



# Managing Absence Policy and Procedure

## **THE POLICY**

### **1.0 Introduction**

- 1.1 Oasis Community Learning (OCL) is concerned for the well-being of its employees and seeks to protect their health and safety by creating a sound working environment. When illness or injury occurs, employees are paid appropriate sick pay (in accordance with their terms and conditions of employment).
- 1.2. This policy and its obligations are applicable to all staff employed by OCL. The procedure does not form part of any employee's contract of employment.
- 1.3. This policy has been developed in accordance with the Oasis Ethos and following consultation with recognised union representatives and may be amended from time to time following further consultation with this our trade unions.
- 1.4. Individuals have a responsibility for their own health and attendance at work. OCL will support, advice and help where any underlying health or welfare issues are identified which may be contributing to levels of absence. In such cases the procedure is designed to bring attendance to an acceptable level. Effective management and monitoring of absence will provide a positive contribution to the health and wellbeing of the workforce, reduce the cost of absence and enhance the provision of education services.
- 1.5 The policy explains what we expect from managers and employees when handling absence.

### **2.0 Principles**

- 2.1 The absence policy is based on the following principles:-
- 2.2 This policy is intended to ensure that sickness absences are handled promptly, sensitively, consistently, confidentially and in a fair and supportive manner by OCL. The procedure covers all sickness absence, including absences as a result of industrial injury but excludes absence connected to a pregnancy.
- 2.3 The procedure will be initiated by the Principal/Line Manager, who may then delegate to an appropriate Leader within OCL (referred to as designated person within the procedure).
- 2.4 The procedure recognises that some sickness absence is unavoidable and, will be treated sympathetically. It is the policy of Oasis Community Learning to offer security of employment wherever reasonably possible during such periods.
- 2.5 All absences should be recorded and monitored accurately and regularly by managers and appropriate documentation input onto iTrent and/or forwarded to Midlands HR for salary calculation and absence monitoring purposes.
- 2.6 Employees will be paid during periods of sickness absence, where this is certified with the correct documentation, in line with OCL Sick pay provisions. (See Appendix 1 and 2).
- 2.7 We will consider any advice given by the employee's GP on the 'Statement of Fitness for Work' and we will discuss with the employee how we can help support them back to work. We will use an Occupational Health provider where appropriate to help identify the nature of and employees absence and to provide advice on improving the employees' health and wellbeing.

- 2.8. We respect the confidentiality of all information relating to an employee's sickness and implement this policy in line with data protection legislation and Access to Medical Records Act 1988.
- 2.9 All parties with access to information relating to employees' absence records will be expected to treat this information in the strictest confidence.
- 2.10 Employees will be treated in a way that is non-discriminatory in the management of their absence and in accordance with the provision of the Equality Act 2010. Consideration will be given to the implementation of reasonable adjustments as deemed appropriate. (See appendix 4).
- 2.11 Throughout the management of absence, during all meetings and reviews, notes will be taken and shared with the employee and where applicable their trade union representative/work colleague.
- 2.12 The employee is entitled to be accompanied by a trade union representative or colleague at all formal meetings.

### **3.0 Roles and Responsibilities**

Delegated authority and details of responsibilities are contained in the Management of Absence – Guidance Notes and in Appendix 5.

- Principals/Senior Leaders,
- Employee,
- Human Resources,
- Occupational Health,
- Academy Councils
- Union / Workplace Representatives

### **4.0 Medical Health Advice and Support**

#### **4.1 Occupational Health**

- 4.2 OCL works with an independent Occupational Health (OH) provider to support and raise awareness of health issues with staff and support health and wellbeing initiatives.
- 4.3 OH provides professional advice on health issues at work and provides health assessments to:
- advise on fitness for work with a view to supporting staff to continue at work;
  - advise on reasonable adjustments;
  - facilitate rehabilitation for staff returning to work following a period of ill health; and
  - advise on capability issues.
- 4.4 OCL reserves the right to make a referral to an OH adviser for a medical assessment to seek advice on reducing sickness absence and/or facilitating a return to work where this is possible. Where an employee is asked to attend an appointment with an OH physician they will receive a copy of the medical report from our provider, upon request. The Principal/Line Manager should arrange a follow up meeting with the employee to discuss the contents of the medical report and any concerns raised.

