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1. THE POLICY

1.1 Introduction

The Policy sets out the procedure for reporting sickness absence and for the management of sickness absence in a fair and consistent way. This Policy will apply to all ENLUTC employees.

The ENLUTC and its employees are responsible for ensuring that good attendance is maintained. Where absence levels become a concern, the procedures set out in this Policy should be followed alongside recommendations from the accompanying Guidance.

The underlying principle of the Policy is a recognition that the majority of employees have excellent attendance records, and will take time off only where absolutely necessary. It recognises that from time to time employees may be prevented from attending work due to ill health and that the vast majority of sickness absence is genuine. It is also important to recognise that the ENLUTC has a duty to deliver teaching and learning and to minimise the disruption these absences may cause.

The Policy is intended to be used in cases involving absence from work due to sickness and is designed to ensure that all employees are dealt with compassionately and equitably avoiding discrimination.

It also recognises that employees have responsibilities in managing attendance, these responsibilities are outlined in this Policy. The Policy is supported by Guidance.

HR support should be sought in relation to all cases of sickness absence. Where further advice is needed HR will seek advice from Occupational Health.

The Policy applies to all employees including those with disabilities. Additional safeguards have been built into the Policy to ensure that specialist advice is sought and reasonable adjustments are considered in respect of disabled employees.

1.2 The Aim of the Process

The Policy aims to:

- ensure the effective management of sickness absence and support of employees suffering from ill health;
- improve and maintain the health of employees;
- treat sickness absence in a fair, consistent, sensitive and constructive manner;
- monitor sickness absence on a regular basis to identify any job related issues;
- manage and deal with absence relating to a disability positively as part of the support and management of the employee;
- develop a culture which encourages high attendance levels;
- ensure that all managers receive appropriate guidance and training.

1.3 Key Principles

Sickness absence from work is always assumed to be genuine. It is recognised that most employees have minimal sickness absence and that they make every possible attempt to attend work. Whilst there is an understanding that there will inevitably be some absence amongst employees, this must be balanced with the needs of the College and the individual.

The Principal, the Headteacher or a nominated person are responsible for monitoring absence levels and for applying this Policy under the guidance of HR. The nominated person will normally be a senior employee within the College e.g. Deputy Headteacher, Head of Department or line manager.

Where the Principal or the Headteacher has nominated a person to undertake absence management, that person must keep the Principal or the Headteacher up to date regarding the

employee's absence. They are also responsible for liaising with HR to arrange home visits, contact and support as appropriate. Initial contact will be of an informal nature; formal contact will be agreed in long-term absence cases when a continuous period of absence exceeds or is likely to exceed **4 weeks**.

Where employees have frequent short-term absences or long-term absence, medical advice will be sought and counselling offered where appropriate.

All employees dealing with colleagues who have been absent due to sickness and have access to absence records will have regard to the need for confidentiality and the Access to Medical Reports Act, 1988.

1.4 Roles and Responsibilities

It is recognised that there is a need for everyone to play their role in the management of sickness absence. All employees should be made aware of and provided with access to a copy of the Policy. It is expected that academies will have their own procedure for employees to notify the appropriate line manager when they return to work after a period of absence.

Where the sickness absence of an employee gives cause for concern the Principal, the Headteacher or the nominated person will take advice from HR. This will normally be where trigger points have been reached or following a period of sustained long-term absence.

In summary the general roles and responsibilities of the Principal, the Headteacher or the nominated person and all employees are detailed in the following table.

