence up to 28 days which would be covered by a Fit Note.

6.2 Generally, short term sickness absence will involve the following:-

- employee notifies absence (see 1 above)
- employee maintains regular contact with the school (see 4 above)

- employee provides appropriate certification (see 2 above)
- employee returns to work,
- return to work meeting is conducted
- documentation is completed.
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7. Return to work meetings

7.1 Following any period of sickness absence (including absences of only one day) a meeting should take place with the employee. In this procedure, the line manager will arrange and conduct these meetings. The main purpose of return to work meetings is to offer support and to ensure appropriate [self-] certification has been completed.

7.2 The line manager should arrange to meet privately with the employee, ideally on the first day back or at least within three days of the return to work. If there are operational/ logistical reasons why the line manager cannot meet with the employee within three days of the return to work, alternative arrangements can be mutually agreed, e.g. by telephone or a later date.

7.4 The line manager should:

- hold the meeting informally but in private, face to face
- create an atmosphere of trust and support
- maintain the self esteem of the employee
- gather the facts and discuss any issues arising from the absence
- address any problems that arise.

7.5 Line Managers can contact HR Direct for further advice on how to conduct the meeting.

7.6 The purpose of the discussion is:

- to make the employee feel welcome and valued upon return
- to ensure that the employee is really fit to return to their full duties
- to identify the cause of the absence
- to address any problem that may be causing, or contributing to, the absence i.e. give the Headteacher an opportunity to explore other underlying health conditions, home or work-related issues) and jointly discuss solutions to these problems
- to ensure there is an accurate record of the absence and appropriate certification
- update them on work developments in their absence and to agree priorities for the post absence period
- to establish whether further absence is likely because of their medical condition or any other underlying (medical or non-medical) issue
- to discuss whether referral to Occupational Health/musculoskeletal scheme may be necessary/beneficial and ensure the employee is aware of the Norfolk Support Line if applicable
- to clarify any return to work arrangements and/or further review processes to show that individual's absence has been noted and, if appropriate, to

confirm that, although the absence may not be the employee's fault, they do have a responsibility to do all they can to resolve the problem to ensure that absence does not recur.

8. Employees wishing to return but not certified as fit

- 8.1 There may be occasions when an employee is adamant that they are fit to return to work, yet their GP issues a not fit for work assessment. This may be because the employee has recovered faster than expected, or the doctor did not know ways in which the employee could be supported to return to work. In these circumstances a referral to Occupational Health (OH) may be appropriate. Occupational Health will liaise with the individual's GP as necessary.
- 8.2 If the OH clinician states that the employee is not fit for work, then the employee should obtain a further absence certificate from their GP.
- 8.3 If the OH clinician states that the employee is fit for work, the employee should obtain a Fit Note from their GP specifying a return to work date and any suggested modifications.

9. Employees not considered fit to return by the Headteacher, or where the GP's suggested modifications are unsuitable

- 9.1 Where there is disagreement between an employee and the Headteacher on the individual's fitness to return to work, an OH referral will be necessary to obtain advice which may help to resolve any disagreement. OH will contact the employee's GP as necessary to seek relevant information. Employees can be required to remain away from work on "medical suspension" until management concerns about fitness to work have been resolved.
- 9.2 Where the employee has received a Statement of Fitness for work from their GP stating "may be fit to return to work", the individual will return to normal pay from the date of the certificate.
- 9.3 Where there is disagreement between OH and a GP on an individual's fitness to work, case law shows that employers are entitled to follow the guidance of their OH advisers.
- 9.4 If the OH clinician states the employee is not fit to work, the employee should obtain a further absence certificate from their GP.
- 9.5 If the OH clinician states the employee is fit to work, they will advise the Headteacher accordingly. If necessary, HR Direct may contact the OH clinician to discuss the matter further, on behalf of the Headteacher.

10. Trigger points within absence management

- 10.1 Employees have a contractual responsibility to be present every single day for which they are employed (which is neither a holiday nor a concession), so

should aim for 100% attendance. However some absence is unavoidable so the trigger points for initiating absence management procedures are set at:

- three or more instances of sickness absence in any three month period
- ten or more days sickness absence within any twelve-month period
- any other recurring recognisable patterns, such as frequent absenteeism on a Monday or Friday, or avoiding particular work tasks.

