



## LANCASHIRE COUNTY COUNCIL

### SHORT TERM AND REPEATED SICKNESS ABSENCE PROCEDURE

#### A MODEL POLICY FOR ALL STAFF IN SCHOOLS WITH DELEGATED BUDGETS

(REVISED AUGUST 2022)

#### 1. PURPOSE

- 1.1 This model procedure provides a framework for schools to manage cases of short term and repeated sickness absence. The procedure is intended to give clear guidance to all parties in dealing with frequent sickness absences.

#### 2. APPLICATION

- 2.1 This procedure has been adopted by the Governing Board and applies to all staff employed in Elm Tree Community Primary School.
- 2.2 This procedure has been written on the understanding that the day to day management of attendance is undertaken by the Headteacher (or nominated person), and dismissal decisions are taken by the Attendance and Dismissal Committee of the Governing Board. However, in accordance with the provisions of the Education Act 2002 and its associated School Staffing (England) Regulations 2003 & 2009, the Governing Board may elect to delegate the power to make dismissal decisions to the Headteacher. If this is the case, there will be no Attendance and Dismissal Committee. Instead the dismissal decision will be taken by the Headteacher, and the appeal referred to the Appeals Committee of the Governing Board. For further details, see Appendix D. If the responsibility for dismissal decisions rests with the Headteacher, to preserve the integrity of the managing attendance process, the Governing Board should delegate the responsibility for the day to day management under this procedure to another member of the School Leadership Team, thereby leaving the Headteacher available to consider what action should be taken at the end of the formal procedures, including dismissal.

In these cases, any reference to the role of the Headteacher within this procedure should be taken to mean the member of the School Leadership Team responsible for the day to day management of attendance (identified with an asterisk (\*) throughout this procedure).

- 2.3 **In this school, the responsibility for dismissal decisions rests with the Headteacher/the Attendance and Dismissals Committee of the Governing Board** (*delete as necessary*).
- 2.4 Nothing in this procedure shall prevent an employee from exercising their statutory rights under employment law to register a claim with an employment tribunal.

### 3. SICKNESS ABSENCE TRIGGER LEVELS

- 3.1 Action should be considered under this procedure when an employee's level of sickness absence reaches the trigger levels. The recommended trigger levels for school staff are:

**10\* working days sickness absence and/or 4 periods of sickness absence  
in a rolling period of 12 months** (\*pro-rata for part-time employees who work fewer  
than 5 days per week)

- 3.2 Disability related absences are counted towards trigger levels under the school's sickness absence arrangements. Where absences become a cause for concern, Headteachers\* need to make a reasonable decision on what, if any, action would be appropriate under School procedures. This decision will be informed by factors such as the nature of the person's condition, whether they are adjusting to the condition or to treatment for it, the frequency of absences, length or duration of absences, the nature of the job, effects on the school and other relevant factors. Headteachers\* must also consider if other reasonable adjustments might help reduce the need for the person to be absent and whether these adjustments are being awaited.

### 4. GENERAL PRINCIPLES

- 4.1 This procedure should only be used to resolve absence relating to the sickness of the employee. Absence relating to the provisions of the Leave of Absence or Special Leave procedures should be counted and dealt with separately under the terms of the Leave of Absence procedure for teachers or Special Leave procedures for support staff, which can be found on the Schools Portal.
- 4.2 The application of this procedure can be considered regardless of whether the employee provides a fit note to cover their sickness absence or not.
- 4.3 This procedure assumes that all sickness absence is genuine. It is inevitable, therefore, that this procedure will be applied to employees with genuine health problems and therefore the various steps as set out should be handled sympathetically.
- 4.4 Advice in relation to conducting meetings with the employee under this procedure is set out in Appendix A.
- 4.5 Headteachers and managers must ensure that there is consistency of approach and standards in dealing with all employee absence issues.
- 4.6 Frequent periods of sickness absence may arise from a health problem, which may be caused by personal or work related issues. Each case will need to be considered on an individual basis having regard to:
- the nature of the illness or disability;
  - frequency and pattern of absence;
  - overall absence record;
  - operational needs of the school;
  - impact of the absence on other employees.