## **5.0 Staff Counselling Service**

- 5.1 OCL provides a telephone counselling service for staff and their direct families, which is free and confidential. The service is provided by Zurich Municipal's DAS and provides the opportunity to discuss any feelings and thoughts on matters of concern with a trained professional. Details of the contact can be obtained on the Oasis Zone or through the academies/the region's Human Resources lead.

## **6.0 Sickness Notification and Certification Requirements**

### **6.1 Notifying your Principal/Line Manager**

- 6.2 Where an employee is absent due to sickness on a normal working day, they are expected to notify their manager, or other designated member of staff:

- by telephone or email as soon as possible and no later than 1 hour after commencement of their normal working hours for that day;
- teachers need to notify the designated person in accordance with Academy rules
- stating the reason for their absence; and
- the expected duration of their sickness absence, where this is known.

- 6.3 If the employee has a different work pattern from normal office hours (9.00 am – 5.00 p.m. Monday to Friday), for example, they work in the evenings or at weekends, and they should notify their manager at least 1 hour before their start time where this is possible, so that cover may be arranged. If OCL do not hear from an employee within an hour of their normal start time, the Principal/Line Manager should endeavour to contact the employee at home, to check on their welfare.

- 6.4 It is expected that an employee makes the call themselves, however in exceptional circumstances if the employee is unable to call themselves, they may ask someone to make contact on their behalf, however, the employee must ensure they speak with their manager later the same day or as soon as practicable thereafter to discuss their period of absence. Text messages will not be considered as appropriate notification, unless in exceptional circumstances.

- 6.5. Managers are expected to keep in regular contact with members of their staff on long term sickness absence; this must be done by mutual agreement.

### **6.6 Certification**

- 6.7 It is the responsibility of the employee for notifying OCL of their sickness absence and in providing the appropriate certification statements as required. Further information of certification requirements are outlined in Appendix 1 and in the Management of Attendance and Ill-health Capability – Guidance notes. Where an employee does not adhere to these notification and certification requirements, there may be an impact on their eligibility for occupational sick pay, where it applies to qualifying members of staff. In order to qualify for statutory sick pay, an employee must meet the statutory conditions outlined by the HMRC.

- 6.8 We acknowledge that there may be exceptional circumstances which prevent the member of staff from meeting the reporting and certification requirements, for example, in the case of a severe injury / hospitalisation.

## **6.9 Part Day Absence**

6.10 Where an employee leaves work due to sickness absence before they have completed 2 hours work (pro rata for part time staff), absence will be recorded as a full day's absence. After 2 hours have been completed, the absence will be recorded as a half day.

## **6.11 Sickness during annual leave (non-teaching staff only)**

If an employee is ill during their annual leave, their holiday entitlement may be reinstated subject to the employee providing a 'certificated from GP to cover the period of sickness. **Retrospectively dated 'certificates' will not be accepted.**

## **7.0 Return to Work Interviews**

7.1 All staff will have a return to work interview with their Principal/Line Manager, normally on their first day back at work, wherever possible, but no later than 3 days following their return. If they work outside normal office hours it may not be practicable to have a face to face conversation, for example, where the employee works during the evenings or works remotely. In such cases the conversation may be required to be by telephone.

7.2 The purpose of a return to work interview is to check on an employee's fitness and to ensure that the Principal/Line Manager is aware of issues which affect the employee's attendance at work and their state of health, so that the appropriate support and action may be taken upon their return. For example, the Principal/Line Manager should be made aware of whether:

- there is an underlying medical condition;
- any adjustments are needed if the employee has a disability;
- they are suffering from stress which may relate to personal issues or to issues at work;
- there are personal issues outside work which are affecting the employee's attendance;

7.3 Further guidance on the content and management of return to work discussions are detailed in the Five Point Plan, (see Appendix 3) and the Management of Attendance and Ill-health Capability - Guidance Notes.

