

Teacher Attendance Procedure

INTRODUCTION

Governors/Employing Authorities recognize the importance of teachers' health and welfare and their responsibility under the Health and Safety at Work (NI) Order 1976 to provide a safe workplace. They also recognize their responsibility to promote equality of opportunity and implement the provisions of the Disability Discrimination Act (1995).

The policy includes advice on the monitoring of teacher absence reported as sickness absence. It does not apply to other authorised absences e.g. holidays, jury service, ante-natal care or maternity leave etc.

AIMS

1. To promote a supportive approach to teacher health and welfare.
2. To maximise teacher attendance.
3. To inform teachers and Governors of the policy for managing teacher attendance.
4. To ensure confidentiality of information and facilitate a consistent approach to teacher attendance in schools.
5. To ensure that teachers are treated fairly, consistently and sensitively when ill.
6. To raise awareness of welfare services.

HEALTH AND WELFARE

1. Governors recognise that teachers sometimes require support when ill or resolving personal issues which impact on their attendance.
2. Teachers experiencing difficulties must be able to contact welfare and counselling services for information and advice.
3. Other policies and procedures to assist and support teachers include special and compassionate leave, the Career Break Scheme and the Job Share Scheme. It is important to recognise that in some cases, particularly those dealing with work related stress and disability, the Principal may wish to meet with the teacher to discuss adjustments or measures necessary to resolve particular concerns. In such cases the teacher may be accompanied by a trade union representative or a teaching colleague.

Disability

Under the Disability Discrimination Act (DDA), it is unlawful for Governors/Employing Authority to discriminate against disabled people, in all aspects of employment. The Act covers: application forms; interview arrangements, terms of employment, promotion, dismissal or redundancy

The DDA requires Governors/Employing Authority to consider the provision of 'Reasonable Adjustments' at school. The aim of these adjustments is to ensure that a teacher is not put at a substantial disadvantage by employment arrangements or any physical feature of the school. Governors are required to ensure that they have fully considered the issue of disability when dealing with any matters relating to a teacher's health and well-being.

Work Related Stress

Work related stress is a major cause of occupational ill-health that may cause sickness absence, high turnover and poor performance in school.

MANAGING TEACHER ATTENDANCE

1. INTRODUCTION

- This procedure promotes a consistent approach to teacher welfare across all schools and clarifies the roles of Governors, Principals, Employing Authorities and teachers.
- Governors, principals and teachers shall be familiar with the procedures.
- Personal and medical information on teachers will be maintained confidentially.
- Individual circumstances differ and each case must be treated sensitively.

2. ROLES AND RESPONSIBILITIES

2.1 GOVERNORS

- Adopt and promote the Teacher Attendance Procedure.
- Ensure welfare and attendance issues are a regular agenda item for meetings.
- Monitor implementation through Principal reports to promote teacher well-being and manage teacher attendance.
- Nominate the Chair/designated governor responsible for the principal's welfare;
- Ensure appropriate action is taken in medical referrals to Occupational Health where a concern exists in relation to a teacher's health and/welfare.
- Ensure the principal is effectively managing attendance of all teachers in the school and, where appropriate, incorporate it as a performance target.

2.2 PRINCIPAL

Within the context of the school's pastoral care policy to:

- Monitor and manage the sickness absence of teachers in a fair, consistent and confidential manner and to report regularly to Governors on attendance issues.
- Ensure that teachers are informed of this procedure.
- Seek advice from Employing Authority where medical evidence indicates a notifiable illness, work related stress or disability which may require welfare support.
- Maintain appropriate, supportive contact with teachers on sickness absence.
- Initiate requests where necessary, (to Employing Authority), for referrals to Occupational Health and liaise with teachers, as appropriate.
- Carry out, where appropriate, attendance meetings and keep records.
- Support, as far as practicable, a rehabilitation programme recommended by Occupational Health.
- Implement any reasonable adjustment required by a teacher's disability.

Reference made to action being taken by the Principal may be read as being taken by a teacher designated by the Principal.

2.3 EMPLOYING AUTHORITY

- Provide available information and advice to principals.
- Advise and support governors and principals in managing teacher welfare and attendance.
- Facilitate the medical referral process.
- Advise principals on rehabilitation; risk assessments and reasonable adjustments.
- Promote the implementation of the Policy.
- Ensure governors and principals are trained on the procedure.

