



RISHWORTH
SCHOOL

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ABSENCE THROUGH ILL HEALTH OR INJURY POLICY

Distribution: Staff Policy Library and Induction programme

Introduction

Rishworth School recognises that absence due to illness will most likely affect all employees at some point. Therefore, the purpose of this policy is to provide a framework to support employees who are unable to work due to illness and assist them back into work.

This policy will not be used to discourage absence due to illness.

Scope

This policy applies to all staff employed by Rishworth School, including fixed-term, temporary and/or directly employed agency staff.

Sick pay for all employees will be paid in accordance with the terms and conditions set out in staff member's contracts of employment.

Leave for medical appointments, family emergencies, caring responsibilities or pregnancy/maternity/adoption related absences are not included for the purposes of managing sickness absence - instead, these will be covered under the separate Family Friendly Policy and / or the Discretionary Absence Policy, which can be found in the policy library.

Additionally, any time off taken due to an accident suffered at work (e.g. an assault at work or an industrial disease) will not be counted under sickness absence monitoring and must not be considered for formal action under this policy. However, all other procedures, such as Return to Work meetings, Occupational Health (OH) referrals (as necessary) should be carried out as normal.

Equalities

This policy adheres to the Equality Act (EA) 2010 and, in particular, its provisions relating to employees who have a disability. The Act requires employers to make reasonable adjustments to premises or working arrangements to facilitate access to work for disabled people and to enable an employee who is disabled or becomes disabled during the course of his/her employment to remain in work. Any absence taken in relation to an employee's disability will be managed separately.

For the purposes of the Act and this policy, a person is considered to have a disability if they have a physical or mental impairment which has a substantial and long-term adverse effect on their ability to carry out normal day to day activities or have been diagnosed with a specific illness which is automatically deemed a disability under the Act. Long Covid is considered a disability under the Equality Act.

Roles and responsibilities

Rishworth School has a statutory duty to safeguard the health, safety and welfare of employees. Throughout this policy, Rishworth School will assume that ill health is genuine unless there is clear evidence to the contrary. Therefore, the reason for taking any action will relate to the capability of an employee and will not be because of their illness.

Senior managers are responsible for promoting a positive working environment and for ensuring that this procedure is implemented, including providing necessary training and resources.

Line managers are responsible for applying the policy as set out below and will ensure that decisions are made based on the information available at the time.

The Commercial Director or a nominated HR representative are responsible for providing specialist advice and support in relation to absences and may attend any meeting held under the formal stages of the policy.

All employee health records will be kept confidential and held securely.

Disability leave

Section 20 of the Equality Act 2010 identifies the provision of leave as a reasonable adjustment where a disabled person needs to be absent from work for “rehabilitation, assessment or treatment” for a fixed period(s) of time known in advance. This can be classed as disability leave.

Disability leave may include:

- Assessment for conditions;
- Training a guide dog or in the use of specialist equipment;
- Medical appointments or specialist check-ups;
- Reviewing treatment or equipment;
- Allowing time for adaptations or adjustments to be made.

Disability leave can only be used for absences that occur as a direct result of an employee’s disability or caring for a dependant (as a primary carer) who has a disability. Therefore, this means that not all absences will be automatically classed as ‘disability leave’. For example, if an employee has a disability and is off work for another reason such as cold or flu, this will be classed as ordinary sick leave rather than disability leave.

Disability leave will not be used for the purposes of managing absence, will be on full pay, and an employee’s disability leave record will not be used for the purposes of assessing their performance, promotion, or selection for redundancy.

Reasonable adjustments for employees with disabilities

When a line manager becomes aware that an employee has a disability, they are obliged to exercise their duty of care under the Equality Act 2010 and investigate what reasonable adjustments can be made. Depending on the condition and circumstances, these may include but are not limited to:

- Allowing a disabled employee to take a period of disability leave;
- Allowing time off for medical appointments;
- Keeping a record of the absence which is separate from sickness absence;
- A car parking space close to the entrance of the workplace;
- An adapted keyboard/mouse or voice recognition software;

- Changes to the layout of the workplace to make it more accessible;
- More rest breaks;
- Altered hours/place or work or more home working.

Employees are entitled to request a meeting to discuss a health and wellbeing issue with a view to making recommendations to Rishworth School on reasonable adjustments.

Occupational health

Referrals to Occupational Health (OH) are a supportive measure to provide advice regarding an employee's condition, including what measures and adjustments may be appropriate to remove barriers to the employee's full participation in the workplace. Employees may be accompanied at OH appointments by a friend, relative or trade union representative.