10.2 It should be noted that disability related absence may need to be discounted from the trigger points. Advice should be sought from HR Direct where an individual has persistent short term sickness absence related to a disability.

11. Persistent short term sickness absence

11.1 Generally, management of persistent short term sickness absence will involve the following:

- employee notifies absence (see 1 above)
- Headteacher reviews previous sickness absence, which identifies cause for concern and collects relevant data
- employee returns
- return to work interview is conducted
- absence management meeting takes place and action agreed
- absence management review meetings take place
- documentation completed.

11.2 *Return to work meetings*

Where the Headteacher has identified that there is an issue with persistent short term sickness absence, a return to work meeting would need to take place (see 7 above). If the return to work meeting does not provide an acceptable explanation which removes these concerns, the Headteacher should inform the individual that an absence management meeting is required, outlining the concerns.

12. Absence management meetings

12.1 An absence management meeting will be held with an employee to:

- discuss their absence record
- explore the reasons for absence
- identify areas for support (e.g. Occupational Health)
- review/update any risk assessment of their tasks/activities
- set targets for improvement, where appropriate
- clarify what further action may be taken if improvement targets are not met
- identify any adjustments required under the Disability Discrimination Act (DDA).

12.2 The employee is entitled to be accompanied by a companion (a Trade Union representative or work colleague), provided that this does not significantly delay the meeting from taking place.

- 12.3 The agenda of the meeting must be clearly communicated to the employee at least three working days in advance of the meeting. The employee should be allowed the opportunity to add to the agenda.
- 12.4 A record of the meeting should be kept with any outcomes detailed in writing and a copy given to the employee.
- 12.5 A further meeting should be scheduled to review progress see 12 below. This should usually take place within 4 weeks, however, the timescales should be relevant to the actions agreed.

13. Absence management review meetings

- 13.1 The employee is entitled to be accompanied by a companion (a Trade Union representative or colleague), provided that this does not significantly delay the meeting from taking place.
- 13.2 This meeting will review the agreed outcomes from the previous meeting.
- 13.3 If there has been sufficient improvement in the employee's sickness absence then the process will cease and the individual will be subject to normal sickness absence monitoring arrangements.
- 13.4 If there has been insufficient improvement in the employee's sickness absence then further targets for improvement should be agreed, along with timescales and identified areas for support.
- 13.5 It is important that at this stage, the employee is made aware of the potential consequences for little or no improvement against the targets.
- 13.6 A record of the meeting should be kept with any outcomes detailed in writing and a copy given to the employee.
- 13.7 A further review or final meeting should be scheduled to review progress. The timescales of which should be relevant to the actions agreed.
- 13.8 If there is insufficient improvement following the final review, the Headteacher will be advised by the School's HR Consultant regarding the most appropriate way forward with regard to the particular circumstances of the case.

14. Long term sickness absence

- 14.1 The longer an employee is absent, the more difficult it becomes to achieve a successful and sustained return to work. Therefore, active management of long term sickness absence is essential if a successful return to work is to be achieved. Management of long term sickness will vary depending on the individual circumstances of the case and Headteachers should discuss these with HR Direct at the earliest opportunity.

- 14.2 Some cases of long term sickness absence will be immediately identifiable when the employee notifies the Headteacher of their absence, e.g. where the employee is undergoing surgery or has been diagnosed with a serious illness. In other cases, the absence may have initially been expected to be short term, but the person has not returned to work.
- 14.3 The long term absence management process must be initiated where an employee is absent, or is expected to be absent (e.g. signed unfit for work by their GP), for a period of 28 days or more.
- 14.4 Exceptions to this 28 day rule are sickness absence due to:
- stress
 - anxiety
 - depression
 - other mental health problems (e.g. bipolar, schizophrenia, eating disorders)
 - neurological conditions (e.g. epilepsy, multiple sclerosis, Parkinson's disease)
 - or re-occurrence of a previous condition.
- 14.5 In these circumstances the Headteacher should start the process when the employee has been absent, or is expected to be absent, for more than 2 weeks.
- 14.6 In the instances outlined above, the Headteacher should contact HR Direct for advice and guidance which may involve a referral to Occupational Health.
- 14.7 Teachers must be able to satisfy the Fitness to Teach Criteria as set out in *Fitness to Teach, Occupational Health Guidance for the Training and Employment of Teachers* (Appendix A). This identifies certain mental health illnesses where referral to Occupational Health is required and may, in the most severe cases, result in ill health retirement.

