

# Management Circular No F8 Revised Managing Attendance Policy for Teachers Guidance Note

<b>Author</b>	<i>Employee Relations</i>	<b>Contact</b>	<i>EmployeeRelationsTeam@northlan.gov.uk</i>
<b>Owner</b>	<i>Fiona Whittaker</i>	<b>details</b>	<i>Insert email address</i>

<b>Date</b>	<i>November 2011</i>	<b>Version number</b>		<b>Document status</b>	<i>Insert status (e.g. draft, final version)</i>
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<b>Governance Committee</b>	<i>Insert name of committee</i>	<b>Date approved</b>	<i>insert date</i>
<b>Review date</b>	<i>Insert date</i>		

## Strategic Alignment

*Use the council business plan to identify the priorities, outcomes and/or actions the strategy, policy or plan supports. For example: Outcome: Improve economic opportunities and outcomes  
Action: Pursue new opportunities to ensure North Lanarkshire is an attractive place for business,*

<b>Consultation process</b>	<i>Insert presentations made, surveys carried out etc</i>	
<b>Stakeholders</b>	Contacts identified for each service	
	<i>Insert name</i>	<i>Insert service, organisation</i>
<b>Distribution</b>	<i>Insert details</i>	

## Change record

<b>Date</b>	<i>insert date</i>	<b>Author</b>	<i>insert contact details</i>
<b>Change made</b>		<i>insert details of changes made</i>	

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## **1. Introduction**

This guidance note is intended to supplement the Council's Managing Attendance Policy for Teachers and provides practical advice in carrying out the requirements of the policy. It should not be treated as a complete and authoritative guide to every possible circumstance that may arise. In particular it is not a substitute for getting to know the requirements of the policy and applying it. If assistance is required then advice should be sought from Learning and Leisure Personnel.

## **2. Responsibilities**

Heads of establishment and senior officers and teachers have responsibilities under this policy. Specifically, Heads of establishment and senior officers must comply with all aspects of the policy. Heads of establishment and senior officers must ensure teachers are aware of the policy and the notification and certification procedures to be followed. Key elements among the Heads of establishment and senior officers' responsibilities are to undertake return to work procedures after every period of absence, to ensure formal review meetings are conducted as appropriate and to maintain contact with the teacher during the period of absence.

Training will be provided on all aspects of the revised policy and all Heads of establishment and senior officers are required to undertake this training.

*The term 'teacher' refers to all teachers, QIM/QIO's, Music Instructors, and Psychologists as outlined in the SNCT handbook.*

### **3. Notification and Certification Procedures**

As part of the induction programme and on an ongoing basis, teachers should be informed of the reporting procedures when sick.

Teachers must also be informed of the notification and certification requirements and failure to supply the appropriate medical certificates (*known as statement of fitness for work, or 'fit note'*), and to supply them on time, may result in non payment of occupational sick pay and/or disciplinary action being taken.

### **4. Maintaining Contact with the Employee**

Heads of establishment and senior officers are required to maintain reasonable contact with absent teachers. This should be either by telephone or personal contact, as e-mail or text will be considered inappropriate. The Service has set out as follows minimum criteria for this contact which must be undertaken by both parties:

- Following initial contact between a manager and a teacher regarding notification of absence, the Head of establishment or senior officer should contact the teacher regularly to enquire about their health and the likelihood of a return to work date.
- The minimum contact period for short term absences is once every two weeks.
- The minimum contact required for long term sickness absence is once every month.

Where there is agreement, more frequent contact can be maintained. Heads of establishment and senior officers must always act sensitively with due consideration being given to the nature of the illness when coming into contact with the teacher.

As part of the absence management information and in line with the monitoring of the application of the policy, Heads of establishment and senior officers must highlight the extent of the contact that has taken place with the absent teacher as part of the summary absence information they provide to management. Teachers must be made aware that it is not reasonable to refuse to comply with reasonable, regular contact as detailed above. Heads of establishment and senior officers should obtain an indication from the teacher of the likely duration of the sickness absence, if known. This will assist in making alternative operational arrangements.

Heads of establishment and senior officers must ensure accurate information:

- medical certificates;
- notification to start and stop sickness absence etc. is accurately recorded in LLS management information system i.e. (Seemis);
- documentation must also be passed to payroll or to the relevant support teams.

Teachers must ensure they:

- follow the reporting procedures;
- attend review meetings and referrals to occupational health as required;
- are aware of the expected level of attendance;
- are aware that termination of employment is a possible outcome of a failure to meet the required level of attendance.

## **5. Support Mechanisms**

Heads of establishment and senior officers should, as far as possible, attempt to identify any underlying causes and, if appropriate, offer support to the teacher. Some of the support mechanisms available to teachers are:

- Occupational Health Service
- Staff Welfare Officer
- Employee Counselling Service
- Application of the Special Leave Policy (Management Circular F7) or other relevant employment policies

In particular, Heads of establishments and senior officers should be familiar with the Special Leave Policy to ensure teachers are aware of the options available to them through this policy which may avoid them taking sickness absence days.