A referral to OH will not be made by Rishworth School for short term absences or common ailments, such as a member of staff with a cold or flu, unless the absences are frequent or there is a cause for concern.

Reviewing absences

Anonymised information on absences will be used to monitor and address absence issues in a fair and consistent way. Managers will share and discuss information on absence levels with the recognised trade unions to identify issues of concern and seek to improve general workplace well-being, with particular regard for work-related stress.

Unless a manager has reasonable grounds to believe that the employee has abused the sickness absence procedures, absence monitoring will not be used punitively.

Reporting absences

Employees should report sickness absence to their line manager or other nominated person as soon as possible on the first day of absence, before the normal school starting time. The employee should state the reason for and the estimated period of the absence. Reporting absence can be done via telephone or email to hr@rishworth-school.co.uk and by a third party if necessary.

Where absence continues beyond the period initially estimated, the employee should report their continuing absence as above until such time that they must provide a Statement of Fitness for Work Certificate (Fit Note).

Where an employee fails to report their absence as above, the line manager may contact the employee to ensure their well-being.

On their return to work, the employee will complete a self-certificate form for absences of up to seven days (including non-working days) or a Statement of Fitness for Work Certificate (Fit Note) for absences of more than seven days.

Maintaining contact

If an employee is off on long term absence due to illness, the employee and their line manager should maintain reasonable contact. This will usually be by telephone or email. In order not to add to the employee's stress, the frequency and mechanism of the contact will be mutually agreed with the employee.

Any contact will be approached sensitively, focussing on the employee's health and wellbeing.

Return to work discussions

Line managers will hold a return-to-work discussion with the employee after any period of absence, where the manager will welcome back the employee and enquire about their health, offer help and support and update the employee on developments at work during their absence as necessary. Typically, after a period of short-term absence (e.g. a day or two), a quick and informal chat will usually suffice. Where any recommendations for return to work have been made in the employee's Fit Note or OH report, these will be discussed with the employee.

If, during the discussion, the line manager has reasonable grounds to believe the employee is not fit, they will instruct the employee to go home (helping them make transport arrangements if necessary) and if appropriate, advise them to see their GP or OH advisor as soon as possible.

Where an employee feels uncomfortable discussing the nature of their absence with their line manager, they may ask to discuss the nature of their absence with another senior colleague/ manager instead. Any such request will not be unreasonably refused. In addition, employees are not required to explain in great detail the nature of any absence if they are not comfortable doing so.

Where appropriate, a written agreement should be produced after a return-to-work discussion, clearly explaining how the employee's return to work is to be managed in light of the Fit Note and/or OH report.

The employee may be accompanied to a return-to-work discussion by a trade union representative or workplace colleague.

Where it is agreed that an employee will return to work on a phased basis, the employee will continue to receive their normal pay throughout their phased return to work.

Reasonable adjustments

Following a period of long term absence for any employee who has health concerns (not necessarily covered under the Equality Act), reasonable adjustments may be required. This may require facilitation by Occupational Health.

Reasonable adjustments may include but are not limited to:

- a phased return on full pay for someone returning from long term sick leave;
- paid time off for medical appointments that cannot be taken outside school hours;
- more break times;
- extra or adapted equipment.

Rishworth School acknowledges that it is normal for performance to diminish during and immediately following a long period of ill health. As such, performance management will be suspended for a reasonable period of time following the return of a staff member after a period of absence, particularly long-term absence, in order to ease back into their role. When performance management is resumed, it will be in a supportive manner acknowledging the previous period of ill health.

Procedure for managing repeated short-term/intermittent absence

The following procedure should be followed in cases of repeated short-term or intermittent absence in order that such cases are monitored and managed in a fair and consistent manner. The procedure consists of the following stages:

1. Informal meeting following return to work discussion
2. Formal Stage one
3. Formal Stage two
4. Formal Stage three – Referral to Governors
5. Appeal Stage

Informal meeting following return to work discussion

Following the return to work discussion, if the line manager feels there is cause for concern, they should invite the employee to a further informal meeting to discuss the cause of absence and ways in which attendance can be supported and maintained. Only where necessary will details of an illness will be requested.

Employees have the right to be accompanied by a trade union representative or colleague at this meeting and may request the postponement of the meeting by up to five days if necessary to allow their trade union representative or colleague to attend.

At the meeting, the manager and employee will:

Confirm that the meeting is an informal meeting within the procedure for managing absence.

- Confirm the employee's absence record and give them an opportunity to discuss their health and wellbeing if they so wish. This will also allow for any underlying medical or non-medical reason to be established. However, if the employee has a condition or health issues which they do not want to discuss with the line manager, this will be respected, and a referral will be made to occupational health instead.
- Discuss what support can be offered for any underlying medical or non-medical reason for absence, any reasonable adjustments suggested by the employee's GP and possible referral to occupational health for further advice.