15. Maintaining contact during long term sickness absence

- 15.1 In addition to the general guidance contained in 4 above, contact with an employee who will be off long term should include:
- what the employee would like colleagues to be told about their absence. Agreeing with the employee what they would like colleagues to be told (and not told) can help avoid speculation about the cause of absence.
 - the dates of any planned treatment (e.g. surgery),
 - the responsibility of the individual, to ensure ongoing certification from their GP
 - the responsibility of the employee to proactively inform their Headteacher of any periods when they will be unavailable to attend meetings or see the Occupational Health provider etc.
 - notification of any change in circumstances.

15.2 The Headteacher should keep a record of the information given by the employee. It may also be beneficial to confirm the content and outcome of these discussions with the employee in writing.

15.3 Ongoing contact arrangements should be discussed and agreed with the employee but will vary depending upon the individual circumstances of each case. As a general rule the employee should make contact with their Headteacher at least fortnightly. Where the employee fails to maintain contact, then the Headteacher should contact the employee within a further fortnight to request that contact be maintained.

16. Preparation for a return to work (long term absence)

16.1 In some cases, it will be clear when the employee will return to work and that their fitness to perform their duties will be unaffected. In other cases, the situation may be more complex.

16.2 The Headteacher is responsible for planning for the employees return to work, which should include the following advice obtained from an Occupational Health referral:

- identify and assess the employee's condition and prognosis
- identify the timescales
- identify potential obstacles to a return to work
- identify and explore possible temporary or permanent adjustments e.g. change in duties, working hours, home working.

16.3 It may be beneficial to meet informally with the employee and/or their union representation at an early stage to identify any issues or obstacles.

16.4 *Return to work planning meetings*

The return to work plan should be agreed with the employee, at a face-to face meeting if at all possible.

16.5 The employee may be accompanied by a companion (Trade Union representative or work colleague) at any meeting to discuss a recovery/return to work plan. In some circumstances it may be appropriate for the School's HR Consultant to attend the meeting to support and advise the Headteacher.

16.6 The meeting should start with discussion of and agreement about the accuracy of medical advice received from Occupational Health and if any further medical advice should be sought.

16.7 The agreed return to work plan should identify:

- any risk assessments that have been conducted or need to be conducted
- the impact of their medical condition on their capability, or ability to perform their normal duties
- any changes to duties, hours, workplace environment or location of work; and whether these changes are temporary or permanent
- the length of any phased return to work
- whether temporary redeployment is necessary

- arrangements for reviewing the return to work
- further medical advice to be sought from Occupational Health

16.8 The agreed return to work plan should be retained on the employee's personal file and a copy should be given to the employee. Any review meetings identified should be arranged with those concerned.

17. Therapeutic return to work

17.1 A therapeutic return to work should not be confused with a phased return to work described below. A therapeutic return to work is a medical intervention designed to assist recovery, e.g. the individual is not yet fit enough to return to work, even on a phased return to work, but visiting the workplace would be beneficial. For this reason employees continue to receive sick pay.

17.2 Examples of what may be included in a therapeutic return to work are:

- visiting the office to speak to the Headteacher and/or colleagues
- attending team meetings
- carrying out basic tasks unrelated to their normal duties.

17.3 A therapeutic return to work will not be relevant in all circumstances and should have a clear health-related purpose. Therefore advice on individual cases should be sought from Occupational Health, via the normal referral process.

18. Phased return to work

18.1 A phased return to work is where an employee returns to work on reduced hours (usually no less than 50% of their normal working commitment), gradually increasing up to their normal working hours over a specified period of time (normally six weeks or less).

18.2 A phased return can help an employee to acclimatise themselves back to the work routine and work tasks, whilst also checking that they are in fact fit enough to return.

