

# **Policy and Procedure for the Management of Sickness Absence**

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## Policy statement

This policy sets out the framework for a clear and consistent approach for how managers should deal with the absence of staff employed both in schools and within the Central Team. The policy applies to all staff employed within BDMAT.

This policy links to **BDMAT strategic aim 5:**

*The Trust has highly effective pastoral arrangements in place for staff who, as a result, feel supported and have good life / work balance and the Trust is recognised as a good employer.*

The policy links to **Key Performance Indicator 9.1** (*staff attendance*).

The policy links to **our vision** of *'positive well-being, for all'*.

Before this policy was agreed it was presented to the following groups to ensure that all stakeholders had a voice in its development and that the policy does not lead to inequalities in different staff groups:

- Joint Consultative Committee (meetings of the BDMAT executive and union representatives)

### 1.0 Terms of Reference

1.1 The terms of this policy apply to all employees employed by the Birmingham Diocesan Multi-Academy Trust (BDMAT).

1.2 Definitions:

“Headteacher” also refers to any other title used to identify the Headteacher, where appropriate, or other senior manager delegated to deal with the matter by the Headteacher. For central staff, it would refer to the Chief Executive Officer (CEO) or other senior manager delegated to deal with the matter by the CEO.

“Companion” refers to a person chosen by the employee to accompany them, who shall be a trade union representative or a workplace colleague.

“Line manager” will be the individual that the member of staff directly reports to. In primary school settings this is likely to be the headteacher or deputy

headteacher but may also be an admin lead or site manager; in a secondary school this could also be a head of department. The headteacher's line manager is the CEO of BDMAT. In the Central Team the line manager will either be a head of service or a member of the executive. The CEO's line manager is the chair of the board of trustees.

- 1.3 Managers implementing this policy should ensure that they operate fully with the requirements of the Health and Safety at Work Act (1974), Equalities Act (2010) and all other relevant legislation.

## **2.0 Introduction**

- 2.1 The board of directors of BDMAT recognises its responsibility for the health, safety and welfare of its staff. This sickness absence policy sets out procedures for reporting sickness absence and for the management of sickness absence in a fair and consistent way. This policy places emphasis on proactive support for staff in the event of ill health difficulties. ***This policy does not form part of any employee's contract of employment and it may be amended at any time following consultation with staff and trade unions.*** Procedures set out in this policy, including any time limits, may be varied as appropriate in any case.
- 2.2 It is the responsibility of line managers to monitor sickness absence and to respond effectively to actual and potential problems. It is the responsibility of the Headteacher in schools, the CEO for the Central Team and all levels of management to ensure that high levels of staff attendance are achieved and to raise awareness of the effect of sickness absence levels on the quality and continuity of teaching and learning and other aspects of the effectiveness of the work of the Trust. In addition, managers have a clear obligation placed on them to identify and address problems in the work environment and/or job factors that may be contributing to staff absence. BDMAT is committed to providing support to employees to ensure that they are able to have high levels of attendance at work.
- 2.3 Sickness absence can vary from short intermittent periods of ill-health to a continuous period of long-term absence and have a number of different causes (for example, injuries, recurring conditions, or a serious illness requiring lengthy treatment, including mental-health related illnesses).
- 2.4 In schools, the Headteacher is responsible for monitoring the implementation of the procedure, to ensure that the procedure is communicated to employees, and

that it is applied consistently. For centrally employed staff this responsibility lies with the Chief Executive Officer. Levels of sickness absence will be monitored and managers will record the average number of working days lost due to sickness per full time equivalent employee and identify areas where the work of the Trust, in particular the continuity of teaching and learning or service quality, is being affected by absence levels. This will include a breakdown of total absence into long-term (normally more than 28 days) and short-term absence and reasons for absence. The information will be reported to school governors on an anonymised basis and submitted in addition to the Director for People (DFP). Absence data will be reported to the Finance and Resources Committee by the DFP.

This procedure sets out the steps which the Headteacher and line managers will normally follow when staff sickness absence occurs.

- 2.5 Sickness absence may result from a disability under the Equality Act 2010. Reasonable adjustments to this procedure may be considered in appropriate cases, depending on the specific circumstances. These reasonable adjustments could also include amending the triggers for evoking meetings / reviews. HR advice should be obtained where the line manager considers the employee is likely to be covered under the Equality Act 2010.
- 2.6 No action will be taken under the formal part of this Sickness Absence Policy against a trade union representative without prior discussion with an appropriate trade union officer; consent from the trade union representative should be obtained before this discussion takes place.
- 2.7 In normal circumstances, Managers with authority to have Return to Work discussions are: Headteachers, Deputy or Assistant Headteachers, Members of the Executive team and Heads of Department. Such managers may delegate this responsibility to others, especially in large schools. Managers may ask BDMAT's HR team to be present for complex return to work cases.
- 2.8 Managers with authority to hold Informal Sickness Absence Meetings are: Headteachers, Deputy or Assistant Headteachers, Members of the Executive team and Heads of Department/Service. Such managers may delegate this responsibility to others, especially in large schools.
- 2.9 Senior Managers with authority to hold Stage 1 Meetings (see section 11) (and review other Senior Manager's Stage 1 decisions at appeal) are: Headteachers, Deputy or Assistant Headteachers, Members of the Executive team and Heads of

Service. Such managers may delegate this responsibility to others, especially in large schools. These senior managers will seek support and guidance from BDMAT's HR team as required to ensure that they implement the policy correctly and fairly.