## **6. Absence Monitoring and Review Procedures**

### **6.1 Return to Work Procedures**

Heads of establishment and senior officers are responsible for monitoring the level of, and reasons for, sickness absence within their own establishments and for taking the appropriate action as early as possible when a teacher's health gives cause for concern.

In accordance with section 2 above (Responsibilities), after each period of sickness absence the Head of establishment or the senior officer must carry out the return to work procedure. This should normally be undertaken as quickly as possible following the return to work. Where, for particular operational reasons, personal contact is not practicable, then arrangements should be made for this to be undertaken by phone. The return to work procedures **must** be undertaken for every teacher, every time they return from a sickness absence.

These procedures provide the Head of establishment or senior manager with an opportunity to:

- check on the teacher's wellbeing and fitness to return to work;
- demonstrate the Service's commitment to addressing sickness absence as a management issue;
- enable the teacher to provide further clarification when the reason for the absence is unclear;
- update the teacher's sickness record and decide, in terms of the policy, what further action may be necessary;
- update the teacher on work issues;
- establish if there are other non-medical reasons, such as personal, domestic issues or reasons relating to the job or working conditions or relationships which are causing the absence.

This is essentially a fact finding meeting which should take place in a private setting and be conducted in a sympathetic manner.

These meetings are also an opportunity for the teacher to make his/her Head of establishment or senior officer aware if he/she considers his/her sickness absence to be connected with his/her job (work related) and to explain why they are of this view. They should co-operate with their Head of establishment or senior officer with any future action identified as a result of these discussions.

See Appendix 1 – Return to Work Proforma.

The proforma should be completed as appropriate for each absence. In the case of an accident at work, separate recording procedures exist under RIDDOR (see Appendix 4). However, a return to work proforma must be completed at the end of the absence.

If a teacher has been absent for a long time, particularly with a serious injury or debilitating illness, the manager must keep in regular contact and discuss the following with the teacher as part of the return to work process:

- Update the teacher on changes at work
- Consider what can be done to facilitate a return to work (i.e. phased return, restricted duties, to request a risk assessment if appropriate via the Service's Health and Safety Team. This may include a workplace or manual handling assessment or seeking support provided by external agencies such as Access to Work etc.). Consideration should also be given to any further support the Head of establishment, senior officer/service can offer e.g. Employee Counselling Service, referral to occupational health, referral to physiotherapy, if appropriate.
- The offer of a phased return to work for teachers who have been absent from work for an extended period of time is subject to advice from occupational health, and/or LLS management. The Head of establishment or senior manager should discuss and agree the proposed pattern with the teacher before he/she returns to work. It will not normally extend beyond a maximum period of four weeks.

"Compensatory Sickness Leave", as defined by SNCT Handbook, will be used to facilitate the phased return to work. The Head of establishment and senior officer must confirm the agreement, in writing, to the teacher and a copy must be kept in the teacher's personal file.

- At this stage, the purpose of the return to work interview is not to discuss that the sickness absence or pattern of absence may lead to a capability dismissal.



## 6.2 Review Meeting

In addition to the return to work meeting, the manager must conduct a Review Meeting with the teacher when the sickness absence record falls into one of the categories specified in paragraph 8.4 of the policy:

- 3 spells of sickness absence in a rolling 6 month period,
- Cumulative, short term absence exceeding 4% on a rolling 12 month period.

The Head of establishment or senior manager will invite the teacher to a meeting (Letter 1 Invitation to Review Meeting).

Heads of establishment and senior officers should be properly prepared for the Review Meeting. They should be familiar with current information on the teacher's attendance record. Heads of establishment and senior officers have a right and a duty to take an interest in a teacher's sickness absence.

This should include, as appropriate:

- analysis of the total number of days lost, and the number of separate absences over the past 12 months;
- identification of patterns of absence around holiday periods, pay days, certain days of the week, weekends or public holidays;
- the reasons for absence – is there a common theme or no apparent link between separate sickness absences?
- advice from Learning and Leisure personnel team and the occupational health service in cases where the teacher has declared a disability, where it is known, or where the teacher has indicated, he or she has an underlying health problem;
- background information about the teacher, their job and working environment in order to assess whether any work circumstances are a contributory factor in the absence; and
- advice from a personnel representative prior to the meeting, if required.

The outcome of the Review Meeting will depend upon the circumstances of each case and, in particular, whether the absences appear to relate to an underlying health problem. It may result in a referral to the occupational health service being made, or an action plan, which may include training, being put in place to manage future absence, or the disciplinary process being initiated, with an indication of a dismissal being a possible outcome.

The Head of establishment or senior manager will detail the outcome of the Review Meeting to the teacher in writing (Letter 2 Outcome of Review Meeting)

At a Review Meeting the teacher had the right to be accompanied by his/her trade union representative or someone of his/her choosing.

## **7. Monitoring**

Absence information provided by the management monitoring information system (Seemis) needs to be continually maintained, up to date, comprehensive, accurate and relevant, in order to enable appropriate management interventions to be identified. This will assist Heads of establishments and senior officers in managing the overall attendance of their establishments/teams and also individual employees. Heads of establishment and senior officers must assess the absence information provided by the monitoring system (Seemis) on a quarterly basis and identify appropriate management interventions. Monitoring of absence is intended to ensure teachers are treated fairly and consistently in line with the Service's Managing Attendance Policy (F8).