- 4.7 Where the absence(s) is due to a condition that could be classed as a disability under the Equality Act 2010, advice should be sought from AskHR or the Schools HR Team in relation to the application of this procedure.
- 4.8 Where necessary, professional help should be sought to deal with specific problems. Other procedures exist and should be considered when dealing with employees with alcohol or drug related problems.
- 4.9 It is not necessary to obtain medical evidence confirming the employee's condition when first applying this procedure. In instances where short term, unrelated illnesses are the reasons for absence, there is nothing necessarily to be gained by obtaining a medical opinion. If, however, the illnesses indicate that there could be an underlying cause which has not already been addressed, then a referral to the Occupational Health Unit (OHU) may be considered, which may provide advice on a course of action which could result in an improvement in attendance. For initial advice in relation to this procedure, it is suggested that Headteachers\* consult with AskHR or the Schools HR Team.
- 4.10 If it becomes clear, at any stage in the application of this procedure, that permanent incapacity to carry out the appointed duties on ill health grounds is the underlying issue, then the procedure will be suspended, independent medical advice sought and the Long Term Sickness Absence Procedure followed.
- 4.11 An employee, whilst not permanently incapacitated, may be absent due to a specific condition (e.g. hysterectomy, broken leg) which may result in a lengthy absence, but which is obviously finite and where the application of the formal stages of this procedure may not be appropriate. The purpose of this procedure is to provide a framework within which Headteachers\* are able to exercise discretion according to the particular circumstances of the absence.
- 4.12 The time limits outlined within this procedure should be adhered to unless exceptional circumstances apply.
- 4.13 It must be recognised that the final outcome of a process for dealing with frequent sickness absence may be dismissal. Whilst warnings or cautions may seem incompatible with sickness absence, they are essential when the conclusion of the procedure may be the termination of the employee's employment. At the final stage of this procedure, a reasonable employer is entitled to decide that termination of employment is the only reasonable course of action. However, advice must have been provided, procedures must have been followed and the employee must have been given sufficient warning of this outcome in the event that their attendance does not improve when, over a period of time, efforts to improve their levels of attendance have not been successful.
- 4.14 Where any action under this procedure may have implications for an employee's salary or their continued employment, they should be advised to seek advice from their trade union/professional association. At any meeting convened under this procedure, the employee may be accompanied by a work colleague or trade union/professional association representative.
- 4.15 Any decision to terminate employment arising from this procedure must be preceded by:
1. A review of the employee's attendance record and reasons for absence.
  2. A medical report.
  3. Opportunity for the employee to make representations regarding their sickness absence.

4. Appropriate warnings that dismissal may occur if attendance does not improve within a specified period.
- 4.16 This procedure is separate from the Disciplinary and Capability Procedures.
- 4.17 If any employee considers that they have been treated unfairly or inconsistently under this procedure, they have the right to pursue a grievance under the school's Grievance Procedures. It should be noted, however, that the submission of a grievance will not automatically result in this procedure being halted.
- 4.18 The School processes personal data, including special categories of data, collected and processed during the absence management process in accordance with the School's Data Protection Policy. In particular, data collected as part of the absence management process and any subsequent stages of action under the Short Term and Repeated Sickness Absence Procedure is held securely and accessed by, and disclosed to, individuals only for the purposes of completing the Short Term and Repeated Sickness Absence Procedure. Inappropriate access or disclosure of employee data constitutes a data breach and should be reported in accordance with the school's Data Protection Policy. It may also constitute a disciplinary offence, which will be dealt with under the school's Disciplinary Procedure.