- 2.10 In schools, a committee of 3 governors will hold a Stage 2 meeting (see section 11). In the Central Team a committee formed of two directors and a member of the executive who have not been involved in the previous stages will hold the Stage 2 meeting.
- 2.11 Absence of the Headteacher in normal circumstances will be managed by the CEO who may hold return to work discussions with them, informal sickness absence meetings and Stage 1 meetings. Stage 2 meetings will be considered by a committee of three directors.
- 2.12 Absence of the CEO in normal circumstances will be managed by the Chair of the Board who may hold return to work discussions, informal sickness absence meetings and Stage 1 meetings with them. Stage 2 meetings will be considered by a committee of three directors.

It should be noted that if a manager brings an employee out of the review and monitoring process and resumes normal monitoring, they have the discretion to resume the monitoring from the stage at which they left or re-enter this procedure at an appropriate level should further absence concerns arise within a 12 month period. They do not need to return to the Sickness Absence Review stage, the manager could re-enter procedures at the appropriate level. Discretion will be used in cases where there has been a pattern of absence and no improvement, it is not automatic that an employee will resume monitoring processes or that the employee will re-enter procedures at the previous level.

- 2.13 Where the employee has made the MAT aware that they are to be represented by a union colleague every effort will be made to contact the union representative prior to setting any meeting dates in order to arrange a mutually convenient time for any meetings required. This will only be done as long as it is possible to get a response and set a date within a reasonable time frame.
- 2.14 Mental health: Employees experiencing mental health issues will have a right to workplace adjustments and phased returns, together with occupational health support. The procedures contained herein allow employees to raise mental health issues and that the employer will take positive action promptly when employees seek help.

- 2.15 Managers will consult with BDMAT's HR team if they need guidance and further information regarding any illness, including mental health.
- 2.16 BDMAT complies with the Burgundy Book (teachers) and Green Book (support staff) in regard to sick pay leave terms and conditions
- 2.17 BDMAT is a signatory to the TUC 'Dying to Work charter'. As such those staff who have been given terminal illness diagnosis will be treated with dignity and compassion and feel in control of the decisions being made about their future. A copy of the charter can be located on our website [www.bdmatschools.com](http://www.bdmatschools.com)
- 2.18 BDMAT also supports the Smallest Things campaign and will actively support staff who have experienced a pre-mature birth.
- 2.19 If the member of staff has engaged their union representative, then regular contact should be maintained between the manager and the representative (subject to approval of the member of staff).
- 2.20 BDMAT is committed to supporting staff well-being, including mental health and currently buys in support from Health Assured. Staff can access this resource without the knowledge of their manager to access counselling including cognitive behaviour therapy. If staff require additional sessions to those provided through Health Assured, they will need to have a discussion with either their manager or our HR Officer. Health Assured can be accessed on 0800 028 0199 or via <https://healthassuredeap.co.uk/> (Username: BDMAT, Password: EAP)
- 2.21 Where a member of staff informs their line manager, they are likely to be absent from work for more than 5 working days a phone call should be made to the member of staff to check on their well-being on a weekly basis. This will normally be their line manager but the member of staff can request it is another member of the school's management team. Managers and staff can agree on the frequency of these calls if absence is going to be / or already has been greater than three weeks.

### **3.0 Employees' Responsibilities**

- 3.1 Employees must attend work when fit to do so.
- 3.2 Employees must follow the Notification of Sickness Absence procedures:
- 3.3 An employee who is prevented by illness or injury from reporting for duty shall personally notify the headteacher or designated member of staff at the school; for central staff and headteachers this should be the CEO or their line manager, as

soon as possible by telephone on the first day of absence. The following details should be provided:

- a) The nature of the employee's illness/injury.
  - b) The expected length of absence from work.
  - c) Confirmation of contact details during period of absence.
  - d) Any outstanding or urgent work that requires attention.
  - e) How the manager can access resources the member of staff has at home that are needed for the continued smooth running of the school / service e.g. site keys or staff laptops / pupil exercise books.
- 3.4 If an employee does not report for work, and has not explained the reason for absence, then they should expect to be contacted by either telephone, email, letter or text during the period of absence by the employee's line manager, who will want to enquire after the employee's health and be advised, if possible, as to the employee's expected return date. This must not be treated as a substitute for reporting sickness absence. **Absence that has not been notified in accordance with the sickness absence reporting procedure may be treated as unauthorised absence dependent upon the circumstances and therefore be unpaid.**
- 3.5 All employees must complete a self-certification form detailing the reason for absence for any period of sickness absence up to seven days. The self-certification form can be obtained from their line manager and must be completed immediately on return to duty and returned to the line manager.
- 3.6 A medical certificate (a 'Statement of Fitness for Work' hereinafter called a 'Fit Note') must be provided from the EIGHTH day of absence (including Saturdays and Sundays). This should be provided to the line manager as soon as possible and, if absence continues further, Fit Notes should be provided to cover the whole period of absence. Failure to do so may result in non-payment of sick pay (where applicable) and/or disciplinary action if appropriate.
- 3.7 Employees must continue to submit Fit Notes during term closure periods, during holiday periods these should be emailed to the headteacher (school-based staff) or to the CEO (centrally employed staff).
- 3.8 The Trust may take a copy of the Fit Note for their records and return the original copy to the employee.

3.9 An employee shall, if required at any time, attend an Occupational Health (OH) or other medical appointment/examination by a registered medical practitioner nominated by the Trust. The line manager should inform the member of staff before they refer them to occupational health. The employee's consent for an Occupational Health referral is required. The employee has the right to refuse an occupational health appointment. If the employer has requested the OH referral there will be no cost for the member of staff.

#### **4.0 Reimbursement of Cost of Doctors' Statements**

4.1 Where the Headteacher requires a medical certificate ('Fit Note') from an employee, the employer shall, on provision of a receipt, reimburse the employee if a charge is made for the Fit Note by their doctor / consultant.

#### **5.0 Illness or Injury Arising from Work**

5.1 Any accident arising out of, or in the course of employment with the Trust must be reported and recorded in accordance with the required procedures across BDMAT (currently this involves a record being placed on the electronic accident book). If the member of staff is unable to access the electronic accident book then they should write a report of the accident, including date and witnesses and submit this to their line manager. Accidents should be reported on the day and no longer than the next working day. The accident may be subject to investigation by either the line manager or an employee authorised for this purpose by the Trust.

5.2 Where an employee seeks medical advice about an illness which is suspected or alleged to result from the nature of his or her employment, the employee must report relevant information to the Headteacher or Line Manager at the first opportunity.

5.3 In the case of the first, and any subsequent, absence due to industrial disease or accident an employee shall agree, at any time during such absence, if so required by the employer, to a medical examination by a registered medical practitioner nominated by the Trust. The line manager should inform the member of staff of the referral for a medical examination before making the referral. If the employer wishes to request a copy of an employee's medical records/reports at any point under this policy this must only be to assist in the assessment of the employee's medical condition. The employee's consent, in line with requirements under the Access to Medical Reports Act 1988, must be obtained prior to the employer making contact with their employee's medical practitioner and it should be made



clear that the employee is entitled to see a copy of the documentation provided. In line with data protection legislation, employees must also be given details on the reason for the examination, what the employer intends to do with the data obtained and the lawful basis for processing the data. The withholding of consent without appropriate cause may impact on the Trust's ability to support staff during illness or injury arising from work and hinder internal investigations

- 5.3 BDMAT complies with the clauses within the Green and Burgundy Books in regard to industrial injuries
- 5.4 Headteachers and members of the executive have the power to suspend staff due to medical concerns if they feel it is an appropriate action for the member of staff or pupils or other members of staff.

## **6.0 General Return to Work Arrangements**

### **6.1 Phased returns**

Managers will consider a phased return for staff following long term absence, following discussion with the employee. As a general rule phased returns will not be longer than a 4 week period of time. If agreement is reached to work on a phased part time basis following long-term sickness absence, with the expectation that they will be able to work their full contractual hours (or other such amended contractual hours as agreed) within a reasonable period of time (as defined by the line manager), then, in accordance with medical advice provided by the Occupational Health doctor or the Fit for Work service, the following arrangements will normally be made in relation to pay:

- Where the employee has exhausted their sick pay entitlement, the salary payment made will be based on the number of hours worked during the phased return. For staff that are protected through TUPE transfer into BDMAT the manager will need to ensure that any pay during a phased return is in line with the arrangements before transfer (referred to in the Green and Burgundy books)
- Where the employee has not exhausted their sick pay entitlement, the employee will be paid in accordance with the number of hours worked, or the occupational sick pay entitlement that would be payable if the employee remained off work due to sickness absence, whichever is the greater amount.

6.2 If the employee returns to work with a Fit Note which states 'may be fit for work', the employee should notify his/her manager immediately. The advice on the note will be discussed together with any additional measures that may be needed to facilitate the employee's return to work, taking into account the doctor's advice. Consideration will be given as to how the advice impacts the employee, the job, the workplace, service delivery, pupils and colleagues. The doctor's comments, any of the return to work tick boxes and any other action that could facilitate a return to work will be considered with due regard to the Equality Act 2010. Options may include:

- phased return to work
- altered hours
- amended duties
- consideration of redeployment
- workplace adaptations
- other reasonable adjustments

6.3 If a return to work is possible, the agreed action plan will be documented and implemented. If it is not possible to provide the support suggested by the doctor, the employee will remain on sick leave and will not normally need to return to their doctor to obtain a revised Fit Note unless this is required in the circumstances. A review date will be set.