## **8.0 THE PROCEDURE**

### **8.1 Short Term Sickness Absence**

8.2 Short term absence is usually defined as those lasting less than one calendar month (28 calendar days) or 20 working days. It can often be characterised as frequent and persistent absence, or where a pattern of absences is established (such as every Monday or Friday, sporting events, etc.). In some cases the level of sickness absence becomes and remains unacceptable.

8.3 The Principal/Line Manager or designated person should carry out a return to work interview with the employee as soon as practicable following their return from sickness absence, but no later than 3 working days following return.

- 8.4 The purpose of the meeting is to check on the employee's welfare, discuss any underlying health issues, including a disability and to formally record the absence and issues associated with it. Any notes of the meeting should be kept by the Manager/Principal and copied to the employee, and the appropriate self-certification documentation should be completed. The employee should be told at this stage that continued unacceptable levels of absence will result in formal action.
- 8.5 The following paragraphs show the actions taken at various stages of the procedure. The stages are progressive and are intended to remind and enforce the attendance standards that are expected, with support mechanisms to encourage this.
- 8.6 Further guidance about implementing the short term absence procedure can be found in the Management of Attendance and Ill-Health Capability – Guidance Notes. Further information on the management of an employee with a disability can be found in Appendix 4.

### **8.8. The Formal Absence Review Meeting - (Formal Stage 1)**

- 8.9 The Formal Absence Review meeting is appropriate where a pattern appears to be emerging, where the absences are frequent or where absence levels have exceeded 3 instances in a 3 month period; or 9 days in a full year. In the case of an employee with a disability, it may be that an agreement regarding an alternative target has been reached, and if that target is exceeded, the formal absence review meeting would then be appropriate
- 8.10 The employee will be given reasonable notice (5 working days) of the interview and advised that they can have a trade union representative, or work colleague present if they wish and that notes will be taken during the interview and shared with the employee and their trade union representative.
- 8.11 During the meeting an improvement plan which identifies a target level of absence/attendance should be set. This should include:
- a) Agree a reasonable period of time over which the employee's attendance will be assess for improvement in attendance levels. 28 calendar days (a month) is usually judged as reasonable.
  - b) Set absence targets,
  - c) Consider whether a Written Warning should be issued at this stage depending on the amount of time off, the impact on the organisation and the improvements made since the last review. It should also be made clear to the employee at each review meeting that failure to make the improvements/progress required may result in a dismissal.
  - d) Consider the benefits of asking the employee to obtain a doctors certificate for every absence. In this case the Academy/OCL may be charged by the GP for such certificates where the absence is less than 7 days.
  - e) An adjournment should take place and a decision made whether to issue a warning or, if attendance has improved, to finish the procedure.
  - f) Where a Written Warning is issued agree a date and time of the next meeting
  - g) **A Written Warning** will remain on the file for 26 weeks (6 months) in accordance with the OCL Disciplinary Procedure
- 8.12 The written Warning sets down the attendance targets to be met over the next 6 month period and informs the employee that failure to meet the attendance standards will result in progression to the next stage of the procedure. After 6 months of good attendance at work, no further action will be taken.

## **9.0 Formal Absence Review Meeting - (Formal Stage 2)**

- 9.1 If an employee continues to have short term absences from work despite the improvements required being made clear in a Formal Stage 1 review, and additional support being provided, the Principal/Line Manager should arrange to meet with the employee. They should explain that they have not made a satisfactory improvement and their absence level will now progress to Formal Stage 2.
- 9.2 In the circumstances where there is any doubt as to the genuineness of the employee's illness, a referral should be made to an Occupational Health Provider at this stage, if this has not already taken place, to see if there is any underlying illness affecting attendance.
- 9.3 The employee will be given reasonable notice (5 working days) of the interview and advised that they can have a trade union representative, or work colleague present if they wish and that notes will be taken during the meeting and shared with the employee and their trade union representative.
- 9.4 The meeting should include the following:
- a) Agree a reasonable period of time over which the employee's attendance will be assess for improvement in attendance levels. 28 calendar days (a month) is usually judged as reasonable.
  - b) Set absence targets,
  - c) Consider whether a Final Written Warning should be issued at this stage depending on the amount of time off, the impact on the organisation and the improvements made since the last review. Consider the benefits of asking the employee to obtain a doctors certificate for every absence. In this case the Academy/OCL may be charged by the GP for such certificates where the absence is less than 7 days.
  - d) An adjournment should take place and a decision made whether to issue a warning or, if attendance has improved, to finish the procedure.
- 9.5 **A Final Written Warning** will remain on the file for a period of 26 weeks (6 months).