## 5. HEADTEACHER\* DISCUSSION

***NOTE: This discussion should take place with the member of the School Leadership Team that is responsible for the day to day management of attendance where the Governing Board have delegated responsibility for dismissal decisions to the Headteacher.***

- 5.1 Normally the stages below would be followed sequentially. However, if an employee has previously progressed through the informal Headteacher Discussion stage or formal stages and action has ceased following satisfactory attendance within the review period, and within a 12 month period of the date of the end of the monitoring period further action is again considered necessary, the procedure may be recommenced at the next stage of the procedure. Where there has been a twelve month period of acceptable attendance, any subsequent action would recommence at the informal stage of the procedure.
- 5.2 Following the referral of an employee to the Headteacher\* where the level of sickness absence is viewed as a cause for concern, i.e. the amount of absence/frequency of absence reaches the trigger points adopted by the School, the Headteacher\* should arrange a meeting with the employee, who may be accompanied by a work colleague or trade union/professional association representative, at which they are:
  - informed of the level/frequency of absence and the effects on the operation of the school and on other employees;
  - given an opportunity to explain the absences, identify reasons and discuss reasonable adjustments. Attention may also be drawn to the support available through trade unions/professional associations. Where the absence is disability related, discuss any reasonable adjustments that may be appropriate to enable the employee to maintain their attendance at work.
  - made aware that their absence level is unacceptable, that improvement is necessary and that continued unacceptable absence could lead to formal warnings and ultimately dismissal.

- Where appropriate, set a target for improved attendance (e.g. no sickness absence within a term), the terms of which should be clearly explained to the employee. A date should be set when the situation will be reviewed.
- Inform the employee that further deterioration in absence frequency/levels during the review period will result in the review date being brought forward and that if the target is not met or there is a further period of absence during the review period beyond the target set, it may lead to action under the formal stage of the procedure.

5.3 The outcome of the discussion should be set out, in writing, to the employee to ensure clarity and the position should be monitored and reviewed. An example proforma for recording the meeting is available at Appendix B and template letters for inviting the employee to the meeting and confirming the outcome are available on the Schools Portal.

5.4 Where the informal Headteacher Discussion stage has not been successful, no satisfactory improvement is achieved and there remains cause for concern, the matter should proceed to the formal procedure.

5.5 The formal procedure comprises three stages, which should be followed if formal action is considered necessary.

## **6.0 Formal Stages**

### **6.1 Stage One**

6.1.1 The employee should be invited, in writing, to a meeting with the Headteacher\*. The invitation should contain the absence record and provide the employee with the opportunity to consult and be accompanied by a work colleague or trade union/professional association representative. The letter should state that this is now the formal procedure and outline the stage of the procedure within which the meeting is being conducted. A reasonable period of notice of the meeting should be given (e.g. 5 working days).

6.1.2 During the meeting, the Headteacher\* must

- (i) draw attention to the absence pattern, the reasons given for absence and the implications on the school. Where the absence is disability related, discuss any reasonable adjustments that may be appropriate to enable the employee to maintain their attendance at work.
- (ii) discuss, to clarify, underlying causes and seek to deal with these again drawing attention to the support from Professional Associations/Trade Unions.
- (iii) if there is no acceptable explanation, issue the employee with a written formal warning under this procedure (i.e. this is not a disciplinary warning) that:
  - the level of attendance is unacceptable
  - improvement is essential over specified period e.g. 12 weeks/1 term/½ term. A target for improved attendance should be set, the terms of which should be clearly outlined to the employee.
- (iv) agree a review period and fix a review date.

- (v) inform the employee that further deterioration in sickness absence frequency/levels during the review period will result in the review date being brought forward and that if the target is not met or there is a further period of absence during the review period beyond the target set, it may lead to action under the next stage of the procedure.

6.1.3 Following the meeting, the Headteacher\* must confirm the outcome, including the written formal warning, in writing within 5 working days. The written outcome should remind the employee that further deterioration in absence frequency/levels during the review period will result in the review date being brought forward and that if the target is not met or there is a further period of absence during the review period beyond the target set, it may lead to action under the next stage of the procedure.