At the conclusion of the meeting, the manager will summarise what has been discussed and agreed and send a summary to the employee following the meeting. Where appropriate, the manager will advise the employee that the formal stages of the procedure will commence or may commence if further short term or intermittent absence occurs.

Formal meeting – stage one meeting with line manager

Following an informal meeting if the line manager continues to be concerned about the level of absence, they may invite the employee to a formal meeting to discuss the cause of absences and ways in which attendance can be supported and maintained.

The following points are a guide for discussion:

- The employee's absence record will be confirmed as correct;
- The employee will be given the opportunity to explain any factors which may have arisen and contributed to their levels of absence;

- Any 'non-medical' (especially work related or welfare) issues which may be contributing to the absences will be considered sympathetically and non-judgmentally;
- The parties will discuss whether there is any support which could be offered to assist the employee in reaching an acceptable standard of attendance such as changes to the environment, tasks/duties, temporary contractual changes to working hours etc.
- Referral to occupational health will be initiated (if not already undertaken);
- The manager and employee will, after considering the particular circumstances, agree a reasonable review period.
- Explain what will happen at stage 2 of the procedure should the situation not improve by the end of the review period.
- If the manager has evidence to suggest that the employee is taking time off for reasons other than illness or disability, then referral to the disciplinary procedure may be appropriate at the formal stage of the sickness absence management procedure.

At the conclusion of the meeting, the manager will summarise what has been discussed and agreed and send a summary to the employee following the meeting. The manager will advise the employee that if their attendance improves during the review period, no further action will be taken but if further short term or intermittent absence occurs and the line manager remains concerned about the level of absence, they may consider referring the case to a further formal meeting with the Head.

Formal meeting: stage two meeting with Head

Following a review period after a first formal meeting, if the line manager continues to be concerned about the level of absence, they may advise the Head to invite the employee to a second formal meeting to discuss the cause of absences and ways in which attendance can be supported and maintained. Where the line manager believes that this course of action is unnecessary, they may decide not to do so at this point but continue to monitor the situation.

The Head should utilise the information provided to them by occupational health when considering any reasonable adjustments or amendments such as changes to working arrangements or supporting the employee's search for alternative employment. The Head must ensure that reasonable options to help to sustain the employee's levels of attendance are explored and given reasonable time for improvement.

The Head will, after considering the particular circumstances, consider setting another review period.

Formal stage three: determination meeting with panel of Governors

If the employee's attendance improves during the review, no further action will be undertaken. If, however, there has been no improvement, or attendance worsens and the Head believes that the employee is unable to fulfil their contract of employment, they can move to stage three of the process. This invokes referring the matter to the final sickness absence meeting where a decision will be taken on the employee's continued employment, by a panel of Governors. The employee should be told that the outcome of the meeting could result in their dismissal.

It will be necessary at this point to obtain an up-to-date occupational health report, even if one has already been obtained earlier. The case will not be progressed to the formal stage three without up-to-date occupational health advice.

The Chair of Governors will appoint a panel of no less than three Governors who will convene a meeting with the purpose of reaching a final decision on the employee's continuing employment with the organisation.

Possible outcomes of this meeting are:

- The Panel agrees to take further supportive action, within an agreed timescale, to try and address the problem. This is only applicable where there is a clear belief that further action is likely to lead to an improvement even where it has not done so previously;
- The Panel offers the employee a change to their contract of employment for example, redeployment, permanent changes to working hours, job role or job grade. The employee would need to agree to this change in contract and it would be offered on the basis that attendance will improve;
- The employee's employment is terminated with full notice or payment in lieu of notice.

Notification and a summary of the outcome of the meeting, including evidence presented with an explanation of the employee's right of appeal will normally be sent to the employee within five working days of the meeting. Minutes of the meeting will also be provided.