## **8. Occupational Health Service and Referral Procedure**

The occupational health service is an advisory service which supports Heads of establishment and senior officers in making the appropriate decision regarding individual cases, in light of the medical evidence and information it provides. Advice must be sought as appropriate from the occupational health service to establish the impact of a teacher's health on their ability to fulfil their duties. In the first instance, this could be advice about the appropriateness of a referral to occupational health, or to seek further clarification on the content of information included in the formal advice letter (i.e. the report from the occupational health physician/adviser following the teacher's assessment). This can be done via the manager's helpline as it may not always be necessary to refer an individual. For example, if a teacher is absent with a broken arm, advice should be sought on modified duties they could carry out in the context of health and safety implications preventing them from doing their normal duties.

Teachers must be reminded of their responsibility to attend any appointment or undergo examination by any medical or specialist practitioner identified by the Service in relation to the management of their sickness absence. They must be

reminded of the fact that the Service incurs a cost if they are unable to attend for a medical examination on the specified date. It is their responsibility to advise their appropriate manager of the reasons for non-attendance. Subsequently, the manager is required to inform occupational health and LLS Personnel.

As specified in section 9.2 of the policy, referrals will be made when the absence is due to work related stress or after 20 days continuous absence, unless the timescale for return to work is straightforward. In serious cases of illness, where medical information is already known, referral to occupational health may be delayed e.g. cases of cancer, pregnancy or post operative related. In accordance with section 9.3 of the policy teachers must be informed when a referral to the occupational health service is being made, the reasons for it explained, and the information being shared.

The information sought from occupational health service by the Head of establishment or senior officer should be to determine:

- whether there is an underlying medical problem which could affect performance;
- whether there is any direct or indirect employment cause for the absence;
- the prognosis on fitness for work and the expected date of return;
- any restrictions to, or adaptations if relevant, which would be essential in order for the teacher to carry out their job;
- the need for, and nature of a programme of support;
- any permanent ill-health issues, if relevant.

Heads of establishment and senior officers must provide the occupational health service with all relevant information on the referral form so that the report back from occupational health is as comprehensive and pertinent as possible. This must include reference to any support (support that has been taken up and also that which has been refused and the reasons for this) already offered by the manager to the teacher e.g. phased return to work, reduced working hours, restricted duties, referral to the employee counselling service etc. Teachers must be advised that if they are unwilling to sign the medical consent form that they will still be required to attend for a medical assessment. (**Occupational Health Referral Form attached at Appendix 2.**)

The primary purpose of the medical advice is to provide Heads of establishment and senior officers with up to date professional medical and/or specialist information to enable them to effectively manage the overall attendance of their teachers in line with the Service's Managing Attendance Policy (F8). Consequently, it is entirely appropriate that both the teacher and the line manager have sight of the medical

advice letter to assist them in managing attendance effectively while respecting the confidentiality and rights of the teacher.

The General Medical Council (GMC), which regulates all doctors in the UK, requires all occupational health physicians to offer an option to send employees a copy of the medical advice letter (also known as the report) prior to it being sent to the Service. The occupational health physicians normally advise employees of the content of the medical advice letter when the employee attends for assessment (in most cases the letter is dictated while the employee is in attendance). However, where a referral has been made to an occupational health physician for an assessment and the employee has requested a copy of their report prior to it being sent to the referring manager, then there could be a delay of up to 48 hours in the Service receiving the medical advice letter.

There are potentially three outcomes:-

- Should the employee want to make changes to the medical advice letter, the only changes that will be considered are changes relating to comments on factual accuracy (e.g. dates of treatment etc).
- Where the employee comments on the opinion provided by the occupational health physician, the occupational health physician will ask the employee if they can forward a copy of the employee's comments together with the occupational health physician's original management advice letter to the Service.
- There may also be a small number of cases where consent to the issuing of the medical advice letter is withdrawn within the 48 hour period. Should the employee withdraw consent, then the occupational health provider will notify the Service in writing and discuss the options thereafter.

The occupational health nursing team is not regulated by the GMC, but by the Nursing and Midwifery Council (NMC). The NMC is not currently affected by the GMC guidance. However, historically the nursing regulator has tended to align itself with doctors on ethical matters quite quickly. It is anticipated that similar guidance will follow from the NMC. The occupational health provider will not change its nursing procedures until this happens.

## **9. Disability Discrimination/Equality Act**

Heads of establishment and senior officers must continue to take such steps as are reasonable to manage the attendance of disabled teachers. It is important to consider a teacher's disability related sickness absence. This includes identifying

at the earliest opportunity any necessary support and assistance to be provided and ensure all reasonable adjustments are considered and that appropriate and relevant action is taken. These considerations are an integral part of the managing attendance process and should be under continual review as a teacher's medical condition/disability may change over time and this may impact on their ability to carry out all or some of their duties.