6.4 Consideration will be given as to whether a risk assessment is required to ensure the health and safety of the employee in light of the reason for their ill health, for example a stress, ergonomic or more general risk assessment may be required.

6.5 The employee may request to return to work before the expiry of a Fit Note without going back to see their doctor, even if their G.P has indicated that they need to assess them again. This will not breach the Trust's Employer's Liability Compulsory Insurance, providing a **suitable risk assessment** has taken place and been agreed with the Headteacher or executive team member.

## **7.0 Probationary Periods for All Employees**

7.1 All new employees are subject to a probationary period. Sickness absence issues that arise during an employee's probationary period may be taken into account in determining whether or not the probationary period is completed satisfactorily and this procedure (save for the sickness absence reporting procedure) will not normally apply.

## **8.0 Unauthorised Absence/False Information**

8.1 Unauthorised absence may be dealt with under the Disciplinary Procedure and could result in disciplinary action which may include dismissal.

8.2 The provision of any false information may be dealt with under our Disciplinary Procedure and could result in disciplinary action, which may include dismissal.

## **9.0 Attendance at meetings related to this policy**

9.1 The employee must take all reasonable steps to attend meetings if they are well-enough to attend. Failure to do so without good reason (which may include being unwell) may be treated as misconduct. Employees will not be **entitled** to attend informal meetings under this policy with a trade union representative but may attend with a workplace colleague. The manager may allow a trade union representative to attend an informal meeting on behalf of their member if the member of staff is off work ill. At all formal meetings employees may be accompanied by a companion (see Terms of Reference) if they wish. If the employee (and/or his/her companion) is unable to attend at the time specified the employee should immediately inform his/her line manager who will normally seek to agree an alternative time. Meetings will not normally be postponed beyond 5 days. Depending on the circumstances, if an employee indicates that they are too unwell to attend a formal or informal meeting they will be given the option to:

- meet in another venue
- meet at their home (only in exceptional circumstances and where the member of staff has agreed to this); or
- attend via telephone / video conference; or
- send a companion / union representative to represent them, providing appropriate written consent (though this will not normally apply in the case of informal meetings or discussions); or
- provide a written submission; or
- request that the meeting takes place in their absence.

9.2 If an employee fails to communicate their wishes with regard to the above, the meeting may take place in their absence with the outcome communicated to them in writing. Meetings will not, in normal circumstances, be postponed beyond 5 days unless there is medical evidence that the employee is not medically fit to take part by any of the means described in clause 9.1 and, even if this is the case, the employer reserves the right to proceed with any necessary steps required to

manage the specific case including holding meetings notwithstanding, as appropriate.

- 9.3 Any senior manager visiting an employee's home will be accompanied by another manager.
- 9.4 A meeting may be adjourned if the employee's line manager is awaiting receipt of information, needs to gather any further information or give consideration to matters discussed at a previous meeting. The employee will be given a reasonable opportunity to consider any new information obtained before the meeting is reconvened.

## **10.0 Informal Procedure**

### **10.1 Return to Work Discussion**

The designated manager, or their representative, will normally have a discussion with the employee on their return from a period of sickness absence (even if this was just one day's absence). The purpose of this discussion is to determine the reason for the absence and, where appropriate, offer assistance and support. It is also an opportunity to identify any difficulties that the employee is experiencing in carrying out the duties of the post and gives the employee an opportunity to raise any concerns or questions and bring any matters to the manager's attention. The return to work discussion should be held in private as soon as possible after a period of sickness absence, though it need not be long. Ideally the return to work meeting should be on the first day of returning to work, if this is not possible then it should be within 5 works days of returning to work. A note of the matters discussed at the meeting will be made to record any action points, the employee will be provided with a copy. This record will be kept of the employees' file for 12 months. A copy of the form for managers to use for recording return to work discussions is located in Appendix A of this policy.

### **10.2 Informal Sickness Absence Meetings**

Informal sickness absence meetings may be arranged in the informal stage of this policy with employees whenever it is considered necessary including, for example, if the employee has had:

- a total of 7 working days absence within 1 term
- 10 working days within 3 terms
- 3 occasions of absence within 1 term

- 28 days of long-term sickness absence in the last rolling 12-month period;  
or
- Clearly identifiable and/or demonstrable patterns of absence which provide cause for concern

For clarity, terms are the following periods of time:

1st Sept to 31st Dec (autumn term)

1st January to 30<sup>th</sup> April (spring term)

1st May to 31<sup>st</sup> August (summer term)

In preparation for the meeting the designated manager may, when appropriate:

- consider the Trust's statistical data on levels and types of sickness absence for all staff to ensure consistency
- confirm that an unsatisfactory level of attendance has been reached, depending on the circumstances, or that the record shows a pattern of absence or some other factual data which identifies the cause for concern
- consider the job description and the impact of the absences on all affected; the work of the Trust and on the work group / pupils

The purpose of the meeting is to agree a way forward, any action that will be taken and a timescale for review and/or a further meeting under the sickness absence procedure if this is required.