## **10.1 Formal Absence Dismissal Hearing – Ill Health Capability - (Formal Stage 3)**

- 10.2 If an employee continues to have short term absences from work despite the improvements required being made clear in a formal Stage 2 review, and additional support being provided, the Principal/Manager should arrange a Formal Stage 3 Dismissal Hearing for Ill Health Capability.
- 10.3 The purpose of the Dismissal Hearing is to consider an employee's sickness absence and make a decision about their employment situation. This may be implemented where conditions set in formal absence meetings have been undertaken and unacceptable absence levels continue; and all other options of managing the employee's absence have been fully considered and explored. Care must be taken in regards to employees who have a disability to ensure that there is no discrimination.
- 10.4 The employees Principal/Line Manager will prepare an absence report detailing the employee's absence history, including all relevant documentation and medical advice received to date.

- 10.5 The employee will be given reasonable written notice (10 working days) of their requirement to attend the Dismissal Hearing- Ill Health Capability and they will be provided with copies of all information to be considered at the hearing in making a decision about their continue employment. Notes will also be taken during the meeting and shared with the employee and their trade union representative/work colleague following the Hearing.
- 10.6 The level of sickness absence, which may be intermittent absence or contain a continuous period of long term sickness absence, will be considered; the impact this has had on the service and work colleagues, the support, actions or adjustments which have been taken so far; whether the employee has a disability and what reasonable adjustments have been made; whether redeployment or early retirement has been discussed where appropriate; and a decision will then be made about the employees employment situation. A potential outcome of the Dismissal Hearing may be that their employment with OCL will be ended with contractual notice, for unsatisfactory attendance at work on the grounds of ill-health capability.
- 10.7 As part of the Dismissal Hearing, employees are given the opportunity to state their case and have the right to be accompanied by a trade union representative or a work colleague during the process. It is to be noted that the representative may assist employees in stating their case, but they may not answer questions on behalf of an employee.
- 10.8 Whilst it is in an employee's best interests to attend such a hearing, however it is recognised that this is not always possible and where an employee is unable to attend in person, may either request a change in venue, submit a written representation or request their union attend on their behalf. Where an employee does not attend the hearing, their case and any documentation they have submitted may be reviewed and a decision reached in their absence.
- 10.9 Dismissal Hearings will be conducted by a panel of two people, made up of the Principal/Senior Managers of OCL, together with a HR representative for advisory purposes. Employees will be notified of the decision as soon as possible following the hearing and this will be confirmed to them in writing within 5 working days of the decision being given.
- 10.10 If the employee is dismissed on the grounds of unsatisfactory attendance due to ill-health capability they will be entitled to their contractual notice period and any outstanding annual leave.
- 10.11 In all cases where the outcome is dismissal, the employee has the right of appeal. See Section 16.0. There is also further guidance on conducting appeals procedures in the Management of Attendance and Ill-Health Capability – Guidance Notes.
- 10.12 Employees should be given **ten working days from receipt of the outcome letter in which to appeal**. Appeals received outside the ten day period may still be heard if the employee can show good reason for the delay and the delay is not unreasonable in the circumstances. The appeal must be in writing and give the grounds for the appeal. The employee should specify if the grounds relate to the facts of the matter, the level of sanction imposed or the way the procedure was followed.