In some cases, a teacher may be unable to undertake the full range of duties due to health related issues which may be considered as a disability under the terms of the Disability Discrimination Act 1995, as amended by the Equality Act 2010. In such circumstances, there is a duty to make reasonable adjustments in an effort both to support and retain a disabled person in employment. Some examples of these are:

- making reasonable adjustments to working environment, purchasing or modifying equipment;
- modifying and/or allocating some of the teacher's duties to another employee if appropriate;
- redeploying the individual
- altering working hours;
- allowing time off during working hours for rehabilitation, assessment or treatment;
- providing training;
- providing a reader or interpreter
- extending the payment of occupational sick pay – only in extenuating circumstances (as per SNCT Handbook)

Heads of establishment and senior officers should seek advice from the occupational health service through Learning and Leisure Personnel prior to any agreements being concluded.

## **10. Process when dealing with attendance.**

### **10.1 Stress**

Each case should be dealt with individually and careful consideration and judgement will have to be exercised by Heads of establishments and senior officers before determining action to be taken. As stated in Section 9.2 of the policy, it is the expectation of the service that cases attributable to work related stress will immediately be referred to occupational health. Before making a referral to occupational health, the manager must arrange a meeting with the teacher to ascertain the nature of the perceived problem and to take any action where possible

to address issues e.g. workload. In some instances, the matter may be resolved by offering support to the teacher (e.g. Staff Welfare Officer) without a referral to the occupational health service. **When an employee is off sick with depression, anxiety, or nervous debility and it may be work related, this should be dealt with in the same way as cases of work related stress.**

There may be instances where the teacher perceives a line manager to be the problem. In such circumstances a more senior manager may decide to meet with the teacher. The meeting may also include a supporter and/or a Personnel representative.

Every assistance should be offered to the teacher to encourage his/her return to work.

If the absence is due to non-work related stress, the Head of establishment or senior officer should meet with the teacher as soon as possible to determine what assistance can be offered. If the teacher is unable to attend a meeting in his/her workplace, an alternative location may be proposed. In exceptional circumstances, a home visit will be considered. Advice on the other support mechanisms is available from Learning and Leisure Personnel. These include the Employee Counselling Service, other specialist counselling services and other Council policies which may alleviate the problem for the individual. Every assistance should be offered to facilitate the teacher's return to work including paid time off to attend appointments with an external agency, where appropriate, and agreed in advance in line with the Special Leave Policy (Teachers) F7.

## **10.2 Bone/Muscle/Joint Conditions - Physiotherapy**

One of the top five reasons for sickness absence that has regularly featured in the last few years in the Service for both long and short term sickness absence are bone/muscle/joint conditions. As a result, the Council offers access to physiotherapy services through the occupational health provider. When teachers enquire about a referral to the Council's designated physiotherapy provider, Heads of establishment and senior officers must advise teachers:

- they will be offered one session and only by exception will they be offered more treatment;
- the physiotherapy service provided by the Council relates only to acute, short term intervention i.e. to complement any physiotherapy teachers may receive/are entitled to receive from the National Health Service(NHS); and

- should a teacher require additional early physiotherapy intervention, the teacher should attempt to get on the NHS waiting list for continued treatment and support to enable them to receive NHS treatment as quickly as possible, if appropriate.

Referrals for physiotherapy made in the context of Council policy should be on the following basis:-

- Top priority – employees currently absent due to bone/muscle/joint conditions
- Second priority – employees currently at work but with a recent bone/muscle/joint related long term absence (i.e. long term absences are defined as absences of more than 20 working days)
- Third priority – employees currently at work but with a recent bone/muscle/joint related short term absence (i.e. short term absences are defined as absences of less than 20 working days)
- Lowest priority – employees currently at work with no recent bone/muscle/joint related absences.

Heads of establishment, senior officers should be alert to cases where teachers have absences and injuries related to bone/muscle/joint conditions covered by the Disability Discrimination Act, as amended by the Equality Act 2010, as this may impact on the priority ranking.

For all teachers, either at work or not, the average number of sessions should not exceed three, but more could be arranged depending on the particular circumstances of the case - as is the current practice. '*Recent*' means any absence either long or short term that has occurred in the last 20 working days (from the date of the potential referral for physiotherapy).

### **10.3 Underlying Medical Condition**

Absence where an underlying health problem exists may be of a short term, substantial intermittent nature, or long term. A teacher whose absence falls into this category should have their absence record closely monitored and regularly reviewed in accordance with section 10 of the policy. In addition a referral should be made to occupational health as set out in section 9.

This will ensure the teacher is given the opportunity to discuss the absence and be offered assistance, or support, which will contribute to improvement of the teacher's attendance.

Meetings with the teacher should be arranged at appropriate intervals to reflect the particular circumstances of the case. However, as a guide, these should be convened:

- every four weeks during protracted periods of absence; or
- in accordance with the review periods outlined at paragraph 8.4 of the policy (the absence triggers); and
- in any event after each medical (occupational health) appointment.

At an appropriate stage, preferably early on in the process, but no earlier than the stage of a Formal Review Meeting, teachers must be advised that one potential ultimate outcome of ongoing absence may be termination of employment. This is in line with our legal obligations. These regulations require the Service as an employer to provide early notification to teachers, if there is the potential for disciplinary action to be taken.

Having exhausted the various stages of the Managing Attendance Policy as set out in Section 10, a capability meeting will be arranged with the teacher and the points identified in 10.1.3 of the policy discussed.