18.3 A phased return to work also enables the employee to return to work earlier than if they were to come back only when they were capable of performing their full hours and/or duties.

18.4 A phased return to work is generally a period not exceeding six weeks. Longer return to work periods are only considered where there is supporting medical advice. When an employee returns to work on a phased basis they are no longer considered to be absent through sickness and they revert to their normal contractual full pay for the period of the phased return, irrelevant of hours worked.

18.5 When considering changes to work arrangements, terms such as 'light duties only' must be avoided. If 'light duties' have been advised by the individual's GP, an OH referral will be necessary. The context of the referral will normally

be to identify what an individual is unable to do due to medical reasons, rather than what they are able to do.

18.6 *Review meetings*

As detailed above the return to work plan must identify the timescales at which individual's progress must be reviewed.

18.7 Regular meetings should take place as planned and the return to work plan should be updated at each meeting to identify areas of progress and non-progress, as well as any further actions agreed.

18.8 When an employee has successfully resumed their full duties/hours, this should be recorded by the Headteacher issuing a letter to the employee with a copy retained on their personal file.

18.9 If it becomes clear that the employee will not return to full duties within the expected timescales, the Headteacher should make contact with HR Direct for further advice. In most circumstances a referral to OH will be necessary to inform the process.

18.10 Where there is concern and/or medical evidence that the employee will not be fit to return to full duties/contracted hours within a reasonable timescale the Headteacher should contact HR Direct for advice about other options before any discussions with employees take place. These options might be:

- a temporary or permanent adjustment to duties or hours
- medical redeployment
- termination of employment

19. Temporary/permanent adjustment to duties/hours

19.1 Where medical advice supports a temporary/permanent adjustment to duties/hours the Headteacher needs to explore whether this can be accommodated within the staffing structure of the school, e.g. can a job share be accommodated to enable an employee to reduce from full time to part time.

19.2 The circumstances of the case and the view of the Headteacher needs to be discussed with Governors Personnel Committee and then the decision ratified by the full Governing Body.

19.3 The HR Shared Service Centre should be notified of any change to an employee's contract of employment.

20. Medical redeployment

20.1 Where changes in hours or duties cannot be accommodated or have been unsuccessful, it may be necessary to consider alternative employment for an employee. This could include:

- temporary or permanent redeployment to another post within the school
- search for suitable alternative employment at another school.

- 20.2 Where a search for suitable alternative employment at another school is agreed, this will be managed through the School's HR Consultant and will take the following into consideration:
- type of post
 - working pattern, e.g. hours or days
 - geographical area
 - agreed timescale for search.
- 20.3 If medical redeployment cannot be successfully achieved then the option of terminating the contract of employment needs to be considered.

21. Termination of employment

21.1 The School's HR Consultant should be involved in advising the Headteacher on any case where ending someone's employment is a possible outcome to ensure appropriate procedures are followed and that is dealt with effectively and sensitively.

21.2 *Resignation*

The employee may choose to resign from their employment due to their ill health. Although this is their personal choice to give notice, the following issues should be carefully considered and advice sought from HR Direct prior to accepting the resignation:

- the employee may have a disability recognised under the DDA and subsequently claim discrimination due to failure to consider reasonable adjustments
- the employee may claim constructive dismissal
- the employee may not be aware they are eligible for their pension benefits, i.e. ill-health retirement, or voluntary early retirement.

21.3 *Retirement*

An employee can decide to retire if they are aged over 55 on a phased or flexible basis or with access to reduced pension benefits. Employees should contact their pension provider for further details and pension estimates.

21.4 *Ill health retirement*

Ill health retirement must be supported by the Occupational Health provider before any application or process of releasing pension benefits can commence.

21.4.1 *Teachers*

Teaching staff are required to apply for ill health retirement to Teachers' Pensions at Darlington. Application forms will need to be completed by the employee, along with their GP/Consultant as appropriate, as well as the Occupational Health provider. The school's HR Consultant will advise the employee and Headteacher throughout this process as well as providing the appropriate forms for completion.