Responsibilities: Principal, Headteacher or nominated person

- Ensure and promote safe and healthy work conditions and policies.
- Ensure employees are aware of the importance of good attendance, the support available to help them and the impact of absence on learning productivity and colleagues.
- Ensure all employees have an awareness and understanding of the Managing Attendance Policy.
- Ensure employees understand and follow the Policy regarding notification procedures.
- Seek advice and support from HR in all cases.
- Seek advice and support from Occupational Health through HR, for example for absences related to mental health and muscular-skeletal disorders.
- Maintain and agree an appropriate level of contact with employees who are absent from work due to ill health.
- Where possible, conduct a return to work meeting with employees promptly after every period of sickness absence.
- Explore with employees who are absent whether there are any work-related or other issues affecting their attendance with a view to determining an agreed way forward.
- Follow the Policy for managing sickness absence and ensure that the employee is aware of their responsibilities and the implications for their continued employment.
- At each stage of the procedure check whether the employee has any work related or other problems affecting their attendance and provide support or seek further advice.

Responsibilities: All ENLUTC Employees

- Take responsibility for looking after their own health and safety and advise the College as early as possible of any work or health related issues. This is especially important if suffering from stress related illness as the College may be able to provide support and/or expert help at an early stage.

- Familiarise themselves with the Policy and if they do not understand anything ask their manager.
- Notify the College of their sickness absence in accordance with the procedure.
- Agree how/when regular contact will be made with the Principal, the Headteacher or the nominated person during the absence.
- Follow any medical advice and avoid any activities that may hinder or delay a return to work.
- Do not undertake any other employment without the Principal's knowledge during the absence.
- Respond to the Principal, the Headteacher or the nominated person during any period of absence and fully participate in return to work meetings or meetings arranged during absence.
- Work with the Principal, the Headteacher or the nominated person to take action to improve their attendance.
- Attend appointments (telephone or face to face) with Occupational Health when requested.
- Ensure that the Principal, the Headteacher or the nominated person is kept up to date and informed of the expected return to work date.

1.5 SICKNESS ABSENCE RECORDS AND PAY

The ENLUTC should ensure that all instances of sickness absence are documented appropriately and countersigned as necessary. In conjunction with payroll services, individual sickness records should be kept for every employee. These will show details of each absence; the reason, whether they are self-certified or medically certified and the duration. Individual records should be updated after each absence and reviewed on a regular basis by HR. By maintaining accurate records, the scope for dispute when dealing with sickness absence cases under the Policy will be minimised.

Employees, when absent from work, will be entitled to a) Statutory Sick Pay (SSP) provided relevant regulations are satisfied; and b) Occupational Sick Pay in accordance with employment terms and conditions, provided that an employee complies with the following points as detailed below;

- Contact the ENLUTC in accordance with the College's sickness absence notification procedure.
- Provide doctor's statements of fitness notes at the appropriate times.
- Maintain an appropriate level of contact as agreed with the nominated person.
- Make every effort to attend Occupational Health appointments and meetings when requested.

Failure to comply with the above requirements will be viewed as a serious matter and could result in Occupational Sick Pay being withheld and/or disciplinary action being taken.

It is important to note that under this Policy should an employee refuse or fail to attend Occupational Health appointments or meetings arranged under this Policy by the College without good reason it may result in decisions being taken without the benefit of up to date medical advice.

The sick pay scheme is intended to supplement Statutory Sick Pay and incapacity benefit so to maintain normal pay during defined periods of absence. Further details of this entitlement can be found within each employee's contract of employment.

1.6 WORKING DAYS

For the purposes of giving notice for formal meetings/hearings arranged under this Policy a working day shall exclude Saturday, Sunday, Public and Statutory Holidays, school holidays for teachers and term time only employees and any extra Statutory Holidays or additional days granted by the Governing Body or the Secretary of State for Education.

1.7 MAINTAINING CONTACT

It is important that regular contact is maintained with employees who are absent due to sickness.

Any contact with an employee should be handled sensitively and should not be intrusive or carried out in a manner that could be seen as harassment. In cases of stress/anxiety related absence, where disciplinary action may/has been taken, or in sensitive or complex situations advice must be taken from HR before contact is made. Contact should be through the Principal, the Headteacher or a nominated person who is familiar with the employee.