### **Capability Meeting – Level 1.**

Before arranging this meeting the Head of establishment or senior officer must discuss all the points of the case with a Personnel representative, in particular the monitoring period set for the expected return to work of the teacher. The reason for this is that the Personnel representative will have an overview of other similar cases and of what may be a reasonable timescale for monitoring purposes.

The teacher has the right to be accompanied by a trade union representative or other appropriate person. The Head of establishment or senior officer will provide details of this and the points to be discussed in the letter inviting the employee to the meeting, including all relevant, factual documentation (Letter 3 Capability Meeting Level 1).

At this meeting, the following will be discussed:

- pattern of absences (if applicable)



- monitoring periods
- likelihood and date of returning to their current post
- likelihood and date of returning to their current post, with reasonable adjustments
- likelihood and date of returning on reduced hours
- likelihood and date of returning to a different post if appropriate and all other options have been exhausted
- other potential outcomes/options
- the latest occupational health report and advice provided by the occupational health physician. This may include consideration of redeployment if applicable, where other alternatives have been exhausted

Following the meeting, the Head of establishment or senior officer must confirm in writing the points discussed and ensure that in the letter there is included a reference to the outcome, including the ultimate possibility and potential of termination of employment on the grounds of capability. (Letter 4 Outcome of Capability Meeting Level 1)

## **Capability Meeting – Level 2.**

The Capability Meeting Level 2 will take place if the teacher is unable to indicate a suitable return to work date at the end of the monitoring period agreed at the level 1 meeting. The Head of establishment or senior officer will arrange a review appointment with the occupational health service provider and will write to the teacher informing him/her of the points to be discussed at the meeting; the right to representation and that his/her case could be dealt with under the Disciplinary Framework for Teachers and this could lead to their termination of employment. A Personnel representative will also be present at this meeting.

(Letter 5 Capability Meeting Level 2)

Following the meeting, the Head of establishment or senior officer will write to the teacher with the outcome of the meeting which may be either a return to work date agreed or the case being taken forward under the Disciplinary Framework for Teachers, with the ultimate sanction being dismissal.

If the teacher is returning to work, then it will be indicated if this is on a phased return; same duties; amended duties; any adjustments made; or whether the teacher is being redeployed where this is deemed appropriate. However, redeployment should only be considered if all other options have been exhausted and should not be seen as representing an 'entitlement' by the employee.

If no return to work date is imminent or if the absences are such that the absence cannot continue to be sustained, then the teacher should be advised that their case will now be dealt with under the Disciplinary Framework for Teachers and this could lead to the termination of their employment. (Letter 6 Outcome of Capability Meeting Level 2)

#### **10.4 Long Term Absence**

Although for the purpose of this policy long term absence is defined as a period of **20 days or more** continuous absence, there is no requirement for employers to wait indefinitely for the return to work of a teacher on long term sickness absence before taking action. The process as outlined in 10.3 above should be followed in cases of long term absence.

#### **10.5 Ill Health Retiral**

Ill health retiral as it applies to teachers who are members of the Scottish Teachers' Superannuation Scheme and who are deemed to be permanently unfit for work is as follows. Ill health retiral is not a process outwith the normal absence management procedures and must therefore be handled in the same way as any cases attributable to a significant underlying medical condition. Only a doctor with an appropriate Occupational Health qualification can declare a teacher permanently unfit.

The Scottish Teachers' Superannuation Scheme ill health retirement process includes a two tier pension provision:-

If the teacher is required to retire through ill-health and is under normal retirement age, he/she can apply for ill health benefits. If he/she joined the scheme before 1 April 2007 the normal retirement age (NRA) is 60 and if they joined the scheme after 1 April 2007 the normal retirement age is 65. Medical evidence must be provided that his/her illness permanently prevents him/her from teaching. Ill Health benefits are paid at different levels depending on the severity of the illness.

##### *Total Incapacity Benefit (TIB)*

Would be granted if, as well as being permanently unable to teach, the teacher

is assessed as not being permanently unable to carry out any work by more than 90%. The maximum amount of enhancement which may be awarded is half the service the teacher would have completed before normal retirement age.

### *Partial Incapacity Benefit (PIB)*

Would be granted if the teacher is assessed as permanently unable to teach but can undertake other employment. Members who qualify for PIB will receive a lower level of benefits consisting of service accrued to date of retirement with no enhancement.

Teachers when applying for ill health retirement should obtain from Learning and Leisure Personnel two application forms required to make the application. One is for the teacher to complete and the other is for the medical evidence to support the application. Advice and support throughout this process will be provided by Learning and Leisure Personnel.

Terminally ill employees who have a life expectancy of less than one year can make an application on a *fast track* basis which will be treated as a priority and processed within 24 hours of receipt by the Scottish Public Pensions Agency(SPPA).

### Appeal for Ill Health Retirement

- A teacher can request a review. At this review an independent medical adviser will be asked to confirm whether all relevant points have been considered when making the original decision. Following this process the SPPA will write with their decision.
- Teachers have a right to lodge a formal appeal against the decision of ill health retiral.
- Internal Dispute Resolution Procedure (IDRP Stage 1) must be submitted no later than 6 months from receiving the original decision.
- Internal Dispute Resolution Procedure (Stage 2) application must be submitted no later than 6 months after the decision on IDRP Stage 1.