2.4 TEACHER

- Report all sickness absence in accordance with the procedure.
- Maintain contact with the Principal during any period of absence.
- Comply with attendance arrangements at medical referrals.
- Follow professional advice aimed at ensuring a timely return to school.
- Maintain appropriate standards of conduct during sickness absence.
- Advise the Principal of any appropriate matter impacting on their health and wellbeing at home or school that may impact on their welfare.
- Inform the Principal where an absence is due to an accident outside school and a claim for damages from a third party is or will be involved.

3. PROCEDURE

3.1 MONITORING ATTENDANCE

Governors recognise that teachers become ill and will require support in such circumstances. To achieve this the Principal will:

- Record sickness absence and report on this to Governors' meetings.
- Arrange attendance review meetings in individual cases where the Principal has a concern or where there has been no contact with the teacher during the absence.
- Seek and act on advice as to the best means to support a teacher during a time of illness.

The Governors monitor the attendance of the Principal. The Principal monitors the attendance of staff.

Monitoring ensures that:

- Governors are alerted to health and well being issues and ensure they are addressed promptly;
- Principals make decisions about temporary arrangements such as acting up;
- Governors and principals are aware of teacher attendance levels;

Monitoring will be assisted by information reports from the Employing Authority. The Principal will monitor attendance and take appropriate action. Before taking action, the Principal should consider the nature of the illness and whether monitoring is likely to improve the overall outcome. Principal action should only be prompted **when s/he has a concern** about a period of casual or long-term sickness absence. Principals shall have additional information which may inform the action taken, for example, disability. Advice may also be sought from the Employing Authority.

3.2 CONTACT DURING ABSENCE

The teacher shall maintain contact with the Principal during a period of sickness absence. This should usually be when a medical statement is submitted or, monthly, during long term absence. This enables the Principal to manage absence. In exceptional circumstances, where difficulties in communication arise, either party may contact the Employing Authority's Welfare Officer for advice.

Where the teacher does not maintain contact, the Principal should ensure that appropriate contact is maintained. Such contact should be of a friendly, supportive nature and issues related to work should not normally be discussed.

3.3 RETURN TO WORK

It is the responsibility of the teacher to report to the Principal as early as possible on the first day of his/her return to work and provide a brief explanation of the reason for his/her absence. This is informal in nature and provides the opportunity for the Principal to welcome the teacher back and discuss any support, or further action, which may be required.

3.4 ATTENDANCE REVIEW MEETING

If a teacher's absence level or pattern presents a concern the Principal shall arrange a formal Attendance Review meeting. Circumstances presenting a concern should normally include where:

- (a) the reason for the absence is stress (including work-related stress);
- (b) the teacher has more than 6 casual days absence in a 12-month rolling period;
- (c) the teacher has a continuous absence of 4 weeks or more.

The teacher should be asked, in writing, to attend the meeting and advised that they may be accompanied by a recognised trade union representative or teaching colleague.

The purpose of the Attendance Review meeting is to determine and discuss the reasons for the absence level or pattern. The meeting provides the opportunity to:

- Establish the current status of the ill health and whether there is an underlying cause for absence such as difficulty at work, a more serious health condition or a personal or domestic problem.
- Consider the need for a reasonable adjustment in the case of disability.
- Consider if a medical referral is required if this has not been established.
- Consult and agree on actions arising from the report of a medical doctor.
- Advise of the availability of the Staff Care Scheme.
- Confirm the accuracy of the teacher's attendance and provide the teacher with a copy.
- Encourage improved attendance; establish the improvement level required; the monitoring review period and the consequences of a continuing unsatisfactory level of attendance.

Following this meeting, a note of the meeting should be prepared and forwarded to the teacher for their agreement. This should be a brief and factual report of the meeting, noting any action proposed including, the introduction of reasonable adjustments, risk assessments, continuing monitoring, medical referral, potential movement to disciplinary action if attendance does not improve. A copy of this note will be made available to the teacher. The Principal and Chair of Governors shall treat all information relating to staff absence with sensitivity and confidentiality. Any subsequent review meetings will be agreed with the teacher before the end of the review meeting.