6.1.4 At the end of the monitoring period, if attendance has improved and is within acceptable levels, no further action should be taken other than to confirm, in writing, to the employee concerned that attendance is now considered to be satisfactory and to advise the employee that if further action is deemed necessary under this procedure within the following twelve months from the date of the review meeting, such action may begin at Stage 2 of this procedure.

6.1.5 If there is no improvement at Stage One of the procedure, the employee should be referred through to Stage Two.

## 6.2 Stage Two

6.2.1 If the target set under Stage One of the procedure is not met, or if the employee has been dealt with under Stage One within the previous 12 month period but their attendance levels have deteriorated following a satisfactory review period, then a further meeting with the Headteacher\* should be held. The employee should be invited to the meeting in writing. The invitation should contain the absence record and provide the employee with the opportunity to consult and be accompanied by a work colleague or trade union/professional association representative. The letter should remind the employee that this is the formal procedure and outline the stage of the procedure within which the meeting is being conducted. A reasonable period of notice of the meeting should be given (e.g. 5 working days).

6.2.2 In a further attempt to remedy the absence issue, during the meeting, the Headteacher\* must

- (i) draw attention again to absence patterns including the review period. Where the absence is disability related, discuss any reasonable adjustments that may be appropriate to enable the employee to maintain their attendance at work.
- (ii) discuss again to clarify underlying causes and seek to deal with them, involving other agencies as appropriate.
- (iii) remind of the implications of continued excessive absence e.g. the effect on pupils, other employees, budget implications etc.
- (iv) if no acceptable explanation is given, issue the employee with a written final warning under this procedure (i.e. this is not a disciplinary warning) that:
  - the level of attendance is unacceptable

- significant and sustained improvement is needed. A target for improved attendance should be set, the terms of which should be clearly outlined to the employee.

(v) agree a further review date and fix a review date.

(vi) inform the employee that further deterioration in absence frequency/levels during the review period will result in the review date being brought forward and that if the target is not met or there is a further period of absence during the review period beyond the target set, the outcome could be a referral of the case to the Attendance and Dismissals Committee of the Governing Board or Headteacher (where the Governing Board has delegated the power to make dismissal decisions to the Headteacher) for consideration of dismissal on the grounds of the employee's inability to maintain an acceptable level of attendance.

6.2.3 Following the meeting, the Headteacher\* must confirm the outcome, including the written final warning, in writing within 5 working days. The written outcome should remind the employee that further deterioration in absence frequency/levels during the review period will result in the review date being brought forward and that if the target is not met or there is a further period of absence during the review period beyond the target set, the outcome could be a referral of the case to the Attendance and Dismissals Committee of the Governing Board or Headteacher (where the Governing Board has delegated the power to make dismissal decisions to the Headteacher) for consideration of dismissal on the grounds of the employee's inability to maintain an acceptable level of attendance.

6.2.4 At the end of the further review period, if the attendance has improved to within acceptable levels then no further action should be taken other than to inform the employee, in writing, of this fact and to advise the employee that if further action is deemed necessary under this procedure within the following 12 months from the date of the review period, such action may begin at Stage 3 of this procedure.

6.2.5 If there is no improvement at Stage Two of the procedure, the employee should be referred through to Stage Three.

### **6.3 Stage Three**

6.3.1 If the target set under Stage Two of the procedure is not met, or if the employee has been dealt with under Stage Two within the previous 12 month period but their attendance levels have deteriorated following a satisfactory review period, then the final meeting should take place. The Headteacher\* should discuss the circumstances of the case with a member of the Schools HR Team, prior to arranging any further meeting with the employee and their trade union/professional association representative.

6.3.2 If there is no current medical report available, then a referral to the Occupational Health Unit should be made (in accordance with Section 4 of the Long Term Sickness Absence Procedure) prior to the meeting. The employee should be advised that the referral is being made, the reasons for and details of the referral and asked to provide their consent to be referred.