If IDRP Stage 2 is unsuccessful, then the teacher can submit a new application. This will be considered by the SPPA as a completely new application and the process begins again.

SPPA website – [www.sppa.gov.uk](http://www.sppa.gov.uk)

A guide to the internal dispute resolution procedures can be obtained from the Scottish Public Pensions Agency.

There are occasions when the teacher may not be a member of the Scottish Teachers' Superannuation Scheme. In these circumstances, he/she should refer to the Ill Health Retirement arrangements in his/her own particular scheme.

### **10.6 Infectious diseases- Notifiable diseases**

A teacher who is prevented from attending work because of contact with a "Notifiable Disease" as defined by H.S.E. should advise their Head of establishment or senior officer immediately and will be entitled to receive full pay during the absence. The period of absence on this account will not be counted as sickness absence and will not be recorded against the teacher's entitlements under the sick pay scheme. It should be recorded separately under "special leave", with the reason clearly identified.

### **10.7 Respiratory Tuberculosis**

Where a teacher is suffering from respiratory tuberculosis, and where the absence is supported by a doctor's statement, full salary is payable for any period of absence up to a maximum of 12 months plus half salary up to a maximum of a further 6 months. The teacher shall not return to work until certified as fit.

### **10.8 Absence due to Work Related Injury/Illness**

Where a teacher is absent due to sickness or disablement as a result of a work related injury or illness, the employee shall be entitled to a separate allowance. It will be calculated on the same basis as sick pay. For the allowance to be applied, the Council's occupational health provider must confirm that the injury or illness is work related.

### **10.9 Sickness Absence Not Attributable to an Underlying Medical Condition**

In these cases it is important to note that it is not the authenticity of the teacher's sickness which is being challenged but it is the unacceptable level of attendance. In such instances, a proactive approach, at an early stage, from Heads of establishments and senior officers can often contribute to an improvement in attendance in the long term and enhance positive working relationships.

It should be noted that it is not always necessary to refer the teacher to the occupational health service before taking formal action. For example, if there is a confirmed pattern of absence e.g. Monday/Friday, or the absences are frequent, unrelated and very short term e.g. one day's absence for a cold, one for a tummy upset and one for a sore foot, then a formal review process would be triggered and action can be taken without seeking medical opinion.

The teacher must also be given every opportunity and supported to improve his/her attendance. However, the teacher must also be made aware at an early stage that continued absence and a failure to improve attendance may result in disciplinary action being taken and ultimately in dismissal on the grounds of some other substantial reason e.g. unacceptable levels of sickness absence which can no longer be sustained .

Non-compliance with any element of this policy may lead to disciplinary action requiring to be taken and will have been established as a result of the application of the Disciplinary Framework for Teachers. The following outline circumstances which could result in disciplinary action being taken e.g:

1. a teacher who is absent from work and who fails to meet a target in relation to improving attendance and;
2. fails to follow the Service's notification and certification procedures will be dealt with in accordance with the two separate streams of discipline (and disciplined separately for each of the identified reasons).

It is important that each instance is dealt with separately and that Heads of establishment and senior officers do not inadvertently take an incremental approach to disciplinary action.

## 11.0 Termination of Employment

The decision to dismiss is a management decision but this **will not** normally be taken until all avenues have been exhausted, current medical information has been obtained from the occupational health service and **only after** all available support has been considered and offered as appropriate.

While it is inappropriate to issue formal warnings in cases where there is an underlying medical condition, the teacher must be fully aware of the Head of establishment or senior officer's position and that the potential ultimate outcome of the continued absence or level of absence is dismissal. There is a distinction between termination on the grounds of capability and disciplinary action for absences (possibly dismissal) as a result of some other substantial reason. If termination is a possible course of action in cases where there is an underlying health condition, the Head of establishment or senior officer must have discussed this option with the relevant Personnel Officer and the teacher at an earlier stage and confirmed this to the teacher in writing in accordance with the Disciplinary Framework for Teachers.

When the Head of establishment or senior officer, in consultation with Learning and Leisure Personnel, has determined that all reasonable steps have been taken, the consideration of the sustainability of the teacher's employment must be referred to the Executive Director of Learning and Leisure, who will proceed in line with the Disciplinary Framework for Teachers. The teacher should be asked to attend a meeting with the Executive Director of Learning and Leisure Services. The meeting will be convened in accordance with the agreed disciplinary procedures i.e. the teacher will be advised of the purpose of the meeting in writing and will have the right to representation. The teacher can explain his/her views of the case being presented by management. As a result of this process, a decision will be reached and the teacher will be advised of the outcome in writing.

A teacher who is dismissed from the employment of the Council on the grounds of capability/ill health/conduct has the right of appeal; Stage 1 to the Learning and Leisure (Appeals) Committee and, if required, a further Stage 2 appeal to tribunal.

The decision to dismiss or not dismiss is that of the Executive Director, having taken account of all relevant information and, where appropriate, reference having been made to all available medical evidence. In all cases, every effort will be made to identify reasonable adjustments or provide other assistance to prevent this ultimate decision.