3.5 MANAGEMENT OF DIFFERENT TYPES OF ABSENCE

3.5.1 Short Term Absence

This is frequent and minor where the overall pattern shows a regular absence from school. The principal has a valuable role to play in the management of short-term absence. He or she may be able to ascertain the facts of the situation. Where a principal has a concern about the attendance level of a teacher, he/she should consider the action necessary, depending on the circumstances of each case. The Employing Authority may be contacted for advice and assistance and information on individual absence levels. In situations where the frequency of absences gives cause for concern, the Principal may wish to conduct an Attendance Review meeting. In cases of persistent short-term absence, where no underlying medical cause has been identified, consideration should be given to the use of the Disciplinary Procedure. Principals must consult the employing authority before invoking the disciplinary procedure.

3.5.2 Persistent Intermittent Absence

This is regular short and/or long-term absence which may or may not have an underlying medical condition. The management of this type of absence requires sensitive judgement and principals and governors should be aware of the Disability Discrimination Act and the need to make reasonable adjustments.

Where:

- (i) It is medically established that a teacher is not suffering from any significantly debilitating illness, and
- (ii) Management intervention has failed to achieve improved attendance; the relevant procedure may be invoked.

3.5.3 Long Term Absence

When a teacher has been absent for 4 weeks continuously, there is no indication of an imminent return to teaching, and the principal has a concern, the situation should be assessed in consultation with the Employing Authority. Each case will be dealt with sympathetically. While early referral to Occupational Health may be a factor in the effective management of long-term absence, consideration should be given to the timing of the referral, based on the nature of the illness. Where a referral is being made the principal should contact the teacher and advise them of the referral process.

On receipt of the report from the Occupational Health Doctor, the Employing Authority will inform the Principal and the teacher of the outcome. A copy of the report will be immediately forwarded to the teacher. The Principal, and where appropriate a representative of the Employing Authority, may meet with the teacher to discuss the report and agree on any action necessary.

3.6 SICK LEAVE

Occupational Sick Pay is designed to help teachers unable to teach due to illness or injury. Paid sickness absence is designed to facilitate a full and proper recovery.

In circumstances where a teacher submits his/her Fitness to Return to Work certificate, but cannot resume teaching due to a reference to the Occupational Health Doctor by principal/chair of governors, sick pay shall be suspended effective from the date of the certificate. The teacher will from the effective date be paid in accordance with Teachers' Pay Regulations. Where the Occupational Health report continues to indicate unfitness to work, the teacher shall again commence payment in accordance with Teachers' Sick Pay Regulations.

3.7 REPORTING ABSENCE

Where illness prevents a teacher from attending school, he/she must:

- (a) Notify his/her principal by phone on the first day of absence and indicate the nature of the illness and the possible duration. . If the Principal is unavailable, the vice principal or other designated member of staff should be informed. In exceptional circumstances when a teacher is unable to notify the principal, a relative or friend may do so. In the case of a principal, he/she should notify the Chair of Governors/vice principal or designated teacher.
- (b) Ensure that the principal is kept informed of the progress of the illness, in order that alternative arrangements can be put in place
- (c) Provide documentation promptly in support of any absence from work due to sickness as follows:
 - From day 1 to 7 calendar days: self certification form must be submitted to the principal as soon as possible and not later than the 7th day of absence, to ensure payment of sick pay.
 - More than 7 days: doctor's statement must be submitted to the Principal before expiry of the 2nd week of absence.
 - Subsequent doctor's statements must be submitted to the Principal as soon as possible, following receipt, to ensure continuation of sick pay.

Teachers' Salaries Regulations 1993, Regulation 19(8) (b) states:

"A teacher who has been absent because of illness for a total of 20 working days in any year ending 31 March and who has not submitted a doctor's statement in respect of any of those 20 days shall not be entitled to salary for any subsequent days of absence through illness in that year unless he furnishes a doctor's statement."

- (d) Adequate notification must be given to the principal in advance of the date of return to teaching, so that arrangements for cover can be discontinued. If the absence has been of 4 weeks or more duration, one week's notice of intention to return to work must be given to the principal (or in the case of a Principal, to the Chair of Governors).