The designated manager will, in normal circumstances, use the Sickness Absence Meeting Proforma at Appendix B as the agenda for the meeting and will record salient points. The employee will be given a completed signed copy after the meeting, if the member of staff believes that there are errors / omissions in the statement then they should bring these to the attention of the line manager as soon as possible for the manager to consider amending the report.

There is no entitlement for the employee to be accompanied by a Companion at an informal sickness absence meeting, this should be discussed with the member of staff and the final decision should rest with the member of staff. A union representative may accompany the member of staff if agreed by the manager, but their availability will not hold up the process. A note taker may be present at the discretion of the line manager.

In the case of pregnant members of staff with sickness absence the member of staff may be invited into a meeting out of a duty of care, but this will not form part

of any formal monitoring process. Pregnant staff should refer to the maternity policy as continued ill health during pregnancy may trigger the start of the employee's maternity leave.

Where a member of staff has been given a terminal illness diagnosis or is waiting for an outcome of investigations that could lead to a terminal illness diagnosis, the line manager will discuss the case with the BDMAT HR team and make a decision as to whether requesting such meetings is necessary. If they are necessary, for example to ascertain the current medical situation and provide support, these meetings should be short and the letters to staff inviting them to the meeting should be considerate of the huge burden the member of staff is currently experiencing.

### 10.3 Monitoring Period following Informal Sickness Absence Meeting

After conducting an informal sickness absence meeting, the designated manager will review or monitor the employee's attendance for a further period, normally this will be for a period of not less than one month and no longer than three months. Further meetings may take place during the monitoring period if there are further instances of sickness absence. Line managers should consult with the BDMAT HR Officer throughout the process to ensure that their actions do not constitute discriminatory behaviour on behalf of BDMAT.

The designated manager will:

- assess the employee's absence record and its impact etc
- attempt to establish reasons for any on-going absence(s)
- offer any assistance to the employee (e.g. Occupational Health, counselling)
- consider what, if any, measures might improve the employee's health and/or attendance with a view to supporting the employee and improving the employee's attendance record e.g. through reasonable adjustments

During the monitoring period the designated manager may require that any period of absence is covered by a medical certificate (Fit Note). If the employee has a fit note which states 'may be fit for work', the process in 6.2 will also be followed. If the suggested support cannot be reasonably accommodated in order to facilitate the employee's return to work, a decision may be made to move to the formal part of the procedure.

10.4 Where the designated manager is of the view that the employee's attendance has not improved to an acceptable level after the review period, the manager should inform the employee that the issue will:

- be referred to Stage 1 of the formal procedure. A letter requiring attendance at a Stage 1 meeting will be sent to the employee.
- if there are exceptional circumstances and it is appropriate to do so, extend the review period. Exceptional circumstances might include a bereavement of a close family member.

## **11.0 Formal Procedure**

### 11.1 Stages in the Process

There are two stages in the formal process. The type of case (i.e. short or long-term absence) will determine the need to move either through the stages (short-term absence and concerning patterns of absence), or, in some circumstances, directly to Stage 2 (long-term absence). The procedure can end at any point in the process if there is sustained improvement in their attendance. If further unacceptable periods of absence arise within 12 months of a Stage 1 meeting being held, the procedure may resume at Stage 2.

### 11.2 Preparation for Stage 1 Formal Meeting

The designated manager will arrange a formal meeting with the employee and give them notice of 10 working days, in writing, of:

- the reason for the meeting, outlining the concerns about the employee's attendance
- the time, date and location of the meeting
- who will be conducting the meeting and who else will be present (including the note taker)
- copies of any documents to be referred to including any previous action plans
- the employee's right to be accompanied by a Companion and to refer to any documents/other parties if they wish

The requirement for the employee to provide at least 2 days prior to the meeting:

- the name of their representative (if applicable)
- copies of any papers to be referred to and other parties to be called (if applicable)

### 11.3 Stage 1 Meeting

At the Stage 1 meeting the designated manager will explain the purpose of the meeting. The following points are by way of guidance only:

- discuss the reasons, including any underlying causes for the employee's absence
- explain the role of the note-taker
- explain how the employee's attendance has been assessed as having an effect on teaching and learning and / or service delivery and colleagues
- review the results of the informal procedure, including any measures taken to support the employee so far. Include any reasonable adjustments if appropriate, any work-related issues and consider the content of any medical reports and advice received
- discuss the likelihood of further absences, if absent on a number of occasions or how long the absence is likely to last, if absent on long-term sickness absence
- seek agreement from the employee for a referral to Occupational Health if this is required and/or appropriate in the circumstances
- consider the employee's ability to return to/remain in their job in view both of their capabilities and the Trust's needs and any reasonable adjustments that can reasonably be made, if appropriate, to their job to enable them to do so
- consider possible redeployment opportunities and whether any adjustments can reasonably be made, if appropriate, to assist in redeploying the employee
- where the employee is able to return from long-term sick leave, whether to their job or a redeployed job if possible and/or appropriate, agreeing a return to work programme
- give the employee and/or any Companion the opportunity to explain any mitigating circumstances
- if appropriate, inform the employee that they may wish to consult their pension scheme provider with regard to ill health benefits
- discuss the way forward and determine an action plan that clearly identifies:
  - the improvements necessary to achieve satisfactory levels of attendance
  - the timescale for improvement