To satisfy the criteria for ill health retirement, it is necessary for the employee to demonstrate that the medical condition renders them incapable of teaching either full or part time and that despite appropriate treatment, the incapacity is likely to be permanent, e.g. until normal retirement age.

There are two tiers of ill health retirement for teachers:-

- Tier 1 - the employee is permanently incapable of continuing in teaching and is not able to undertake work of any kind before normal retirement age. In this case the employee will receive an enhancement to the service they have accrued in the Teachers' Pension Scheme.
- Tier 2 - the employee is permanently incapable of continuing in teaching but is able to undertake work of a different nature. In this case the employee will not receive an enhancement but they will receive benefits based upon their accrued service in the Teachers' Pension Scheme.

21.4.2 *Non-teaching staff*

For non-teaching staff only the Occupational Health provider can authorise an ill health retirement pension and cases should be referred through HR Direct. The regulations under the Local Government Pension Scheme (LGPS) are such that access to ill health retirement pensions are achieved via the dismissal process. Schools should note that such dismissals include the entitlement for the individual to receive their full notice pay entitlement in accordance with their contract and conditions of service. Whilst there is no cost to the school budget for the ill health retirement pension, the notice pay will be funded by the school.

There are three tiers of ill health retirement for non teaching staff

- Tier 1 – there is no reasonable prospect of obtaining gainful employment before the age 65. Ill health benefits are based on the membership the employee would have had if they had stayed in the LGPS until age 65.
- Tier 2 – likely to be able to obtain gainful employment before age 65 but not within three years. Ill health benefits will be based on membership built up to the date of leaving plus 25% of the prospective membership from leaving to age 65.
- Tier 3 – likely to be able to obtain gainful employment within three years but not straight away. Ill health benefits will be based on membership at leaving with no enhancement at all. Payment of the benefits will be stopped after three years or earlier if the employee is in 'gainful employment' or becomes capable of undertaking such employment. When payments of benefits are discontinued under tier 3, the individual will be treated as a pension member with deferred benefits.

21.5 ***Mutual termination***

Where the school and the employee mutually agree that the employment should cease this is not a dismissal and no notice is required on either side. However, a date when the employment will cease, along with any other specific details, must be mutually agreed. Any mutual termination agreement should be confirmed in writing.

21.6 ***Dismissal***

There will be occasions where the option of dismissal will need to be considered. Employees should be aware from previous conversations that it is being considered. This option should only be considered after all other options to retain the employee have been exhausted and the individual facts of the case have been considered thoroughly.

The fact that occupational sick pay is no longer being paid is not in itself a fair reason for dismissal. It is also not necessary to wait until occupational sick pay has expired or is about to expire before dismissing the employee.

Capability dismissal is where the employee's ill health means that they are unable to continue to undertake their duties.

Dismissal for some other substantial reason is where there has been frequent intermittent absence. Here the primary reason for dismissal is not related to the employee's incapacity on health grounds but their inability to undertake their duties because they fail to attend work regularly enough.

21.7 ***Right of appeal against dismissal***

Dismissals will be carried out in accordance with the school's dismissal procedure. This includes a right of appeal to Governors of the school. While any appeal process is pending, normal occupational sick pay arrangements and entitlements as outlined in Appendix A to the Improving attendance and ill-health management policy will continue to apply, where any entitlement remains.

Appendix A

Extract from the Fitness to Teach, Occupational Health Guidance for the Training and Employment of Teachers

Criteria for assessment of fitness

To be able to undertake teaching duties safely and effectively, it is essential that individual teachers:-

- Have the health and well-being necessary to deal with the specific types of teaching and associated duties (adjusted, as appropriate) in which they are engaged.
- Are able to communicate effectively with children, parents and colleagues.
- Possess sound judgement and insight.
- Remain alert at all times.
- Can respond to pupils' needs rapidly and effectively.
- Are able to manage classes.
- Do not constitute any risk to the health, safety or well-being of children in their care.
- Can, where disabilities exist, be enabled by reasonable adjustments to meet these criteria.

The decision on fitness should be considered using the above criteria and should be based on an individual's ability to satisfy those criteria in relation to all duties undertaken as part of their specific post and in relation to all of the individual's health problems.