Where the original doctor's statement covers a period exceeding 14 days, or where more than one statement is required, the teacher must, prior to the actual return to work, obtain and submit a final medical statement certifying fitness to resume full duties.

Failure to comply with Reporting Absence Procedures may result in the absence being regarded as unauthorised, pay being withheld and/or disciplinary action being taken.

3.8 SICKNESS ABSENCE PRIOR TO AND DURING SCHOOL CLOSURE PERIODS

- If a return to work occurs within the two week period prior to a holiday period (i.e. Summer, Christmas and Easter) and the teacher suffers a relapse of the previous illness prior to the commencement of the new term preventing a return to work, arrangements may be made for an referral to the Employing Authority's Occupational Health Doctor.
- In cases where an absence continues into a holiday period and a recovery occurs within the same holiday period, a final medical statement certifying fitness to return to work must be submitted to the Principal at least one week before the start of the new term. If a return to work on the first day of the new term does not then take place, arrangements may be made for an Occupational Health referral.

3.9 CONDUCT DURING ABSENCE

In all cases of sickness or injury, which necessitate time off school, teachers will do their utmost to facilitate a speedy return to fitness and to work. Some activities, such as the exemplars below may be considered inconsistent with genuine sickness or injury and may result in disciplinary action being taken. A teacher who is ill should seek notification from his/her Principal in relation to any issue arising from these exemplars or related activities:

- Participating in sport, hobby, social activity which is inconsistent with the illness or injury, could aggravate the illness or injury or delay recovery.
- Undertaking any employment, whether paid or unpaid, without prior approval, other than for therapeutic reasons approved by a doctor.
- Altering or causing to have altered details on a medical statement, e.g. dates or signature.
- Failure without cause to attend attendance meetings or medical referrals.
- Taking holidays during sickness absence - except where permitted by a doctor and with the principal's knowledge.

The type of behaviour expected of staff will depend upon the individual nature of the case and the nature and severity of the illness. Principals shall be alert to such issues and to seek advice from the Employing Authority on any substantiated incidents, which come to their attention.

3.10 MEDICAL EXAMINATIONS

A report may be sought from the teacher's doctor or specialist with the teacher's permission and a copy shall be provided to the teacher.

A teacher may be referred to an Occupational Health Doctor in the following circumstances (This list is not exhaustive).

- There is concern about a teacher's health and wellbeing.
- Absence gives the Principal cause for concern.

- A teacher has been on prolonged sickness absence and wishes to return on a temporary /permanent alternative working pattern, for medical reasons.
- Where the Principal has been notified that the teacher is disabled or suffering from a disability.
- If a Newly Qualified Teacher's sickness absence record is such that it raises doubt with regard to the advisability of continuing his/her employment.
- Absences lasting three months or more due to a psychiatric disorder (DE Circular 1997/16 Para 16(c) Physical and Mental Fitness of Teachers to Teach).

All information acquired by Boards of Governors and the Employing Authority on teacher health matters should be treated with sensitivity and access restricted to the relevant decision bodies.

There will be certain occasions whereby a teacher's absence may be due to medical reasons, which are of a highly sensitive nature and on such occasions these details will be communicated to Boards of Governors at the discretion of the Personnel Section. The prognosis in terms of likely duration and its continued effect on attendance are the main concerns for the Board of Governors when making any decision regarding this type of absence.

Individual teachers have the right to see any medical report relating to them which is supplied by any medical practitioner where that report has been requested for employment purposes. Such a report shall comply with part III of the Access to Personal Files and Medical Reports (Northern Ireland) Order 1991. *

It is the responsibility of the Principal to initiate a request to the Employing Authority for a referral to Occupational Health. The principal should discuss this with the member of staff and inform him/her of the request for medical referral. A teacher shall attend a medical examination by an Occupational Health Doctor, if directed by the Principal. Failure to attend may result in the withholding of sick pay and/or disciplinary action. On receipt of the report of the Occupational Health doctor the Employing Authority will notify the teacher of the outcome of the medical assessment and provide the teacher with a copy of the report. The Principal will be advised of the teacher's fitness for work, or otherwise, including, where appropriate, any recommended action.

