



**Teachers Managing Absence (F8) Toolkit**  
**TMA06:**  
**Management Discretion Procedure**



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## Introduction

The Teachers Managing Absence Policy (F8) outlines the levels of attendance expected of all Teachers and Associated Professionals. The policy and supporting toolkit also provides guidance as to when Teachers/Associated Professionals should be invited to formal attendance review meetings. However, where a Head Teacher feels that a particular case requires discretion to vary from the prescribed procedures, they can formally request discretion from the Chief Officer or nominated Senior Officer. Please note that it would be a Head Teacher who requests discretion and not a Depute Head Teacher.

Discretion should be interpreted to mean an individual will not be progressed to the next stage of the procedure at the time the discretion is granted. They may however remain on the current stage for the remainder of the monitoring period or be re-issued the current stage again i.e. a further 12 months from the date they returned to work. If discretion is applied at Stage 1 of the process the Teacher/Associated Professionals absence would not be monitored for a 12 month period. In any event the absence will still be recorded as sickness absence.

The decision not to apply discretion rests with the Chief Officer or nominated Senior Officer, however Employment & Policy **must** be consulted as part of the decision-making process in order to monitor appropriate and consistent application of the policy, whilst taking each individual circumstances into account.

Any further absences following discretion will be managed in accordance with the Teachers/Associated Professionals Managing Absence Policy (F8) as agreed at the point of the application of discretion.

Pregnancy related absences will automatically be exempt from the formal Teachers/Associated Professionals Managing Absence process.

The first two weeks of a bereavement absence due to the death of a close relative will also be disregarded for the purposes of the absence triggers and qualify for discretion.

## Section 1: Discretion Criteria

Detailed below are examples of circumstances which **may** lead to the application of discretion:

- Absent due to a chronic illness/disease e.g. cancer, stroke, heart condition
- Has to undergo a surgical procedure/requires hospitalisation which has a specified/expected date of recovery and future absence may be prevented.
- Is likely to be covered by the disability provisions of the Equality Act 2010 advised in an Occupational Health Report and an extension to the timeframes in the procedure would be deemed a reasonable adjustment in the circumstances of the absence.
- Has been identified by Occupational Health as having an underlying medical condition which may affect their attendance intermittently over a set period of time – this will apply to short term absence.
- Teacher/Associated Professional demonstrates an effort to return to work/consider phased return (the reason for the absence and attendance levels must be considered)
- Reasonable time off due to the bereavement of a Close Relationship (as defined in the F7 Leave of Absence Policy for Teachers & Associated Professionals) in cases where special leave has been exhausted. The first 2 weeks of an absence of this nature will not count towards a trigger (see short- and long-term absence toolkit)
- A significant improvement in an employee's attendance levels over the last 2 years\* ( in conjunction with other circumstances i.e. previous absence was due to a chronic illness or Equality Act may apply). Particularly where the Teacher/Associated Professional is within the

last month or so of the monitoring period. This needs to be applied in a consistent and fair manner.

\*this would not apply to new Teachers/Associated Professionals or those that have been absent from work due to other types of leave, such as career breaks.

## Section 2: Requesting Discretion

Discretion can be requested at any stage but can normally only be applied once during the Teachers / Associated Professionals' journey through the formal managing absence (F8) process.

Where a Head Teacher feels that the case merits discretion they must complete and submit a Discretion Request Form (TMA06 (a)), attached below, setting out the circumstances of the case, and the reason for the request taking into account the criteria above.

It is for the Head Teacher to determine whether a request for discretion should be made, however they should listen to the Teacher/Associated Professional regarding the reasons they consider that discretion should be applied, in accordance with the criteria.

When deciding whether to request discretion the Head Teacher should consider the Teachers/Associated Professionals absence record, the reason for absence, the expected length of absence and request discretion when they feel that it is most appropriate.