## **11.0 Long-Term Sickness Absence**

- 11.1 For this procedure long-term sickness is defined as an illness which has lasted at least 28 calendar days.



- 11.2 Occasionally employees who otherwise have a good attendance record may suffer ill health of a substantial long-term nature. It is essential that long-term absences are monitored and managed, to enable the employee to receive appropriate support; for reasonable adjustments to be considered where the employee has a disability and for the impact on the Academy and/or OCL to be minimised.
- 11.3 Procedures for dealing with long-term sickness need to be sensitively applied and recognise OCL's duty of care for the individual. Inevitably, however, there will be genuine long-term sickness absence cases that may result in a recommendation that the Academy (Or OCL generally) can no longer sustain the employee's absence.
- 11.4 After 28 days of continued absence, a referral to Occupational health should be made in order to determine the expected period of absence, identify any temporary adjustments that may be available to allow the employee to return to work and determine what other action may be necessary.
- 11.5 Further guidance about implementing the long term absence procedure can be found in the Management of Attendance and Ill-Health Capability – Guidance Notes.

## **12. The Informal Welfare Interview - (Informal)**

- 12.1 After a period of continued absence of 28 days, a welfare visit to the employee (either at home or at a neutral agreed location) should be undertaken, to check on the employee's welfare and to ascertain any progress with their absence. At this meeting, support can be discussed, together with the contents of the first OH report, if obtained. At this meeting consent may be sought for referral to OH.
- 12.2 Where the illness is due to a stress-related illness, extra sensitivity is needed when contacting the employee. Guidance can be obtained from Human Resources on conducting meeting where stress is known.
- 12.3 Throughout the period of absence the Principal/Line Manager must ensure that either s/he or a senior staff member keeps in regular contact with the employee by telephone, e-mail or post as appropriate. The contact should be sympathetic and supportive and it is recommended that each conversation should conclude with confirmation of the discussion and agreement of the timing/nature of the next contact.
- 12.4 The Principal/Line Manager will ensure that the employee's workload is managed in their absence, wherever possible, and that any unreasonable amount of backlog does not accumulate for the employee's return to work.

## **13. Formal Absence Review Meeting - (Formal Stage 1)**

- 13.1 If the absence continues for a further 28 calendar days, the Principal/Line Manager should begin to make further enquiries into the potential long-term effects of the illness and arrange to meet with the employee under the formal stage of the procedure. The employee will be given reasonable notice (5 working days) of the meeting and must be advised that they can have a trade union representative or work colleague present if they wish for this meeting and for further review meetings. See the Management of Attendance and Ill-Health Capability – Guidance Notes for further advice on conducting formal meetings.

- 13.2 It is important that OCL is able to demonstrate that rehabilitation has been fully explored, including making reasonable adjustments to the contracted post or any suitable alternative. This may include redeployment to an alternative post, as appropriate.
- 13.3 If there is no indication when the employee will return to work the principal/Line Manager should arrange a further referral to Occupational Health. A confidential report on the circumstances of the case will be provided to Occupational Health and key questions posed with respect to the employee's ability to provide regular and efficient service in the future. This report will be shared with the employee, upon request.
- 13.4 The employee must make every effort to attend the medical appointment. If the employee fails to attend medical appointments, the Principal/Line Manager (in consultation with Human Resources) is entitled to make decisions on their absence without medical advice.
- 13.5 Regular review meetings should be held by Occupational Health to update the employee and the Principal/Line Manager on progress. Appropriate notice will be given on the management review of the case and the employee will be reminded that they can have a trade union representative or workplace colleague present if they wish.
- 13.6 These meetings can be used to provide the employee and Principals/Line Manager with an opportunity to discuss issues surrounding the employee's return to work, including any additional support they may need. Where appropriate, factors that may have impacted on the sickness absence should be discussed e.g. personal issues, work-related problems, underlying illness - disability or additional employment and any additional support which may be appropriate should be identified i.e. counselling.
- 13.7 If an employee continues to be absent from work through long-term illness for a further 28 calendar days the Principal/Line Manager, should arrange to meet with the employee. If the Occupational Health advice is that there is no indication of a likely return date in the near future and/or the employee's absence is having a significant impact on service provision it may be that their continued absence cannot be sustained. The Principal/Line Manager must explain clearly and with compassion that there may be no alternative but to consider dismissal on the grounds of ill health. Referral will be made to the next formal stage of the process for a Formal Absence Review Meeting – Lack of Capability.