3.11 ALTERNATIVE WORK/PHASED RETURN TO DUTIES

Where a teacher is deemed by the Employing Authority's Occupational Health Doctor to have a disability as defined by the Disability Discrimination Act 1995, it will be necessary to consider the possibility of alternative work or to make a reasonable adjustment such as part-time work, or alternative duties. The Employing Authority will provide advice. Advice is available from the Disability Advisory Service and the Equality Commission for Northern Ireland.

In circumstances where a recommendation is made by Occupational Health that a phased return to work would assist a teacher, this should, where possible, be facilitated by the Principal, in line with the needs of the school. The time span of the phased return to work will be agreed between the teacher and the Principal and will be reviewed regularly during this period. Such arrangements shall normally not last for more than two weeks. Normal salary will be paid during a phased return to school.

* See Appendices 1 and 2

3.12 TERMINATION OF EMPLOYMENT ON THE GROUNDS OF ILL HEALTH

It may be necessary to consider the following final actions if, after a period of consultation and monitoring, attendance has not improved or is unlikely to improve:

3.12.1 Retirement on the Grounds of Ill Health:

Retirement on the grounds of ill health and any subsequent pension entitlements will only be granted when it is the opinion of an occupational health physician appointed by DENI, that the teacher is permanently incapable of carrying out his/her teaching duties due to a medical condition.

3.12.2 Termination on the Grounds of Ill Health/Capability

If all the available medical evidence indicates that the teacher is not fit to return to work within a reasonable period, the Board of Governors, following consultation with the teacher, his/her representative and the Employing Authority, may determine that a teacher's employment should be terminated on grounds of ill health. In such circumstances the appropriate procedure (Termination of Employment of Teachers on the Grounds of Ill Health or Capability TNC 2000/4) will apply.

3.12.3 Termination on the Grounds of Some Other Substantial Reason, e.g. failure to provide a regular and sustained service

If in considering all available information, and following consultation with the teacher, his/her representative and the Employing Authority, it is determined by the Board of Governors that the teacher can no longer fulfil his/her contractual duties, the teacher's contract may be terminated on the grounds of some other substantial reason i.e. failure to provide a regular and sustained service. In such circumstances the appropriate procedure will apply.

3.13 MEDICAL RECOMMENDATION TO RETURN TO WORK

Where, following a medical referral, the Employing Authority's medical adviser indicates that a teacher is fit to return to work, the teacher will be advised and a date will be set for return. If the teacher disagrees with the determination of the Employing Authority's medical adviser he/she will be offered the facility to appeal against the instruction to return. Such appeal must be lodged within 5 working days of the notification to return and must be accompanied by additional medical evidence which was not available at the time of the medical referral. Sick pay will be suspended from the expected date of return pending the outcome of the review. The Employing Authority will nominate an independent medical adviser, not involved previously in the case, to consider the appeal, and seek the member of staff's agreement to the nomination. An objection to a nominated independent medical adviser must state the grounds of objection. No more than one objection will be allowed. The opinion of the independent medical adviser will be final and binding on both parties.

If the appeal is upheld sick pay will be restored and a decision will be taken on continued employment or continued monitoring. If the appeal is not upheld the teacher will be given one final opportunity to return to work. If the teacher fails to return to work he/she will be deemed to have terminated his/her contract of employment with immediate effect.

3.14 SICKNESS ABSENCE DURING THE APPLICATION OF OTHER PROCEDURES

Where a teacher, who is subject to investigation/s or other procedures, e.g. Disciplinary Procedure, etc, absents him/herself on health grounds, the Employing Authority reserves the right, at any stage, to require the teacher to submit to a medical examination by an Occupational Health Doctor and to progress the investigation or other procedural action, as appropriate.

SUGGESTED TEMPLATES

(1) Invitation to Attendance Review Meetings

- First Meeting
- Review Meeting (2 Samples)

(2) Format to record Attendance Review Meetings

(3) Attendance Management Presentation (For use by Principals to inform staff of policy)

APPENDIX 1

Data protection

Employers must be careful to be aware of the Data Protection Act 1998 (DPA) when they collect, use and store information, manually recorded or on a computer, about their employees' absences. Details of an employee's health, either physical or mental, are categorised as 'sensitive personal data' under the DPA. Under the DPA, any organisation must be open about why they are collecting and keeping the information. Staff should know what information about their health is being collected and why. Collecting information about employees' health without them knowing is unlikely ever to be justified.