In all cases if discretion is granted the relevant "stage" meeting should still be held, and the Teachers/Associated Professional advised of the decision e.g. discretion applied, remain on current Stage of the formal process or have that Stage re-issued. If discretion is applied at Stage 1 of the process the Teacher/Associated Professionals absence would not be monitored for a 12 month period.

If the Head Teacher does not consider that a request should be submitted, they must provide reasons to the Teacher/Associated Professional i.e. circumstances do not meet the criteria.

## Section 3: Considering a Discretion Request

When an application for discretion is received the relevant Chief Officer or nominated Senior Officer will decide whether the case merits discretion based on the criteria.

When considering cases for discretion Chief Officer or nominated Senior Officer should take into consideration the Teacher/Associated Professional's circumstances as detailed in the Discretion Request Form. Decisions must not be based on personal knowledge of the individual. Further information may also be sought from the Head Teacher.

Discretion can be approved in full or in part i.e. the Teacher/Associated Professional provides an expected date of return or anticipates a return within a particular timeframe e.g. post-operative recovery.

The Chief Officer or nominated Senior Officer can stipulate that discretion can be applied on the basis of an agreed return date but if the Teacher/Associated Professional has not returned by the stipulated date then discretion shall be removed, and the formal absence process shall continue.

As stated above before making a request for discretion the Head Teacher must discuss this with

## Employment & Policy.

Once a decision has been made the Chief Officer or nominated Senior Officer must record this on the Discretion Request form and return it to the Head Teacher.

### Section 4: Managing Approved Discretion Requests

Once the Head Teacher is in receipt of the outcome of the discretion request, they must arrange or re-convene the relevant attendance review meeting and provide the Teacher/ Associated Professional with the outcome.

The Teacher/Associated Professional will either be advised that:

- Discretion has not been applied, and they are progressing to the next stage of the formal process, or;
- Discretion has been applied in full, and they will remain on the existing Stage of the process (this will depend on the circumstances of the absence, how long the Teacher/Associated Professional has been on the current stage and absence history) – see examples above, and any further absence will be managed in accordance with the Teachers Managing Absence Policy (F8), or;
- Discretion has been applied in part and the Teacher/Associated Professional will;
  - re-commence on the existing Stage of the formal process for 12 months (this will depend on the circumstances of the absence, how long the Teacher/Associated Professional has been on the current stage, and absence history) – see examples above, or,
  - not proceed to the next stage of the formal process on the provision that they return to work on the agreed date\*
  - not proceed to the next stage of the formal process due to delays with treatment or to allow additional recovery time due to complications with a surgical procedure\*, or,
  - not proceed to the next stage of the formal process to allow a reasonable time for the employee to demonstrate that they are fit to be back at work\* (long term absences only)

\*In these instances, the Teacher/Associated Professional will remain on the existing stage of the formal process.

Please note that the above list is not exhaustive, and other circumstances may merit discretion being applied.

#### Teacher/Associated Professional Returns to Work within Discretion Period

Where the Teacher/Associated Professional returns to work within the period allowed for discretion then no formal action should be taken at this time.

#### Teacher/Associated Professional Does Not Return to Work within the Discretion Period

Where the Teacher/Associated Professional does not return to work within the agreed period or is absent over any agreed trigger points, then the formal procedure should be re-instated

If a Head Teacher is unsure as to when the relevant formal stages should take place following approval of discretion, please contact Employment & Policy for advice.

## Section 5: Recording Discretion Requests

A copy of the completed Discretion Request Form must be sent to Employment & Policy and will be placed in the Teacher/Associated Professionals file until such times it no longer applies.

The outcome of the attendance review meeting must be provided in writing to the Teacher/ Associated Professional using the relevant template contained in the Teachers Managing Absence (F8) Toolkit. The Teacher/Associated Professional can also be provided with a copy of the discretion form if they wish.

## Section 6: Discretion Request Form

### **TMA (F8) 06 (a) – Management Discretion Request Form**

Where a Head Teacher considers that a particular case requires discretion to be applied to vary from the prescribed procedures, they can formally request discretion from the Chief Officer/Nominated Senior Officer. Discretion can be considered at any formal stage but can normally only be applied once during the Teachers/Associated Professionals' journey through the formal managing absence (F8) process.