6.3.3 Where the employee either refuses to attend OHU or does not attend on more than one occasion, progression to Stage Three should not be unduly delayed. In such instances, the employee should be informed that the Governing Board or

Headteacher (where the Governing Board has delegated the power to make dismissal decisions to the Headteacher) will have to proceed without the benefit of a current medical report for reference.

6.3.4 The letter inviting the employee to attend the meeting should specify the reason for the meeting, set out the attendance record including that over the review period and any action taken under the procedure so far. It should also advise of the right to be accompanied by a work colleague or trade union/professional association representative and inform the employee that the outcome of the meeting could be a referral of the case to the Attendance and Dismissals Committee of the Governing Board or Headteacher (where the Governing Board has delegated the power to make dismissal decisions to the Headteacher) for consideration of dismissal on the grounds of the employee's inability to maintain an acceptable level of attendance at work. A reasonable period of notice of the meeting should be given (e.g. 5 working days).

6.3.5 During the meeting, the Headteacher\* must

- (i) consider any new information regarding the employee's ill health or change in nature of sickness absence. The Headteacher may wish to seek the advice of a member of the Schools HR Team in this regard.
- (ii) consider any relevant medical advice (suspend the meeting if further advice is thought necessary as a result of the meeting discussion). Where the absence is disability related, discuss any reasonable adjustments that may be appropriate to enable the employee to maintain their attendance at work.
- (iii) following consideration of any representations, make a final decision regarding the referral of the case to the Attendance and Dismissals Committee of the Governing Board or Headteacher (where the Governing Board has delegated the power to make dismissal decisions to the Headteacher) for consideration of dismissal on the grounds of the employee's inability to maintain an acceptable level of attendance. Any appeal against dismissal would be to the Appeals Committee.

6.3.6 Following the meeting, the Headteacher\* must confirm the outcome of the meeting in writing to the employee. The Headteacher\* should consult a member of the Schools HR Team and then inform the Clerk to the Governing Board of the need for a meeting of the Attendance and Dismissals Committee, (see Appendix C), or arrange a meeting with the Headteacher (where the Governing Board has delegated the power to make dismissal decisions to the Headteacher).



**CONDUCTING MEETINGS UNDER THE  
SHORT TERM AND REPEATED ABSENCE PROCEDURE**

***NOTE: Employees should be informed of their right to be accompanied by a work colleague or representative of a professional association/trade union in a formal meeting situation.***

In conducting a meeting with employees in relation to sickness absence the following should apply:

- Conduct it in private, ensure that the conversation cannot be overheard and maintain confidentiality.
- Keep a written record of the meeting. Provide copies for the employee and their representative.
- Ensure you explain the purpose for the meeting.
- Be prepared, with absence dates and reasons etc.
- Be sensitive and courteous as this is a potentially stressful situation for both parties. Some types of illness may require sensitive handling.
- Have regard for and respect the emotional state of the employee.
- Ask open and direct questions, i.e. questions which need answering with a bit more than 'Yes' or 'No'. For example, 'What does your doctor say?' is better than 'Have you seen your doctor?'
- Listen to the explanations offered.
- Keep an open mind - the absence may be due to other reasons.
- Be prepared to be helpful but be firm.
- Get the employee to talk with you. Remember, you're trying to solve a problem.
- If it gets heated or over-emotional, then stop. Allow time for recovery. If necessary, meet again on another day.
- However justified you think it is, do not adopt an aggressive approach.
- Find joint solutions if you can - try to share the problem.
- Close the interview by agreeing your action plan.

SHORT TERM AND REPEATED SICKNESS ABSENCE PROCEDURE FOR STAFF IN DELEGATED SCHOOLS

RECORD OF SHORT TERM AND REPEATED SICKNESS ABSENCE MEETING

EMPLOYEE'S NAME .....

JOB TITLE .....