- how attendance will be measured/monitored
- any additional support/training to be provided
- the review period, (normally one month and no more than three months)

The designated manager will write to the employee, normally within 5 working days of the Formal Stage 1 meeting, to:

- confirm the action plan in writing
- advise the employee that if they fail to achieve the improvements in the review period then, unless the circumstances otherwise require, a Stage 2 meeting will be arranged where dismissal may be considered
- confirm the employee's right to ask that another manager review the decision at an appeal meeting; for school staff this should normally be another member of the senior leadership team who has not previously been involved in managing the absence but if there is no capacity for this it could be a governor; for headteachers and centrally employed staff they should ask for their case to be reviewed by another member of the executive who has not previously been involved with managing the absence – for the CEO the appeal should be to another director. Any appeal should be made in writing using Appendix C to the employee's line manager within 5 days of the date on which the decision was sent to the employee.

Where a member of staff has been given a terminal illness diagnosis or is waiting for an outcome of investigations that could lead to a terminal illness diagnosis, the line manager will discuss the case with the BDMAT HR Officer and make a decision as to whether requesting such meetings is necessary. If they are necessary, for example to ascertain the current medical situation these meetings should aim to be short and the letters to staff inviting them to the meeting should be considerate of the huge burden the member of staff is currently experiencing.

#### 11.4 Stage 1 Review Period

The appropriate manager will ensure that during the review period the employee's attendance is closely and objectively monitored. Normally, if practicably possible, fortnightly support meetings will be held between the employee and the

appropriate manager (where possible a note-taker should attend to support the meeting) to ensure:

- effective monitoring
- appropriate support is given to the employee
- positive feedback is given where possible
- if further periods of absence are identified, the reasons are discussed

Notes of the monitoring process will normally be kept by the appropriate manager and a copy provided to the employee. The notes may be referred to at Stage 2 of the procedure if the case progresses to that stage.

#### 11.5 Stage 1 Review Period Evaluation

If, at the end of the review period, the employee's level of attendance has improved to acceptable standards, no further action will be taken under this procedure, unless an acceptable level of attendance is not sustained during the next 12 months which the manager believes is unreasonable.

The decision to take no further action will be confirmed by the appropriate manager in writing, normally within 5 working days of the end of the review period. This letter will also confirm that the improved attendance must be sustained consistently during the next 12 months and explain that if there are further unacceptable periods of absence the Sickness Absence Procedure may be invoked at Stage 2. A copy of this letter will be kept on the employee's personnel file for 12 months. All personal and sensitive personal data obtained during sickness absence procedures will be handled with the utmost integrity and confidentiality and in line with our data protection policy. Employees can remind themselves of the types of data the Trust holds, including data on health, and our practices in relation to that data by reviewing the Trust's privacy notice which is available at our website [www.bdmatschools.com](http://www.bdmatschools.com)

If, at the end of the review period, the employee's attendance has not improved to acceptable standards then:

- the member of staff will be written to outlining that the attendance still remains unacceptable, and
- the issue will be referred to Stage 2 of the procedure; or
- in exceptional circumstances, if appropriate, the review period will be extended.

- Where the employee is in a Pension Scheme it may be appropriate to explore eligibility for an ill health pension award prior to convening a Stage 2 Meeting.

#### 11.6 Preparation for a Stage 2 Meeting

In schools a committee of three governors will hold a Stage 2 meeting. In the Central Team a member of the executive team and two directors that has not been involved in the previous stages will hold the Stage 2 meeting. Stage 2 absence of the headteacher will be considered by a committee of 2 directors and a member of the executive who have not previously been involved in the procedure. The appropriate committee will hold a formal meeting with the employee giving them 10 working days' notice, in writing, of:

- the reason for the meeting, outlining the outstanding concerns about the employee's level of attendance due to ill-health.
- the time, date and location of the meeting.
- who will be conducting the meeting and who else will be present.
- any documents to be referred to, which may include, as appropriate, previous action plans, notes of the monitoring process, copies of reports received from Occupational Health or other medical specialists.
- the employee's right to be accompanied by a companion as above, to call other parties and to refer to any documents they wish, copies of which should be sent to the appropriate manager at least 2 days in advance of the meeting.
- the possible consequences of the meeting, i.e. that it may result in the employee's dismissal, if appropriate.