The following will apply to all formal meetings under this procedure including appeal hearings:

- The employee will be informed in writing, at least five days prior to the meeting, of the meeting date (or 10 days for a meeting at the final stage). The employee will be informed of their right to be accompanied by a trade union representative or colleague at this meeting and may request the postponement of the meeting by up to five days if necessary to allow their trade union representative or colleague to attend (or 10 days for a meeting at stage three).
- The trade union representative will be allowed to put and sum up the employee's case, respond on behalf of the employee to any views expressed and confer with the employee during the meeting. The representative will not have the right to answer questions on the employee's behalf, address the meeting if the employee does not wish it or prevent the employer from explaining its case.
- Rishworth School will provide a note taker who will record an accurate note of the meeting.
- Notes of the meeting will be shared with the employee within three days of the meeting and the employee will be invited to recommend any changes they deem appropriate.
- Managers will, at all stages, seek advice from an HR adviser on the application of the policy. The HR adviser has the right to attend if they wish to do so, and will attend if invited by managers and at all meetings in the formal stages of the procedure.
- In cases of long-term absences, meetings may be held at a suitable alternative location if the individual is not well enough to travel to the workplace. If the employee is too ill to attend a meeting, another form of communication (e.g. telephone or video call) may be agreed. In such cases, the employee's representative should be involved in the discussion about holding the meeting.

- Formal procedures will not be treated as disciplinary procedures unless the line manager has reasonable grounds to believe that the sickness absence procedure has been abused; in which case formal warnings will be issued as a matter of course and the disciplinary policy will be invoked instead.

Procedure for managing long term absence

The process for managing long term absence consists of the following stages:

1. Absence review
2. Formal review meetings
3. Final sickness absence meeting

Where employees know in advance that they are going to be absent from work (for example: for a planned operation) the line manager and employee will meet beforehand to discuss:

- the reason for the absence and its likely duration;
- any support and counselling to be offered prior to or during absence;
- any support on returning to work and any potential phasing of that return;
- arrangements for covering the absence and for keeping in touch; and
- any referral to occupational health.

Sickness absence is treated as being long-term once an employee has been absent continuously for six weeks. However, it is not necessary for six weeks to expire before an occupational health referral can be made; if an employee submits a Fit Note for a duration of six weeks or more, or the line manager or employee reasonably believes the employee's condition will result in an absence of six weeks or more, a referral to occupational health will be made immediately, with the intention of supporting the employee upon their return.

Occupational health advice will specifically be sought on whether the employee's condition is an underlying medical condition and if it is covered by the EA 2010. The occupational health advisor should also be able to give an opinion on the likely length of absence and the adjustments that may be needed to working conditions and/or premises to facilitate the employee's return to work.

It is the responsibility of the relevant manager to manage absence with the support of the SLT and any HR adviser. The actions outlined below should not be deferred, as deferral or delay of actions may result in prolonging the period of absence to the detriment of the employee's health.

Relevant managers are responsible for ensuring reasonable contact is maintained with the employee whilst they are off sick. If a Fit Note has been issued for a period of long-term absence, it is not necessary to contact the employee during this prescribed time as this could cause unnecessary stress, but contact closer to the time they are due to return would be considered reasonable. This contact could be used to:

- Keep informed as to the employee's progress;
- Inform the employee of any work-place developments that they may have been missed;
- Ask what support the employer can provide to assist the employee etc.

Absence review meeting

An absence review meeting should be initiated as soon as the line manager is made aware that an employee's sickness is likely to last for a period of six weeks or more or as soon as a possible

following receipt of the report from their medical professional or occupational health. The review will cover a prognosis enquiry about the employee's health and general welfare and consider supportive measures that can be put in place to support the employee in their return to work.

The following points are a guide for discussion:

- Prognosis enquiry about the employee's health and general welfare and support offered where appropriate;
- Give the employee an opportunity to raise any concerns or discuss their reasons for and/or cause(s) of their absence if they so wish, including any possible 'non-medical' issues (especially work-related or welfare). The manager will be sympathetic and non-judgemental;
- Discuss the report from occupational health, in particular to note the OH advisor's recommendations for reasonable adjustments, whether the employee has an underlying condition and/or if their condition is covered by the EA 2010;
- Consider whether reasonable adjustments or measures, e.g. a phased return, changes to the environment, tasks/duties, contractual changes to working hours etc, could be made to facilitate an earlier return to work;
- Discuss the likely length of the absence and, depending on the condition, a target return to work date based on the occupational health opinion. The employee should not feel pressured to return to work before they feel fit to, or before their GP considers them fit for work;
- If medical information is available that indicates that the employee may be unable to resume in their current job, early consideration should be given to alternatives such as redeployment, ill health retirement etc. The employee should be provided with information regarding these options and encouraged to seek advice from their trade union representative;
- Explain that if it later becomes apparent that a target return to work date (if discussed) does not seem achievable, a formal review will be held to discuss the absence further; with the intention of providing more structured support.

Formal reviews

Where the absence lasts longer than six weeks or the employee fails to achieve the target return to work date as discussed in the previous meeting, the line manager will invite the employee to a formal review meeting.