Contact may be made by telephoning the employee at home, sending a card, arranging for them to visit the College or an alternative venue with agreement. The purpose of such contact is to:

- provide support;
- demonstrate the College's interest/concern;
- ensure reporting policies are followed so there is no loss of pay or benefits; and
- to help the Principal, the Headteacher or the nominated person assess the possible length of absence to plan cover.

1.8 SICKNESS ABSENCE AND DISABILITY

Sickness absence may result from a disability. At each stage of the procedure particular consideration must be given to whether there are any reasonable adjustments that could be made to the requirements of a job or other aspects of working arrangements that will provide support at work to improve attendance and/or assist a return to work.

Should an employee consider that they are affected by a disability or any medical condition which affects their ability to undertake a return to work or ability to undertake their job role fully the Principal, the Headteacher, the nominated person or HR should be informed.

Disabled employees should not be treated less favourably than other employees. The Guidance to this procedure provides further advice on this and the ENLUTC will also have regard to current legislation and relevant case law.

2. NOTIFICATION AND CERTIFICATION OF SICKNESS ABSENCE

All employees who are unable to attend work as a result of sickness must comply with the following to avoid loss of pay:

2.1 First Full Day of Absence

All employees should normally notify the College on the first day of absence by a ***specified time and to a designated person, which will be determined by the College.*** A person nominated by the employee may contact the College if illness prevents the employee from doing so.

All employees will be required to provide the following information:

- a) the nature of the illness;
- b) the date on which the employee is expected to be fit for work if known;
- c) present home address or contact address;
- d) whether the absence is a result of an injury at work;
- e) and any outstanding or urgent work which requires attention.

It is the College's policy to keep in contact with employees who are absent from

work due to ill health. If for any reason an employee should be away from the named contact address during a period of sick leave it is the employee's responsibility to inform the Principal, the Headteacher or the nominated person in writing.

The College should ensure that:

- a) any sickness absence that is notified is recorded and payroll informed
- b) arrangements are made, where necessary, to cover work and to inform colleagues and clients (while maintaining confidentiality).

2.2 Absence Up to and Including Seven Calendar Days

Absences of up to seven calendar days do not normally require a doctor's statement of fitness note. If the return date is unknown, the employee must contact the College on **each day of the absence**. **In some circumstances less frequent contact may be agreed.**

Contact should be made to either confirm a return to work date as previously notified, or that the absence will continue and that an appointment will be made to see a doctor with a view to obtaining a Statement of Fitness note.

2.3 Absence of More Than Seven Calendar Days (Statement of Fitness notes)

For absences of more than seven calendar days' a statement of fitness note is required. It should be received by the College by no later than the eighth day of absence. Doctor's statement of fitness notes will only be accepted for sick pay purposes from the date that they have been signed by the doctor.

Employees must ensure that there are no gaps between their statement of fitness notes. Continuation of statement of fitness note must be received by the College within **3 working days** of the expiry of the previous note to ensure that payment of occupational sick pay is not affected. Only in exceptional circumstances will discretion be applied.

If a statement of fitness note is produced to cover a period that has been authorised as annual leave, the employee will be regarded as being on sick leave from the date of signing of the statement of fitness note.

The statement of fitness note will normally advise that the employee is either:

- a) not fit for work where the medical opinion is that the employee should refrain from undertaking their duties.
- b) that the employee may be fit to work taking into account their advice which may include recommendations, as follows;
 - therapeutic rehabilitation/phased return,
 - altered hours,
 - amended duties,
 - workplace adaptations.

These recommendations are considered to be temporary measures and where possible should be accommodated. If it is not possible to accommodate them the statement should be treated as if the doctor had advised the employee was '**not fit to work**'.

Where an employee requests a return to work before the statement of fitness expires there is **no requirement for an employee to get confirmation that they are fit to be in the workplace from their doctor**. In principle, an employee can request a return to work before their statement expires subject to the approval of HR. Where such a request is received, consideration will be given to whether a work place risk assessment should be carried out by HR. If there are any other concerns about an employee returning to work Occupational Health advice will be sought.