#### **14.0 Formal Absence Review Meeting – Lack of Capability - (Formal Stage 2)**

- 14.1 Where an employee's sickness absence, either long-term, or combined with short-term, has been addressed using the informal and **first formal stages** of the sickness absence procedure and there is no sustained improvement or prognosis for improvement, then the following absence procedure for lack of capability as a result of ill-health should be used.
- 14.2 The Principal/Line Manager should arrange a **formal stage 2** meeting with the employee. The employee will be given reasonable notice (at least 5 working days) notice of the meeting and informed that they can have a trade union representative or workplace colleague present.
- 14.3 The meeting should cover the following areas as appropriate to the circumstances:
- Identify the purpose of the meeting, clarifying that this is part of the Formal Absence - Ill Health Capability procedure.
  - Use sickness monitoring information to identify the reasons for absence and overall total number of days lost.

- Outline previous discussion held regarding the employee's sickness absence and support provided, both informal and formal. If appropriate, agree a course of action to resolve the absence problem and record this in an improvement programme.
- For long-term absence this may include discussion of the advice from Occupational Health on options such as with management of a disability, reasonable adjustments, ill-health retirement (see Ill-Health Retirement Policy for further information), redeployment and probable return to work if this has not already been discussed.
  - a) Agree a reasonable period of time over which the employee's attendance will be assessed for improvement in attendance levels. 28 calendar days (a month) is usually judged as reasonable.
  - b) Consider whether a Written Warning should be issued at this stage depending on the amount of time off, the impact on the organisation and the improvements made since the last review. It should also be made clear to the employee at each review meeting that failure to make the improvements/progress required may result in a Formal Absence Dismissal Hearing – Ill Health Capability, which may ultimately lead to their dismissal on the grounds of ill health capability.
  - c) Consider the benefits of asking the employee to obtain a doctor's certificate for every absence. In this case the Academy/OCL may be charged by the GP for such certificates where the absence is less than 7 days.
  - d) An adjournment should take place and a decision made whether to issue a Written Warning or, if attendance has improved, to finish the procedure.
  - e) Where a Written Warning is issued agree a date and time of the next meeting. The written Warning will remain on the employee's file for a period of 26 weeks.

14.4 In the event that attendance does not improve and it is necessary to consider dismissal the Principal/Line Manager, in conjunction with HR will make the initial decision to progress to a Formal Absence Dismissal Hearing – Ill Health Capability. For further information please refer to the Management of Attendance and Ill-Health Capability – Guidance Notes.

### **15.0 Formal Absence Dismissal Hearing –Ill Health Capability - (Formal Stage 3)**

- 15.1 The purpose of the Formal Absence Dismissal Hearing is to consider an employee's sickness absence and make a decision about their employment situation. This may be implemented where conditions set in a Formal Absence Review Meeting; where there is no reasonable prospect of a return within the paid period of sick leave, from long-term absence; and all other options of managing the employee's absence have been fully considered and explored.
- 15.2 The employee's Principal/Line Manager will prepare an absence report detailing the employee's absence history, including all relevant documentation and medical advice received to date.
- 15.3 10 working days written notice will be given to the employee of their requirement to attend a Dismissal Hearing – Ill Health Capability and they will also be provided with copies of all information to be considered at the hearing in making a decision about their continued employment with OCL.
- 15.4 The level of sickness absence, which may be intermittent absence or a continuous period of long term sickness absence, will be considered; the impact this has had on the service and work colleagues, the support, actions or adjustments which have been taken so far; whether redeployment or early retirement has been discussed where appropriate; and a decision will then be made about the employee's employment situation. A potential outcome of the Dismissal Hearing may be that their employment with OCL will be ended with notice.