INTERVIEW CONDUCTED BY .....(name)

.....(designation)

STAGE OF PROCEDURE Headteacher Discussion\* / Stage 1\* / Stage 2\* / Stage 3\* (\*delete as appropriate)

This form should be completed whenever a Headteacher\* holds a meeting with an employee under the Short Term and Repeated Sickness Absence Procedure. The form should not be used for Return to Work discussions, as a separate form is available for that purpose (See Appendix C of the Guidelines for Managing Sickness Absence in Schools). The Headteacher\* should refer to the guidance notes overleaf when conducting the discussion and completing this form.

A) Absences during the previous 12 month rolling period - .....days .....periods of sickness absence
Details of sickness absences (reasons, causes etc)
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B) Summary of meeting comments: (Please continue on separate sheet if required)
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C) Action discussed with employee:

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Target for improvement agreed with employee (if appropriate): .....  
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Review date (if appropriate): .....

I confirm that this is a true and accurate record of the meeting.

**Signed:** ..... (Headteacher\*)      **Date:** .....

**Signed:** ..... (Employee)      **Date:** .....

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## GUIDANCE NOTES

### Section A

This section should be used to record the periods and reasons for sickness absences occurring during the previous 12 month rolling period.

### Section B

This section may include further information about any underlying causes of sickness absence and what medical treatment is being sought or undertaken. The Headteacher\* should also outline the effect of the absences on pupils and colleagues and service delivery in the School.

### Section C

Describe here any action discussed e.g.

- employee agrees to seek medical advice or OHU referral to be made. Details of other agencies may be provided (as appropriate).
- consideration to be given to adjustments to the work situation
  
- if there is no acceptable explanation, issue the employee with the appropriate warning under this procedure and inform them that the level of attendance is unacceptable and improvement is essential over specified period e.g. 12 weeks/1 term/½ term.
- In the above circumstances, a target for improved attendance should be set, the terms of which should be clearly outlined to the employee.
- the employee should be informed that further deterioration in absence frequency/levels during the review period will result in the review date being brought forward and that if the target is not met or there is a further period of absence during the review period beyond the target set, it may lead to action under the next stage of the procedure.

*tick when completed*

### Confidentiality

This document should be retained on the employee's personal file. If the document is retained electronically, it should be retained in the appropriate file/folder.

**GOVERNING BOARD ATTENDANCE AND DISMISSAL COMMITTEE**

**PROCEDURE FOR CONSIDERATION OF SHORT TERM AND REPEATED  
SICKNESS ABSENCE AND TERMINATION OF EMPLOYMENT ARISING FROM  
SICKNESS ABSENCE**

**A. GENERAL PRINCIPLES**

1. Any consideration of termination of employment should be pursued in consultation with the Director Children's Services as in the case of all dismissals, other than where the Chair of Governors has delegated authority. In the case of Voluntary Aided and Foundation Schools, any consideration of termination should take place in accordance with the Governing Board's dismissal procedure. Confidentiality should be maintained as is the case in any dismissal process.
2. The employee has the right to attend and/or be represented by a work colleague or representative of a trade union/professional association, at any meeting convened under these procedures. In addition, the employee may be accompanied by a scribe whose only function is to take written notes to serve as a private record for the employee.
3. The Headteacher\*, when presenting a report at any meeting convened under these procedures, has the right to be accompanied by a representative of a professional association to act as adviser (not as the presenter of the case).
4. At any meetings convened under these procedures, the Director Children's Services or their nominee, normally a Human Resources representative, is entitled to attend. In the case of Voluntary Aided and Foundation schools with full delegation, this will apply where advisory rights have been accorded to the Director Children's Services. Where advisory rights have been accorded to the Diocese, a Diocesan Officer is entitled to attend.
5. The power to adjourn meetings convened under these procedures rests with the Chair of the meeting. Both parties will be allowed the facility of an adjournment which will not unreasonably be refused.
6. In schools where the Governing Board have not delegated the responsibility for dismissal decisions to the Headteacher, any reports presented to the Governing Board under these procedures will not be dealt with by the full Governing Board, but by a Committee of the Governing Board set up for that purpose comprising no fewer than three governors. The Governing Board will empower the Disciplinary Committee to sit as an Attendance and Dismissal Committee with delegated powers to deal with matters under both the short term and the long term sickness absence procedures. The Committee will be empowered to consider and determine matters arising from ongoing temporary incapacity and repeated sickness absence and to consider and determine matters where an employee does not accept a recommendation to seek infirmity benefits.
7. Any appeal against termination of contract will be referred to the Appeals Committee of the Governing Board.