Where there is a concern about the reason for absence, or frequent short-term absence, a statement of fitness note, for each absence regardless of duration may be required. In such circumstances, any costs incurred in obtaining such medical evidence for absences of 7 working days or less will be reimbursed on production of a doctor's invoice.

2.4 Returning to Work

It is good practice that a meeting should always be held with an employee on their return to work from sickness absence at the earliest opportunity to check that they are fit to be at work. At this meeting the Principal, the Headteacher or nominated person should;

- a) explore any support that may be needed,
- b) update as necessary,
- c) to emphasise their importance to the College and subsequent effect of their absence,
- d) inform that they will require formal monitoring if appropriate,
- e) identify whether HR should be contacted with regards to undertaking a work place risk assessment or making a referral to Occupational Health.

When an employee is returning following long-term sickness, it will usually be appropriate for the Principal, the Headteacher or nominated person and HR to meet with them prior to their expected date of return to establish a return to work support plan to facilitate effective rehabilitation back into the workplace.

A Sickness Notification Form must be completed and sent to payroll with any accompanying doctor's statement of fitness note.

2.5 Common Medical Conditions including Mental Health, Stress and Muscular/Skeletal Issues

Advice should be sought from HR who may make a referral to Occupational Health as soon as possible for absences relating to any of the above for example in cases of back injuries, arthritis, rheumatism, upper limb disorder, stress, anxiety and depression. If appropriate the following support should be identified and offered to the employee as soon as possible:

- counselling
- a workplace risk assessment
- a referral to Occupational Health via HR to help identify quickly measures to support the employee.

2.6 Pregnancy Related Absence

HR will provide advice on the procedure to be followed in respect of pregnancy related illness. Further information can also be found in the Guidance to this Policy and the ENLUTC's Work and Families Policy.

2.7 Work related Ill Health or Injury

The ENLUTC aims to provide a safe and healthy work environment. Any incident that is or could be related to ill health or injury sustained in the workplace should be investigated and consideration given to trigger levels.

2.8 Further Guidance

Anyone using this Policy and Procedure should have regard to the further Guidance. Where appropriate this Policy and Guidance Document will direct the reader to other relevant ENLUTC Policies and Procedures.

Advice and support should be obtained from HR at every stage.

3. PROCEDURE FOR MANAGING SHORT-TERM SICKNESS ABSENCE

Occasional spells of short-term absence are to be expected. It is important when dealing with short-term absence that a sensitive and flexible approach is taken in each case. There may be underlying domestic, personal or work related issues, which need to be taken into account. A negative approach may have a detrimental effect on morale and will not achieve the desired effect, which is to improve attendance.

3.1 Trigger Points

Formal intervention is necessary if an employee meets one or more of the following trigger points during a **rolling 12 month period** because of the impact this level of absence has on the College:

- **Where the employee has had 4 separate absences within a rolling 12 month period,**
- **Where the employee has had twelve days of absence within a 12 month rolling period** (this will be proportionate for employees with a working pattern that does not cover everyday of the standard College working week),
- **Where any unacceptable trend of absence is identified** (e.g. repeated absences linked to weekends or other breaks).

3.2 STAGE 1

If an employee meets one or more of the trigger points HR will review the employee's sickness absence records with a view to recommending a meeting with the employee. HR will advise the Principal, the Headteacher or the nominated person to arrange a meeting with the employee and HR to inform the employee that their absence is a cause for concern and to discuss the absence.