#### 11.7 Stage 2 Meeting

At the meeting the designated manager/committee etc. may (with advice from an HR Adviser where necessary) and by way of guidance only:

- explain the purpose of the Stage 2 meeting
- ask the appropriate manager to outline:
  - the ways in which the employee has been deemed to not be meeting the expected levels of attendance due to ill-health
  - the process so far under the sickness absence procedure

- any opportunities for return or redeployment that have been identified and where identified, the outcome of discussions with the employee.
- review, as appropriate:
  - levels of attendance expected
  - notes of the formal Sickness Absence meetings, records of home visits or other meetings plus any other information relating to the informal action taken
  - the previous monitoring of attendance and steps taken under any appropriate action plans
  - medical advice received from Occupational Health or other medical specialists
  - measures taken by management to support the employee, e.g. reasonable adjustments if applicable.
- discuss with the employee and their companion whether the employee has been assessed as achieving the required improvements in attendance
- review the effect of the unsatisfactory level of attendance on teaching and learning and / or service delivery and work colleagues
- explore, as appropriate, the potential for the employee to achieve a sustained improvement in attendance
- give the employee and/or their companion opportunity to answer the points made and to give an explanation or put forward any mitigating circumstances.

#### 11.8 Stage 2 Decision

Following the discussions, the committee chair leading the meeting will adjourn the meeting to allow the committee to consider the options available including, without limit and for guidance only:

- to take no further action under the procedure
- to set a further/final review period to allow for additional monitoring and/or additional management support. A further Formal Stage 2 meeting may be held at the end of this review period. If attendance is not satisfactory by that time of the next Formal Stage 2 meeting, then the employee may be dismissed
- to dismiss the employee for lack of capability due to ill-health (if it is the ill health that is affecting absence), ensuring that alternative work options have already been explored or will be explored during the employee's

notice period. This dismissal will be made as a result of there being no prospect of their return within a reasonable timeframe, or that they will be unable to achieve or sustain their attendance.

#### 11.9 Dismissal

If the decision at the Stage 2 (or a deferred Stage 2 meeting if applicable) is to dismiss the employee, the designated manager or committee chair will inform the employee that they are dismissed, with the required contractual or statutory notice in writing within 5 working days, or as soon as reasonably practicable thereafter. The letter will state:

- that they have been dismissed.
- the grounds for dismissal and the reasons.
- the required contractual or statutory notice due (or payment in lieu of notice where applicable) and the date the dismissal will be effective.
- the employee's right of appeal against the dismissal to an Appeal Committee of the Governing Body or for headteachers and centrally employed staff to an appeal committee of the main board of directors.

Termination will normally be with full notice or payment in lieu of notice. In some cases, it may not be appropriate for the employee to work during their notice period. Further, the contract may provide that the employee remain at home on 'garden leave' or this may be agreed between the parties – full involvement of the relevant union representatives / companion should be sought in these discussions. A Fit Note must be provided that covers the employee's notice period.

Termination of contract through dismissal will always be the last option, once other options have been considered. Other options that should be considered by managers include re-organising the existing work / role or finding alternative suitable roles within the organisation.

#### 11.10 Appeals

An employee has the right to appeal against a dismissal decision. Any appeal must be submitted within 10 days of receipt of the letter confirming the dismissal and must clearly state the grounds for appeal (appendix D should be used for the appeal). All appeals against dismissal will be heard by the Appeal Committee of the Governing Body (for school employed staff, with the exception of the headteacher) or committee of the board of directors (for headteachers and centrally employed staff) (as appropriate). The purpose of an appeal hearing is to

review the decision made to dismiss the employee and to decide if this decision was reasonable in all the circumstances. The appeal hearing will be held as soon as practicable, and the employee will have the right to representation at the hearing by a Companion.

The Appeal Committee has the authority to:

- uphold the appeal (i.e. to reinstate the employee)
- issue a lesser level of management action, e.g. to:
  - drop the formal process
  - refer to a lower stage in the formal process
  - reduce standards of attendance or targets set in the action plan
  - dismiss the appeal, i.e. the decision to dismiss remains in force.

The date that any dismissal takes effect will not be delayed pending the outcome of an appeal. However, if the appeal is successful, the decision to dismiss will be revoked with no loss of continuity or pay. The decision of the Appeal Committee is final. The employee has no further right of appeal.

#### 12.0 Review of this policy

12.1 This policy will be reviewed every three years by the Finance and Resources Committee of the board of BDMAT. Any amendments will then be put to the full board of directors for ratification.

#### 13.0 Management of data

13.1 Any information and data regarding to staff medical records etc will be dealt with in accordance with the latest data protection laws including the General Data Protection Regulations (GDPR).