## **12.0 Payment of Sickness Allowance**

Teachers will receive occupational sick pay dependent upon service and compliance with the notification and certification procedures. Teachers must be informed that any failure to follow the notification and certification procedures may result in disciplinary action being taken. Equally, repeated absences caused by the teacher's negligence or activities outwith the workplace may also result in occupational sick pay being withheld and/or disciplinary action being taken (as stated in the SNCT Handbook).

The Scottish Negotiating Committee for Teachers' Handbook states in Part 6, paragraph 6.17, that sick pay may be suspended if a teacher abuses the sickness scheme or is absent on account of:

- (i) sickness due or attributable to deliberate conduct prejudicial to recovery, or
- (ii) the employee's own misconduct or negligence.

Other possible circumstances where sick pay can be suspended are:

- (iii) active participation in professional sport, or semi professional sport
- (iv) injury while working in the teacher's own time on their own account for private gain or for another employer.

Heads of establishment and senior officers should seek further advice from LLS Personnel.

## **13.0 Review of the policy**

The application of the policy will be reviewed and monitored on an ongoing basis by Learning and Leisure Personnel. It will also feature on a regular basis as an agenda item to be discussed and reviewed the JNCT Joint Secretaries.

Additionally, the Service is committed to working with the Employee Disability Forum and to conducting an Equality Impact Assessment.





## RETURN TO WORK

This form should be completed in line with Section 8 of the Policy

EMPLOYEE NAME:		
EMPLOYEE NUMBER & ESTABLISHMENT:		
FIRST DATE OF ABSENCE:		
RETURN TO WORK DATE:		
NO. OF DAYS ABSENT:		
REASON FOR ABSENCE:		
IS ABSENCE DUE TO AN ACCIDENT AT WORK: If yes, please give details:		
MEETING DATE:		
TELEPHONE DATE: (if it is not possible to undertake a face to face return to work interview)		

## NOTIFICATION AND CERTIFICATION PROCEDURES

STAGE 1 - contacted the service on first day of absence	Yes <input type="checkbox"/> No <input type="checkbox"/> Date : Contact name:
STAGE 2 - contacted the service on fourth calendar day of absence	Yes <input type="checkbox"/> No <input type="checkbox"/> Date: Contact name:
STAGE 3 - absence for up to seven calendar days, completion of Self Certificate	Yes <input type="checkbox"/> No <input type="checkbox"/> Date:
STAGE 4 - absence for more than seven calendar days, submission of Fit note.	Yes <input type="checkbox"/> No <input type="checkbox"/> Date:

STAGE 5 - absence exceeds fourteen calendar days or where more than 1 medical certificate is necessary, the medical certification (Fit Note) must indicate when the employee is fit to resume duties	Yes <input type="checkbox"/> No <input type="checkbox"/> Date:
Has employee complied with above procedures? (If no, explanation required and what action taken)	Yes <input type="checkbox"/> No <input type="checkbox"/>

RECORD OF ANY OTHER CONTACT

## FURTHER ITEMS FOR DISCUSSION

Ask the employee if, in their view, they are fit to be at work?	Notes:-
Further discussion to identify any underlying problems relating to absence	Notes -
Update employee on any developments during the period of absence	Notes -

<p><i>(If proceeding as per Section 8.3 of Policy)</i> Look at and discuss general attendance record of employee (look for pattern of absence, frequency, etc)</p>	<p>Notes -</p>

## AGREED ACTION

<b>1. No further action required</b>	
<b>2. Employee to be referred to the occupational health service</b>	
<b>3. Referred for counselling</b>	
<b>4. Other action including monitoring and reviews</b>	

Comments from Head of Establishment/Senior Manager:

Comments from Teacher:



Signature of Head of Establishment/Senior Officer

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Signature of Teacher

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## **Appendix 2 Occupational Health Referral Form**

## **Appendix 3**

### **Standard Documentation**

Letter 1 Invitation to Attend Review Meeting

Letter 2 Outcome of Review Meeting

Letter 3 Capability Meeting Level 1

Letter 4 Outcome of Capability Meeting Level 1

Letter 5 Capability Meeting Level 2

Letter 6 Outcome of Capability Meeting Level 2

### **Letter 1**

Dear

#### **Managing Attendance Policy for Teachers (F8)- Invitation to Review Meeting**

As discussed at the return to work meeting on --/-- and in accordance with section 8.4 of the service's managing attendance policy, a formal Review Meeting has been arranged for -/--/. The reason for this meeting is:

3 spells of sickness absence in a rolling 6 month period or

SELECT AS APPROPRIATE

Cumulative, short term absence exceeding 4% in a rolling 12 month period



At this meeting we will discuss your attendance record to date and agree appropriate support and identify areas for improvement and consider future actions which may require to be taken.

You have the right to be accompanied at this meeting by a supporter or your trade union representative and this is for you to arrange personally.

Please confirm your attendance at the meeting by contacting .....