The employee must be given **5 working days'** notification of the meeting and must be **advised of their right to be accompanied to the meeting by a work colleague or trade union representative.**

The Principal, the Headteacher or the nominated person should consider:

- aiming to improve the level of attendance through monitoring and reviewing the situation after a reasonable period e.g. 3 months or 12 working weeks or any other appropriate period depending on the circumstances;
- attempting to resolve any working difficulties or welfare problems identified during the meeting; advising the employee to consult their doctor;
- reasonable adjustments in line with the reasonable adjustments toolkit;
- on the advice from HR to refer the employee to Occupational Health. (Please see the section 'Referral to Occupational Health / Medical Practitioner' at page 18 undertaking this step)
- referring the matter to the Principal or Headteacher, if they are not already involved, and to consider taking advice from HR with regards to redeploying the employee to another post within the College. (This option should only be considered where it is felt that the employee's sickness absence record is specifically attributable to workplace/occupational factors or disability, and where a suitable alternative vacant post is available);
- requiring the employee to certify any future absences by a medical statement of fitness note; (Where this option is pursued there may be a charge; this will need to be met by the College).

The outcome of any meeting will normally be confirmed in writing within 5 working days or as soon as possible. This written confirmation should include details of any

improvements required of the employee, any actions to be undertaken and any review period.

If an employee prefers not to discuss their medical condition with the Principal, the Headteacher or nominated person, because it is of a sensitive or personal nature, the College will arrange, if possible and at the employee's request, for the employee to meet with someone of the same sex.

In cases where the Headteacher's sickness absence meets one of the trigger points then the Principal should contact HR who will provide advice on how to proceed.

In cases where the Principal's sickness absence meets one of the trigger points then the Chair of Governors should contact HR who will provide advice on how to proceed.

3.3 Reviewing Stage 1 Attendance

As detailed above, a period of monitoring and a review date for meeting with the employee and HR should be agreed at the Stage 1 meeting. If there has been a satisfactory improvement in attendance during the review period, the Principal, the Headteacher or the nominated person may remove the employee from the procedure, or, depending upon the previous attendance record, extend it for a further period of review in order to ensure that a satisfactory level of attendance is maintained over time before consideration is given to removing the employee from the procedure.

However, if there has not been a satisfactory improvement within the review period the Principal, the Headteacher or the nominated person should address the issues raised at the previous meetings, and any new issues that may have arisen or come to light, and should consider:

- moving the employee to Stage 2 of the procedure (see below for further detail of what should be discussed); or
- agreeing to extend the review period under Stage 1 of the Policy; or
- referring the employee to Occupational Health. A review meeting should be brought forward in cases where it becomes apparent that the employee's attendance has fallen below the expected standard before the end of any agreed review period.

3.4 STAGE 2

Where a decision is taken to move an employee to Stage 2 a meeting will be arranged with the employee and HR following the same approach as used for Stage one, including the same rights to representation. In addition, the following actions should be taken:

1. The Principal, the Headteacher or the nominated person should explain to the employee that Stage 2 of the review is a final opportunity to improve attendance and, unless the targets for improvement are met, the next stage of the procedure could lead to their dismissal;
2. The employee will be referred, if they have not already, for an assessment with Occupational Health.

Unless any valid objection is raised a separate Stage 2 meeting does not have to be convened and can form part of the same meeting as the Stage 1 review.

As per Stage 1 meetings, the outcome of any Stage 2 meeting will normally be confirmed in writing within five working days or as soon as possible, and this should include details of any improvements required of the employee, any actions to be undertaken and any review period.

3.5 Reviewing Stage 2 Attendance

Reviewing attendance at Stage 2 should follow the same approach as in Stage 1. HR must be in attendance at any Stage 2 review meeting.

If there has not been a satisfactory improvement within the agreed Stage 2 review period, the Principal, the Headteacher or the nominated person should consider the following options at the review meeting:

- extend the review period under Stage 2;
- where there are serious concerns, refer to a Stage 3 Ill Health Capability Hearing; or
- where the employee's attendance record is deemed to be acceptable the procedure will end. If at any time within the twelve month period immediately following the date of the review meeting, the employee's attendance again falls below an acceptable level the Principal, the Headteacher or the nominated person may reintroduce the formal procedure and commence the procedure at a point which is appropriate in the light of previous action. In such circumstances advice sought from HR.