**Before submitting this form the Head Teacher must discuss the request with Employment & Policy.**

Head Teacher Details			
Name		Designation	
Service		Division	
Teacher / Associated Professional Details			
Name		Designation	
Dates of current/most recent absence		Reason for absence	
What Stage in the process is the Teacher /Associated Professional at?		Has discretion been applied before? If yes provide details	
Does the Teacher/ Associated Professional have an underlying health condition?	Yes <input type="checkbox"/> No <input type="checkbox"/>	Does the underlying condition relate to the current/most recent absence?	Yes <input type="checkbox"/> No <input type="checkbox"/>
Summary of Absence Record in last 12 months (occasions, days lost, patterns)			
Section A – Grounds for Discretion This must be completed by the Head Teacher			Please tick applicable reason
1. Absent due to a chronic illness/disease e.g. cancer, stroke, heart condition			<input type="checkbox"/>
Provide further details			
2. Has to undergo a surgical procedure/requires hospitalisation which has a specified/expected date of recovery and future absence may be prevented.			<input type="checkbox"/>
Provide further details including date of surgery and anticipated return date			
3. Is likely to be covered by the disability provisions of the Equality Act 2010 and advised in an Occupation Health Report that an extension to the timeframes in the procedure would be deemed a reasonable adjustment in the circumstances of the absence.			<input type="checkbox"/>
Provide further details including proposed length of extension to the timeframes for moving to next stage			

4. Has been identified by Occupational Health as having an underlying medical condition which may affect their attendance intermittently over a set period of time – this will apply to short term absence.		<input type="checkbox"/>	
Provide further details			
5. Teacher/Associated Professional demonstrates an effort to return to work/returned early/considered phased return (in conjunction with other exceptional circumstances)		<input type="checkbox"/>	
Provide further details including agreed/actual return to work date and phased return plan			
6. Reasonable time off due to the bereavement of a Close Relationship (as defined in the F7 Leave of Absence Policy for Teachers and Associated Professionals) (in cases where special leave has been exhausted). The first 2 weeks of an absence of this nature will not count towards trigger (see short- and long-term absence toolkit)		<input type="checkbox"/>	
Provide further details			
7. A significant improvement in a Teachers/Associated Professionals attendance levels over the last 2 years* (in conjunction with other circumstances i.e. previous absence was due to a chronic illness or Equality Act may apply).		<input type="checkbox"/>	
Provide further details			
8. Other Reason		<input type="checkbox"/>	
Provide further details			
<b>Section B – Type of Discretion Requested</b> <b>This must be completed by the Head Teacher</b>			
1. Apply discretion in full Teacher/Associated Professional will remain on the existing Stage of the process for the remainder of the 12-month monitoring period		(tick if appropriate) <input type="checkbox"/>	
2. Apply discretion in part (tick appropriate discretion and provide any timescales/dates that the request is dependent on)		<input type="checkbox"/> Teacher/Associated Professional will continue on the existing Stage of the formal process for another 12 months, from the end date of the previous absence  <input type="checkbox"/> Teacher/Associated Professional will remain on existing stage of the formal process for the reason outlined above on the basis that they return to work within the agreed timescale. If the return-to-work date is not met then the formal process meeting should be re-convened.  Agreed date of return (if applicable):	
Date Request Submitted:		Request agreed with Employment &	Yes <input type="checkbox"/> No <input type="checkbox"/>



		Policy: Employment & Policy Advisers Name:	
<b>Section C – Decision of Chief Officer/Nominated Senior Officer</b>			
Has the discretion request been approved?    Yes (Fully) <input type="checkbox"/> Yes (in Part) <input type="checkbox"/> No <input type="checkbox"/>  (If the request has been approved in part please provide reason e.g increase/decrease timescale for return to work)			
Date Request Approved:		Name:	
<b>Please return the completed form to the requesting Head Teacher named above</b>			