- 15.5 As part of the Dismissal Hearing, employees are given the opportunity to state their case and have the right to be accompanied by a trade union representative or a work colleague during the process. It is to be noted that the representative may assist employees in stating their case but they may not answer questions on behalf of an employee.
- 15.6 Whilst it is in an employee's best interests to attend such a hearing, however it is recognised that this is not always possible and where an employee is unable to attend in person, may either request a change in venue, submit a written representation or request their union attend on their behalf. Where an employee does not attend the hearing, their case and any documentation they have submitted may be reviewed and a decision reached in their absence.
- 15.7 Dismissal Hearings will be conducted by a panel of two people, made up of the Principal/Senior Managers of OCL, together with a HR representative for advisory purposes. Employees will be notified of the decision as soon as possible following the hearing and this will be confirmed to them in writing within 5 working days of the decision being given.
- 15.8 If the employee is dismissed on the grounds of capability due to ill-health they will be entitled to their contractual notice period and any outstanding annual leave.
- 15.9 In all cases where the outcome is dismissal on the grounds of ill-health capability the employee has the right of appeal. See the Management of Attendance and Ill-Health Capability – Guidance Notes for further guidance on conducting appeals procedures.

## **16. Right of Appeal against dismissal**

- 16.1 The employee must be advised in writing of the decision and the right to appeal. The letter should be sent within 5 working days of the hearing and the employee should be given **ten working days from receipt of the letter in which to appeal**. Appeals received outside the ten day period may still be heard if the employee can show good reason for the delay and the delay is not unreasonable in the circumstances. The appeal must be in writing and give the grounds for the appeal. The employee should specify if the grounds relate to the facts of the matter, the level of sanction imposed or the way the procedure was followed.
- 16.2 Appeals against dismissal will normally be heard by 2 members of the OCL Executive team together with a member of the HR team not previously involved in the case. This will normally take place within ten working days of the appeal being lodged. The employee has the right to be accompanied by a work colleague or trade union representative under those circumstances described above.
- 16.3 The employee will be notified in writing of the outcome of the appeal as soon possible, but no later than five working days after the completion of the appeals process.

## **17. Terminal Illness**

- 17.1 At the discretion of OCL, an employee with a terminal illness or life-threatening degenerative illness where the employee's medical condition is known and will not improve, will not be asked to attend sickness absence monitoring interviews. Naturally OCL is expected to provide support and encouragement to individuals in these circumstances and manage sympathetically and this could mean that other meetings, interviews etc. are held at reasonable intervals, to check on the employee's welfare and to discuss how the employee's absence will be managed. However, such action should not form part of any

management initiative to reduce sickness absence. The wishes of employees and their families in these cases to keep their circumstances confidential must be respected. Terminally ill employees will remain on the OCL payroll even after sick pay has been exhausted for the purposes of Death in Service benefits.

## **18.0 Stress Related – Illness**

- 18.1 There is an obligation on an employer to take into consideration an employee's mental as well as physical health and safety in the workplace. An employer has a duty of care to its employees and a failure to carry out this duty could result in legal redress because of a failure by the employer to safeguard an employee's health. These provisions are particularly important when dealing with stress. OCL need to address the problems created by stress at work and seek to prevent or at least reduce stress, as well as alleviating the effect of stress on the general workforce.
- 18.2 Whilst OCL cannot prevent stress arising from employees' personal circumstances, they should fulfil their responsibilities under health and safety legislation by ensure that the demands of the workplace do not place excessive pressure on employees. This policy and procedure, in particular the use of discussions on returns to work and monitoring absence, will assist Principals/Managers to judge at an early stage if one of its employees is suffering from work related stress. If the early symptoms can be identified, then measures can be taken to protect the employee form situation that may exacerbate the situation. In all circumstances where an employee has been diagnosed with 'stress', it is recommended that a referral to Occupational Health be made with immediate effect. In addition, managers should undertake a stress risk assessment with staff, details of which can be obtained from our Occupational Health provider, or through your Human Resources contact. Please refer to the Management of Attendance and Ill-Health Capability – Guidance Notes for further information.