As at Stage 1, a review meeting should be brought forward in cases where it becomes apparent that the employee's attendance has fallen below the expected standard before the end of any agreed review period.

3.6 STAGE 3 - Ill Health Capability Hearing

IN ALL CASES ADVICE MUST BE SOUGHT FROM HR BEFORE TAKING ANY ACTION AT THIS STAGE OF THE PROCEDURE.

Where an employee's attendance record has not improved as required at Stage 2 of the procedure then the employee should be told, as described above, that a hearing will be called where their employment may be terminated on the grounds of ill health.

(See Section 7 – **PROCEDURE FOR A HEARING ON THE GROUNDS OF ILL HEALTH CAPABILITY**)

4. **PROCEDURE FOR MANAGING LONG-TERM SICKNESS ABSENCE**

Long-term sickness is a continuous absence of **4 weeks or more**.

4.1 Meeting the Employee

Regular contact should be maintained during the absence as appropriate.

A meeting with the Principal, the Headteacher or the nominated person, HR and the employee will normally take place after the **fourth week of absence**. However, in cases where earlier intervention would benefit the employee, a meeting will be arranged before the four week point, for example where the absence is linked to stress or depression.

Consideration should be given to arranging appropriate therapeutic interventions as early as possible, such as counselling and Occupational Health, before a meeting takes place.

The purpose of the meeting will be to:

- establish the medical condition and, if advised by HR, make a referral to Occupational Health;
- discuss a possible date for return to work if appropriate;

- discuss any adjustments necessary to facilitate a return to work.

The employee will be advised of their right to be accompanied by a work colleague or trade union representative at the meeting.

Consideration will be given to the location of the meeting depending on the nature of absence.

4.2 Summary of Options/Actions Available to the College

Where an employee is absent from College due to ill health for a long period of time advice will be taken from HR regarding consideration of the following options on an ongoing basis:

- a) establish the nature and likely duration of any medical condition using the diagnosis from the Occupational Health / Medical Practitioner;
- b) establish the support needs of the employee, in relation to medical conditions, but also with regards to any work related and/or personal or emotional issues. Consideration should be given to any reasonable adjustments that could be made to enable the employee to return to work;
- c) establish whether there is a need for alternative employment. If, after consultation with Occupational Health and/or seeking independent medical advice, it becomes apparent that the employee is either permanently unfit to return to their existing post, or there is no prospect of return within a reasonable timescale, then consideration should be given to finding suitable alternative employment within College;
- d) consider the possibility of **ill health retirement**. Employees who are certified as permanently unfit by their own doctor or an independent doctor nominated may be able to retire from employment. The ENLUTC has a general duty of care to provide and maintain a safe working environment for employees and other persons using their premises. Therefore, when an employee is diagnosed as being permanently unfit for their current duties and no suitable alternative work is available or appropriate, steps should be taken to seek medical retirement and under no circumstances should employees be allowed to return to work. Where an employee is not prepared to accept retirement on health grounds a formal hearing should be arranged to consider their dismissal on health grounds;
- e) consider a phased return to work where the employee is fit to return. In some cases, a phased return may help to facilitate an earlier return to work than would otherwise have been the case. It may be appropriate to seek guidance via Occupational Health about whether or not a phased return to work will be beneficial, but in all cases this should only be agreed to where the employee is fit to return to work.

During any period of phased return, unworked hours should be regarded as authorised absence rather than sick leave. Employees will receive normal pay during the first four weeks of a phased return to work. Where it is agreed to extend a phased return beyond this period separate payment arrangements will be dealt with on a case by case basis.

If, after all the above options have been fully exhausted and there is no prospect of a return to work in the foreseeable future the Principal, the Headteacher or the nominated person should advise the employee that a formal ill health capability hearing will be held where consideration will be given to their future employment. The College will normally confirm this, in writing, to the employee within five working days.