The following points are a guide for discussion:

- Prognosis enquiry about the employee's health and general welfare;
- Discuss the earlier occupational health report, including an update on the recommendations made, and a possible follow-up referral to occupational health;
- Discuss a new target return to work date and agree what support the employer can provide to help achieve this (this point may need revisiting following occupational health advice) The employee should not feel pressured to return to work before they feel fit to, or before their GP considers them fit for work;

- Consider whether reasonable adjustments or measures, e.g. a phased return, changes to the environment, tasks/duties, contractual changes to working hours etc, could be made to facilitate an earlier return to work.
- If medical information is available that indicates that the employee may be unable to resume in their current job, early consideration should be given to alternatives such as supporting the search for alternative employment, ill health retirement etc. Employees should be provided with information regarding these options and encouraged to seek advice from their trade union representative;
- Set a date at which the sickness absence will be reviewed again. Explain to the employee that if their absence continues, and [Name of school/trust] is not able to continue to support it, that the final stage of the process could result in dismissal based on capability.

Further formal review meeting

Where appropriate, further formal review meetings should be held between the employee and the line manager depending on the medical prognosis and the operational effect of the absence.

The purpose of the further review meeting will be to:

- Consider whether there have been any changes since the last meeting regarding a possible return to work or opportunities for return or redeployment;
- Consider the up-to-date medical evidence available (including the occupational health report); and
- Consider whether there is a likelihood of the employee returning to work in the reasonably foreseeable future.

If at the further review meeting it is clear from the medical information available that the employee has no confirmed date to return to work (within the foreseeable future), and there is no recommendation for ill-health retirement, the relevant manager will make a further occupational health referral to establish whether the employee will be able to return to work in the foreseeable future.

If, following a formal review meeting, and on the advice of occupational health, a return to work in the reasonably near future is unlikely, and alternatives have been explored the line manager will involve the Head in the case.

If, at this stage, it is felt that there is no likelihood of return to work, and the employee has had regular review meetings and been referred to occupational health, the Head will consider referring the case to the Chair of Governors. The Chair of Governors will convene a final sickness absence meeting where a decision will be taken, on the employee's continued employment, by a panel of Governors. The employee should be told that the outcome of the meeting could result in their dismissal.

Final sickness absence meeting

It will be necessary at this point to obtain an up-to-date occupational health report even if one has already been obtained earlier. The case should not be progressed to the final sickness meeting without up-to-date occupational health advice.

The Chair of Governors will appoint a panel of no less than three Governors who will convene a meeting with the purpose of reaching a final decision on the employee's continuing employment with the organisation. The meeting can take place at a mutually agreed venue and time that suits the employee. If the employee is too unwell to attend the meeting, the trade union representative can attend on their behalf – the employee can also submit a written statement to support their case.

The panel of Governors will appoint a chair of the meeting who will lead the meeting and will ensure the employee has the opportunity to explain their concerns and put forward their case.

Possible outcomes of this meeting are:

- The Panel agrees to take further supportive action, within an agreed timescale, to try and address the problem. This is only applicable where there is a clear belief that further action is likely to lead to an improvement even where it has not done so previously;
- The Panel offers the employee a change to his/her contract of employment for example redeployment, permanent changes to working hours, job role or job grade. The employee would need to agree to this change in contract and it would be offered on the basis that attendance will improve;
- The employee's employment is terminated with full notice or payment in lieu of notice.

Notification and a summary of the outcome of the meeting, including evidence presented with an explanation of the employee's right of appeal will normally be sent to the employee within five working days of the meeting.

Appeals

The employee may appeal against any decision taken within the process and against a dismissal decision taken as part of the attendance management process.

The employee should set out their appeal in writing, stating the full grounds of appeal. This should be sent to the Chair of Governors within 10 working days' from receipt of the decision.

The appeal hearing will be conducted by a different panel of no less than three members who will not have previously been involved in the case, one of these individuals should be a member of the Governing Body. The appeal will be dealt with impartially.

The employee may invite any appropriate persons to be present at the appeal hearing in support of their appeal. Equally, the panel may arrange for any appropriate persons to be present as required, including the Head or line manager etc. Notice of who may be present at the appeal hearing must be provided to the employee who is making the appeal, at least five days before the appeal hearing date.

The appeal panel may uphold the original decision to dismiss or revoke or replace the original decision with a different decision. The decision of the appeal hearing will be communicated to the employee in writing within seven working days of the hearing. The decision of the panel will be final and represents the end of the internal process.

Review and monitoring

This policy will be reviewed biennially, in consultation with the recognised unions, to ensure consistency, fairness, and effectiveness, and to reflect any changes in employment legislation.