Yours sincerely

## Letter 2

Dear

### **Managing Attendance Policy for Teachers (F8)- Outcome of Review Meeting**

I refer to the review meeting which took place on --/--/-- at which you were accompanied by ..... In accordance with section 8.4 of the service's Managing Attendance policy, the meeting was held to discuss:

3 spells of sickness absence in a rolling 6 month period or

SELECT AS APPROPRIATE

Cumulative, short term absence exceeding 4% in a rolling 12 month period

We discussed your absences to date and agreed the way forward. You were informed that formal action would not be taken and we agreed the areas for improvement now required in your attendance (*insert agreed targets at this point*). You were also informed that a failure to improve your attendance would lead to formal action which could ultimately lead to your termination of employment.

**or**

We discussed your absences to date and you were informed that, based on the information available, the matter will now be dealt with under the Disciplinary Framework for Teachers. I have arranged a disciplinary hearing for .....

You have the right to be accompanied at this meeting by a supporter or your trade union representative and this is for you to arrange personally. A personnel representative will also be in attendance.

Please confirm your attendance at the meeting by contacting me on

Yours sincerely

## Letter 3

Dear

### **Managing Attendance Policy for Teachers F8: Capability Meeting – Level 1**

Following your recent appointment at the occupational health service, I would like to invite you to a Capability Meeting on \*\*\*\* in my office.

At the meeting we will discuss the following:

- the report from occupational health,
- your absence record,
- the likelihood of your return to work to your post,
- any measures that can be put in place to assist your return to work, and,
- any other issue you may wish to raise in regard to your absence.

As this is part of the formal review process within the Managing Attendance Policy F8, you have the right to be accompanied at the meeting by a supporter or your trade union representative and this is for you to arrange personally.

Please confirm your attendance at the meeting by contacting .....

Enclosed for your attention is all factual documentation related to your case.

Yours sincerely

Enc

## **Letter 4**

Dear

### **Managing Attendance Policy for Teachers F8: Outcome of Capability Meeting – Level 1**

I refer to the meeting which took place on \*\*\* at which you were accompanied by \*\*\*.

At the meeting, after discussing the report from occupational health

- a) we agreed that you would return to work by (timescale)
- b) you would return to work on phased basis
- c) you will return to work once the following adjustments have been put in place

If a) Failure to return to work in the agreed timescale will result in the next stage of the Managing Attendance policy being instigated and a Capability Meeting – Level 2 will be arranged once you have had a further appointment with occupational health.

Yours sincerely



## **Letter 5**

Dear

### **Managing Attendance Policy for Teachers F8: Capability Meeting – Level 2**

Following your recent appointment at occupational health would like to invite you to a Capability Meeting on \*\*\* in my office.

The meeting is to discuss your continued absence, the medical advice I have received and the sustainability of your continued employment.

You have the right to be accompanied at the meeting by a supporter or your trade union representative and this is for you to arrange personally. A personnel representative will also be in attendance.

Please confirm your attendance at the meeting by contacting .....

Yours sincerely





## **Letter 6**

Dear

### **Managing Attendance Policy for Teachers F8: Outcome of Capability Meeting – Level 2**

I refer to the meeting which took place on \*\*\* at which you were accompanied by \*\*\*. Also present was \*\*\* personnel representative.

At the meeting we discussed your continued absence and, as a return to work date is not likely in the near future, I explained that on this basis I had no option but to refer this matter to the Executive Director of Learning and Leisure Services who will, in terms of the Disciplinary Framework for Teachers, make the final decision in terms of the sustainability of your employment.

Yours sincerely



## Appendix 4



Health and Safety at Work etc Act 1974  
The Reporting of Injuries, Diseases and Dangerous Occurrences Regulations 1995

# Report of an injury or dangerous occurrence

### Filling in this form

This form must be filled in by an employer or other responsible person.

## Part A

### About you

- 1 What is your full name?

- 2 What is your job title?

- 3 What is your telephone number?

### About your organisation

- 4 What is the name of your organisation?

- 5 What is its address and postcode?

- 6 What type of work does the organisation do?

## Part B

### About the incident

- 1 On what date did the incident happen?

- 2 At what time did the incident happen?  
(Please use the 24-hour clock eg 0600)

- 3 Did the incident happen at the above address?

Yes ☐ Go to question 4

No ☐ Where did the incident happen?

- ☐ elsewhere in your organisation – give the name, address and postcode  
☐ at someone else's premises – give the name, address and postcode  
☐ in a public place – give details of where it happened

If you do not know the postcode, what is the name of the local authority?

- 4 In which department, or where on the premises, did the incident happen?

## Part C

### About the injured person

If you are reporting a dangerous occurrence, go to Part F.

If more than one person was injured in the same incident, please attach the details asked for in Part C and Part D for each injured person.

- 1 What is their full name?

- 2 What is their home address and postcode?

- 3 What is their home phone number?

- 4 How old are they?

- 5 Are they

- ☐ male?  
☐ female?

- 6 What is their job title?

- 7 Was the injured person (tick only one box)

- ☐ one of your employees?  
☐ on a training scheme? Give details:  
☐ on work experience?  
☐ employed by someone else? Give details of the employer:  
☐ self-employed and at work?  
☐ a member of the public?

## Part D

### About the injury

- 1 What was the injury? (eg fracture, laceration)

- 2 What part of the body was injured?