## **B. PROCEDURE AT THE HEARING OF THE ATTENDANCE AND DISMISSAL COMMITTEE OF THE GOVERNING BOARD**

1. The Attendance and Dismissal Committee will meet as soon as is practicable, once a decision has been taken to submit a report to Governors.
2. The employee will be informed in writing that a report is being submitted to the Attendance and Dismissal Committee and that the employee can attend and may be represented by a work colleague or Professional Association/Trade Union representative, to respond to the case. Where the employee fails to attend and no reasonable explanation is forthcoming, the matter may be considered in their absence.
3. The Headteacher\* will prepare a report for the Attendance and Dismissal Committee setting out:
  - ❑ the absence record of the employee over the relevant period (depending upon the nature of the absences) with any patterns/frequencies highlighted which are considered to be relevant
  - ❑ all correspondence confirming action taken
  - ❑ a current medical report (where this is available) and any further medical advice relevant to the case.
4. The Clerk to the Governors will give written notification of the date, time and place of the hearing to the employee and their representative together with a copy of the report to be placed before the Committee at least 10 working days prior to the date of the meeting. If the employee is not able to attend due to the unavailability of their professional association/trade union representative, the representative should suggest an alternative date within 5 working days of the original date.
5. The employee may (if they wish) submit to the Clerk of the Governors any documents concerning the report for circulation to the members of the Committee prior to the meeting.
6. The case on behalf of the School will be made by the presenter of the report (i.e. Headteacher\*, or other appropriate person e.g. an officer of the Authority) and witnesses may be called to support the case.

Where an employee does not attend the hearing or is not represented but submits written representations, 7 to 10 should be omitted.

7. The employee and/or their representative and members of the Attendance and Dismissal Committee will be entitled to question the presenter of the report and any witnesses.
8. The employee and/or their representative will present a statement of case and present any documents to the Committee and will be entitled to call witnesses to support the case.
9. The presenter of the report and the Committee will be entitled to question the employee and any witnesses who have been called.
10. The presenter of the report will have the opportunity to make a closing statement to the Committee and, thereafter, the employee and/or their representative will have the same opportunity.

11. At the conclusion, the presenter of the report, the employee, their representative and any witnesses will withdraw and the Committee will reach a decision in private. Advice given by the Director Children's Services/Diocesan Officer or their representatives must be considered by the Committee. Should any parties need to be recalled to clarify any points of uncertainty, all parties should return notwithstanding that the point giving cause for concern relates to one party only.
12. Following their deliberations, the decision of the Committee will be conveyed orally to both parties and subsequently confirmed in writing within 5 working days informing the employee of their right of appeal which must be exercised within 10 working days of written confirmation of the decision.
13. In the event that a decision to dismiss is taken, the employee will receive due notice.
14. The notice period will commence from the date that the decision to dismiss is taken.
15. The same procedure will be followed where the Governing Board have delegated the responsibility for dismissal decisions to the Headteacher. In these cases, the Headteacher will assume the role of the Committee and an alternative member of the School Leadership Team will assume the role of the Headteacher. The Headteacher will identify the most appropriate individual to assume the role of the Clerk to Governors.