The Information Commissioner has published an 'Employment Practices Code' which gives more advice and information on data protection law. You can download this code from the Information Commissioner's website at www.ico.gov.uk, or you can contact the Information Commissioner's Office - Northern Ireland, Room 101, Regus House, 33 Clarendon Dock, Laganside, Belfast BT1 3BG (phone: 028 90511270).

APPENDIX 2

Disability discrimination: The DDA defines disability as “*a physical or mental impairment which has a substantial and long-term adverse effect on a person's ability to carry out normal day-to-day activities*”.

Physical impairment: this includes, for instance, a weakening of part of the body (eyes, ears, limbs, internal organs etc.) caused through illness, by accident or from birth. Examples would be blindness, deafness, paralysis of a leg or heart disease.

Mental impairment: this includes mental ill health and what is commonly known as learning disability.

Substantial: put simply, this means the effect of the physical or mental impairment on ability to carry out normal day to day activities is more than minor or trivial. It does not have to be a severe effect.

Long-term adverse effect: the effect has to have lasted, or be likely to last, overall for at least twelve months and the effect must be a detrimental one. A person with a life expectancy of less than twelve months is, of course, covered if the effect is likely to last for the whole of that time.

A normal day to day activity: this is something which is carried out by most people on a fairly regular and frequent basis, such as washing, eating, catching a bus or turning on a television. It does not mean something so individual as playing a musical instrument to a professional standard or doing everything involved in a particular job.

The person must be affected in at least one of the respects listed in the DDA:

- Mobility;
- Manual dexterity;
- Physical coordination;
- Continence;
- Ability to lift, carry or otherwise move everyday objects;
- Speech, hearing or eyesight;
- Memory or ability to concentrate, learn or understand; or
- Perception of risk of physical danger.

If the effects of the disability are reduced by medication or other treatment then the relevant effects are those that would be present if there was no medication or treatment taking place. There is an exception to this rule for people who wear spectacles or contact lenses, then the relevant effects are those that remain while the spectacles or contact lenses are being used.

Special provisions cover particular conditions which might otherwise not be considered as disabilities. These are provisions covering:

Recurring or fluctuating conditions such as arthritis, where the effects can sometimes be less than substantial, which are treated as continuing to have a substantial adverse effect so long as that effect is likely to recur;

Conditions which progressively deteriorate, such as motor neuron disease, which count as having a substantial adverse effect from the first time they have any effect on the ability to carry out normal day to day activities even if it is not substantial, so long as there is eventually likely to be a substantial adverse effect;

Severe disfigurements, which are treated as having substantial adverse effects on the ability to carry out normal day to day activities, even if they have no actual effect at all; and

People with cancer, HIV infections or multiple sclerosis will be deemed to be disabled people without the need to show that conditions have an adverse effect on their normal day to day activities.

The following conditions specifically do not count as impairments:

- Addiction to or dependency on alcohol, nicotine or any other substance (unless resulting from the substance being medically prescribed);
- Seasonal allergic rhinitis (e.g. hay fever) unless it aggravates the effect of another condition;
- Tendency to set fires, or steal, or physically or sexually abuse other persons;
- Exhibitionism and voyeurism; and
- Disfigurements consisting of tattoos, non-medical body piercing or attachments to such piercing are not treated as having substantial adverse effects.

Much of the DDA also applies to people who have had a disability in the past for example, someone who was disabled by mental ill health but who has now fully recovered. People who were registered disabled under the Disabled Persons (Employment) Act (Northern Ireland) 1945 both on 12 January 1995 and 2 December 1996 will be regarded as having had a disability in the past, if they do not otherwise fall within the definition of the DDA.

Managing employees who become disabled as a result of sickness may mean employers have to make 'reasonable adjustments', as explained in the Disability Discrimination Act 1995, before they can return to their job. The types of adjustments that employers might have to consider include:

- Making physical adjustments to the workplace;
- Passing some of the disabled person's duties to another person;
- Transferring the disabled person to another vacant post, with or without reasonable adjustments being made;
- Altering the disabled person's working hours through, for example, part-time working, job-sharing or other flexible arrangements; and
- Providing special equipment to help the disabled person carry out his or her tasks, and giving training in how to use the equipment.