(See Section 7 – **PROCEDURE FOR A HEARING ON THE GROUNDS OF ILL HEALTH CAPABILITY**)

5. ILL HEALTH SUSPENSION

Advice must be taken from HR prior to any medical suspension. It may be necessary to temporarily suspend an employee from work if on the grounds of ill health in the following circumstances:

- in the opinion of the Occupational Health the employee is unfit for work, but is declaring themselves fit or being declared fit by their own doctor,
- if the individual is deemed to be a risk to themselves or to others because of their medical condition,
- if any adjustments or adaptations are not operating or in place.

Ill health suspension is the decision of the Principal/Chair of the Governing Body. Any medical suspension will be at the normal rate of pay; it is not a disciplinary suspension.

6. REFERRALS OCCUPATIONAL HEALTH / MEDICAL PRACTITIONER

In some cases, it may be appropriate to refer the employee to Occupational Health or to a medical practitioner, who may be the employee's own doctor, to obtain a diagnosis and to identify any appropriate support measures. Any such referrals must be made through HR.

In determining whether this sort of referral is an appropriate course of action the Principal, the Headteacher or the nominated person should have regard to a number of factors including:

- the overall sickness absence record;
- any medical evidence available;
- any mitigating factors or explanations presented by the employee;
- the degree of disruption caused by the absence;
- the likelihood of an improvement.

To ensure that a relevant referral report is prepared, background information should be provided (e.g. current duties, job description, special characteristics of the post and sickness record) together with a clear indication of the advice required.

Where a referral is made to Occupational Health the employee may be asked to sign a consent form for their medical records to be released to Occupational Health. The requirements of any relevant legislation must be taken into account when making such a request.

7. PROCEDURE FOR A HEARING ON THE GROUNDS OF ILL HEALTH CAPABILITY

The Governing Body will appoint a Panel to hear cases in accordance with this Policy and, where required, a separate Panel to hear any subsequent appeal. On occasion, where delegated powers to dismiss have been granted, a hearing may be convened before the Principal or a Member of the Governing Body. HR will be in attendance at all hearings and appeals.

7.1 Notification of a Formal Hearing

HR will assist in making the arrangements for the hearing. The employee will be given written notice of the hearing at **least 7 clear working days** before the date of the hearing. The letter of notice must include the following:

- details of the date, time and place of the hearing.;
- an explanation of the purpose of the hearing, which is to consider the employee's attendance record;
- advice to the employee of his/her right to be accompanied by a representative or work colleague;
- notice to the employee that dismissal is a possibility at the conclusion of the hearing;
- enclosed copies of any documentation to be considered at the hearing;
- details of any witnesses to be called at the hearing; and
- an enclosed copy of the Managing Attendance Policy and procedure.

If the employee wishes to present documentary evidence to the hearing, or to call any witnesses, they should provide details of these to the named person supporting the hearing at **least 3 working days** in advance of the hearing.

The hearing will be before a Panel of Governors, the Principal or a Member of the Governing Body who will be advised by HR and will follow the format detailed below. Detailed notes of the hearing will be taken or it may be digitally recorded.

7.2 Persons Involved in the Hearing

- A Panel of the Governing Body/the Principal/a Member of the Governing Body who will decide upon the appropriate action in line with the Policy.
- College Representative – will present information about the employee's attendance and health record. The College could be the Principal/Headteacher or nominated person who has been involved in the stages leading up to the hearing, a line manager, or a member of the HR team. The College Representative may be supported by HR.
- The Employee - the employee and their representative (if applicable) will be present at the Hearing (unless they have chosen not to attend). The employee's union representative may attend on their behalf.
- The HR Advisor to the Panel – will advise the Panel on policy and procedure. (NB the HR representative acting as adviser to the Panel can be the same person who arranged the hearing).
- Witnesses – where appropriate either party may call witnesses to present relevant information. If either party intends to call witnesses, it is their individual responsibility to make the arrangements and to inform the other party of their intention.

7.3 Conduct of the Hearing

The College Representative will present the case for the ENLUTC. To do this they may call witnesses and/or refer to documentation if appropriate.