### **C. APPEAL PROCEDURES**

1. Any appeal against a decision of the Headteacher (where the Governing Board has delegated the power to make dismissal decisions to the Headteacher) or the Attendance and Dismissal Committee will be referred to the Appeals Committee of the Governing Board.
2. Appeals will be dealt with by way of rehearing and the order of proceedings will be in accordance with Section B6-11 above. In the case of Voluntary Aided, Trust and Foundation Schools, the Appeals Procedure will operate in accordance with their adopted procedures for dismissal.
3. The Clerk to the Governors will give written notification of the date, time and place of the hearing to the employee so as to arrive no later than 10 working days before the date of the meeting and the employee will receive, by that time, a copy of the report and statement(s) (if any), which are to be considered by the Appeals Committee.
4. The employee may submit any documents concerning the decision of the Attendance and Dismissal Committee or Headteacher (where the Governing Board has delegated the power to make dismissal decisions to the Headteacher). These should normally be made available to the Clerk to the Governors as soon as possible before the date of the meeting, so that they may be circulated with the report and statements.
5. A copy of the report and statements will be forwarded to members of the Appeals Committee prior to the hearing.
6. The Appeals Committee will have the power to confirm or alter the decision of the Attendance and Dismissal Committee or Headteacher (where the Governing Board has delegated the power to make dismissal decisions to the Headteacher). In the event that any subsequent appeal reverses the decision, the termination of employment will be rescinded and any arrears of salary will be reinstated accordingly.
7. The decision of the Appeals Committee will be final and no further right of appeal or hearing will be allowed under these procedures. The decision will be conveyed orally to the

employee at the conclusion of the appeal hearing by the Chair of the Committee or one of the advisors to the Committee.

8. The Governing Board will notify the Authority in writing within 5 working days of the meeting of any determination to dismiss and the reasons for it. The Authority will within a period of 14 days (excluding weekends and public holidays) of the receipt of notification inform the employee of the termination of their contract of employment having regard to any period of notice to which they are entitled. In Voluntary Aided or Trust schools the Governing Board will be responsible for informing the employee of the termination of contract.
9. The effective date of dismissal will be the date of the Attendance and Dismissal Committee hearing or Headteacher hearing (where the Governing Board has delegated the power to make dismissal decisions to the Headteacher) where the original decision to dismiss was taken. All dismissals under this procedure will be with notice pay or payment in lieu of notice.

**NOTE      Employment Tribunal**

Nothing in these procedures will restrict an employee from exercising statutory rights under employment law.

**ADDENDUM TO REPEATED SHORT-TERM ABSENCE PROCEDURE**

**School Staffing (England) Regulations 2003 & 2009 – Delegation to Headteacher of authority to make dismissal decisions.**

These Regulations allow for Governing Bodies to delegate authority to make dismissal decisions to Headteachers. Therefore, the Headteacher becomes responsible for all disciplinary action up to and including dismissal.

Governing Bodies will need to take a decision as to whether they wish to delegate this responsibility. They need to bear in mind that the statutory guidance accompanying the Regulations specifies a series of circumstances where such an arrangement may not be appropriate. These are as follows

- A Headteacher who is unwilling to accept this function and who has hitherto not been required to do so. The position could be reviewed on the appointment of a successor Head.
- Where the Headteacher has been directly involved in the disciplinary process leading up to the consideration of dismissal – for example, through investigating the alleged misconduct. Experience shows that this is invariably the case and therefore, referral for consideration by the Discipline and Dismissal Committee preserves the integrity of the disciplinary process. However, in large Schools, it may be possible to delegate the responsibility for investigation to another member of the School Leadership Team, thereby leaving the Headteacher available to consider, what disciplinary action, up and including dismissal, should be taken. Appeals against disciplinary action should still be considered by the Appeals Committee.
- Where the Governing Board of a school with a religious character (i.e. Voluntary Aided, Foundation and Voluntary Controlled Schools) has agreed that Governor involvement will serve to preserve this character. Therefore, advice should be sought from the relevant Diocesan Authority.
- Where the Headteacher is themselves subject to disciplinary or capability procedures.
- Where the CSA may have made representations to the Chair of Governors on grounds of serious concerns about the performance of the Headteacher.

Where a Governing Board does decide to delegate the authority to make dismissal decisions, they are strongly advised to consult with staff and their professional associations before finally confirming their decision.