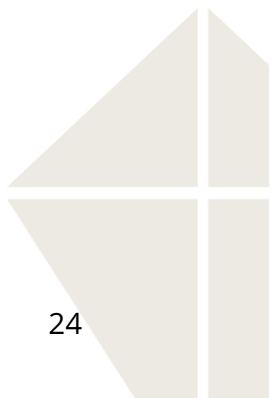
## Appendix A

### Return to work meeting notes form

<b>Employee</b>	<b>Position</b>
<b>Reason for recorded absence</b>	
<b>Period of Absence</b>	
<b>From / to</b>	<b>Number of days Absent</b>
<b>Absence in the previous 12 month period</b>	
<b>Details</b>	
Has the member of staff made a full recovery?	
Is there any need for adjustments to be considered to the role in order to prevent further absence?	
Are there any other issues that the member of staff wishes the manager to be aware of that are affecting their ability to undertake the role effectively?	
Has the member of staff reached one of the following triggers, therefore meaning a review of attendance is required:	Y / N



<ul style="list-style-type: none"> <li>• a total of 7 working days absence within 1 term</li> <li>• 10 working days within 3 terms</li> <li>• 3 occasions of absence within 1 term</li> <li>• 28 days of long-term sickness absence in the last rolling 12-month period; or</li> <li>• Clearly identifiable and/or demonstrable patterns of absence which provide cause for concern</li> </ul>	
<b>Name of person conducting discussion</b>	
<b>Position</b>	<b>Signature</b>
<b>Signature of member of staff, confirming that the details of this note are correct</b>	
<b>Signature</b>	<b>Date of discussion</b>





## Appendix B

### Sickness Absence Meeting Record

This is the management record of a meeting held under the Sickness Absence Policy and Procedure. It is strictly confidential. It will be held on the employee's personnel file until such time as the employee's attendance is wholly satisfactory and for 12 months thereafter. This record will be handled in accordance with GDPR requirements and BDMAT's policies. The record may be accessed and referred to by those with authority to manage the informal and formal stages of the Sickness Absence Policy and Procedure.

<b>Employee</b>	<b>Date of Meeting</b>
<b>Length of Service</b>	
<b>Interviewing Manager</b>	
Name of note taker	
<b>Details of Sickness Absence</b>	
<b>Period of Absence</b>	<b>Number of days Absent</b>
<b>Reason(s) for Absence</b>	

Is absence related to a known or possible disability under the Equality Act? Has there been consideration of whether the 'trigger point' relating to days absence should be extended following discussions with the BDMAT HR Officer, or if the sickness absence policy should otherwise be modified?

**No**    **Yes**    if yes – details of medical evidence must be attached

### Details of Meeting

#### Key Points discussed

Welcome and update, if necessary, on work events and changes

Reasons for absence – underlying medical condition?

The value of your contribution? The impact of absence on teaching and learning, and / or service delivery and colleagues. How your work has been covered in your absence.

Are you fully recovered and able to resume full duties? **Yes** **No**

If your view is “no” then action plan should consider:

- Referral to Occupational Health (OH)
- Temporary adjustments which can reasonably be accommodated?

### Action Plan

The objective is that attendance will be satisfactory to the employer. Is there anything we can do to improve your attendance, e.g. OH referral, counselling, a review of risk assessment, temporary or permanent reasonable adjustments to the workplace, working practices or working hours or training?

Is your absence in any way related to work?

Are you doing all you can to improve your attendance?

e.g. Act on medical advice, lifestyle choices, attention to work life balance, non-medical support e.g. counselling.

Fit note required for any period of absence during the monitoring period?

**Yes    No**



## Review

Attendance will be reviewed in

1 month 2 months 3 months Date of review: \_\_\_\_\_

Please note that further absence during this period may, depending on the circumstances, mean that the review is held under the formal procedure if appropriate.

Copy of Sickness Absence Policy and Procedure has been provided and the process explained.

**Yes** Date: \_\_\_\_\_ **No** (must be provided and explained prior to a formal meeting)

Signature of Manager: \_\_\_\_\_ Date: \_\_\_\_\_

I agree that the above is an accurate statement of the meeting:

Signature of Employee: \_\_\_\_\_ Date: \_\_\_\_\_

**OR**

I would like the following to be consider for amending / adding before I sign to state that the above is a true statement of the meeting:

## Appendix C

### Request for an appeal of the outcome of Stage 1 (formal)

This is the form that should be submitted to your line manager when you wish to appeal the outcome of the Stage 1 (formal) meeting.

<b>Employee</b>	
<b>Line Manager</b>	
<b>Date of request for appeal</b>	
<b>Request for an appeal of outcome of Stage 1 absence monitoring (formal)</b>	
<b>Reason(s) for appeal request:</b>	
<b>Signed:</b>	
<b>Date:</b>	

## Appendix D

### Request for an appeal of the outcome of Stage 2 (formal)

This is the form that should be submitted to your line manager when you wish to appeal the outcome of the Stage 2 (formal) meeting.

<b>Employee</b>	
<b>Line Manager</b>	
<b>Date of request for appeal</b>	
<b>Request for an appeal of outcome of Stage 2 absence monitoring (formal)</b>	
<b>Reason(s) for appeal request:</b>	
<b>Signed:</b>	
<b>Date:</b>	