The employee or their representative may question any witnesses called. The College Representative may re-examine the witnesses.

The Panel of the Governing Body/the Principal/a Member of the Governing Body may ask questions of the witnesses.

The HR Advisor to the Panel may, through the Chair of the Panel, seek to clarify points made in evidence.

The employee or their representative will then respond, calling witnesses and referring to documentation if appropriate.

Witnesses may be questioned by the College Representative, re-examined by the employee or their representative and questioned by the Panel/the Principal/a Member of the Governing Body and HR Advisor as above.

The College Representative, then the employee or their representative, will then make their concluding statements.

Both parties will withdraw while the Panel/the Principal/a Member of the Governing Body considers what action should be taken. In the event that further information or clarification is required by the Panel/the Principal/a Member of the Governing Body then all parties should return to the meeting whilst such information is obtained. An opportunity should be given to each party to question or comment on this additional information.

Parties are recalled to hear the decision. Employees should be informed of their right of appeal and that they will receive this in writing in **3 working days**.

7.4 Action available to the Panel of the Governing Body/the Principal/a Member of the Governing Body

In deciding what action to take the following will be taken into account:

- the overall sickness absence record;
- all records of discussions with the Principal, the Headteacher or the Nominated Person and whether the procedure has been followed;
- the likelihood of a change in the attendance record;
- the availability of suitable alternative work within the College;
- whether any reasonable adjustments could be made which would enable the employee to return to work
- the degree of disruption caused by the absence;
- any medical evidence available;
- any mitigating circumstances.

In the light of the evidence available and the above considerations the Panel of the Governing Body/the Principal/a Member of the Governing Body may decide on one of the following options:

- a) To take no action but to keep the record under review for a specified period.
- b) To take any other action as may be appropriate in the circumstances.
- c) To withdraw the facility for the employee to self-certify subsequent absences and thereby require production of a doctor's statement of fitness note to cover all subsequent periods of sickness absence (if this option is chosen they will be reimbursed the cost of the private doctor's note). Where this option is chosen the Panel should specify for how long this facility will be withdrawn and when the situation will be reviewed, this should not normally be a period in excess of six months. Failure to provide a doctor's statement of fitness note in these circumstances will result in loss of pay for any days of uncertified absence.
- c) To defer a decision pending further investigations/medical report.
- e) To consider redeployment to another post within the College. (This option should only be chosen where it is felt that their sickness absence record is specifically attributable to workplace/occupational factors or disability and a suitable alternative vacant post is available).

Where a post offered is on a lower grade there will be no entitlement to protection of earnings or other conditions of employment. It will be necessary to secure the employees consent before implementing this course of action.

- f) To dismiss the employee on the grounds of ill health.

The outcome of the meeting will be **confirmed in writing normally within 5 working days**.

If it is decided to terminate the employee will be paid their contractual period of notice (this may be paid in lieu of notice). The letter should state the reason for termination, i.e. as a consequence of the employee's unacceptably high incidence of sickness absence, which renders them incapable of fulfilling the contract of employment.

7.5 Right of Appeal

Any appeal must be made to the named person within **10 working days** of receipt of written notification of the decision.

The appeal hearing will be held **within 20 working days** of receipt of the letter of appeal, but at **least 5 working days' notice** of the appeal will be given.

The appeal hearing will take place before a Panel of the Governing Body (none of whom sat on the Hearing Panel) and will follow the same format as used in the formal hearing.

In the light of the facts and evidence presented the Appeal Panel may:

- a) confirm the original decision
- b) uphold the appeal and take no further action
- c) in the case of dismissal uphold the appeal and take some other course of action as might be deemed appropriate in the circumstances
- d) take any other course of action as may be appropriate in the circumstances; but without increasing the penalty

The decision of the Appeals Panel will be conveyed to the employee in writing **within 5 working days** of the appeal hearing. This is the final stage of the Policy.