## **19.0 Injury at Work / Infectious Disease**

- 19.1 Absence in respect of normal sickness is entirely separate from absence through industrial disease, accident or assault arising out of or in the course of employment. Periods of absence in respect of one shall not be set off against the other for the purpose of calculating entitlements under the scheme.
- 19.2 Absence on account of industrial injury, accident or infectious disease preventing attendance at work will be recorded separately from sickness absence and will usually be paid at the contractual rate the first 6 months of absence. If the employee has not returned to work at this point then consideration may be given to extending the pay along the lines in the relevant sick pay scheme for the employee.
- 19.3 An employee who is prevented from attending work because of contact with infectious disease shall be entitled to receive normal pay. The period of absence on this account shall not be reckoned against the employee's entitlements under the sick pay scheme.

## **Appendix 1 – Sick Certifications**

It is an employee's responsibility for notifying OCL of their sickness absence and in providing the appropriate certification statements as required. Failure to adhere to these notification and certification requirements may harm an employee's eligibility for occupational sick pay, where applicable to qualifying members of staff. In order to qualify for statutory sick pay, an employee must meet statutory conditions laid down by the HMRC. These conditions are detailed on the HMRC website at: [www.hmrc.gov.uk/payerti/employee/statutory-pay/ssp-overview.htm](http://www.hmrc.gov.uk/payerti/employee/statutory-pay/ssp-overview.htm)

It must be acknowledged that there may be exceptional circumstances which prevent the member of staff from meeting the reporting and certification requirements, for example, in the case of a severe injury / hospitalisation.

### **Certification for Sickness Absence**

#### **Days 1 - 7 of sickness absence:**

For the first 7 calendar days of continuous sickness absence (i.e. including non-working days), there is no requirement for an employee to obtain a note from their G.P. to cover their sickness absence. They should contact their Principal Line Manager to inform them about their absence and the reasons for this. The Principal/Line Manager or other designated person will record this information. On your first day back at work the employee must notify their Principal/Line Manager or another designated person, to confirm the dates of their sickness absence and the reasons for absence. An employee's sickness absence details should be discussed with the employee during the return to work meeting and it is the employee's responsibility to inform their manager, in this meeting, if they think that their sickness absence record is incorrect.

#### **Sickness absence that exceeds 7 days:**

For absences that exceed 7 continuous calendar days (including non-working days) an employee must provide a Med 3 form which is a 'Statement of fitness for work' (Statement). Known as the 'fit note', this was introduced in 2010 and will need to be issued by the employee's G.P.

It is an employee's responsibility for ensuring that their medical 'Statements' reach their line manager promptly. Periods of absence that are not covered by a 'Statement' will not qualify for occupational nor statutory sick pay, however, each case will be considered on its merits before occupational sick pay is withheld.

If the employee's GP provides advice that they may be fit for work, they should notify their line manager as soon as practicable, so as to support their return to work. 'Statements' should be sent to the employee's line manager or other designated person, who will arrange for the 'Statement' to be logged electronically and processed via payroll. If the Statement is not received by the twelfth consecutive day of sickness absence, this may impact on the employee's entitlement to occupational sick pay.

#### **Statement of Fitness for Work Certificate (Fit Note):**

An employee will either be given by their GP; a 'Statement' confirming that they are unfit for work for a specific period / until a specific date; or their GP may advise that they are able to return to work and, in these circumstances, suggest options that may help a return to work.

The purpose of the Statement or 'fit note' is to facilitate a return to work and may be more likely to be used in longer term sickness cases or those with an on-going medical condition.

In some cases the GP may recommend the advice of Occupational Health is also sought.

## **Appendix 2 – Sick Payments**

### **Guide for employees**

#### **1. Contractual sick pay**

The contractual sick pay for Oasis Community Learning is the same as the national sick pay schemes for NJC staff and teachers. Details can be found in the „Conditions of service for Academy teachers in England and Wales“ (the burgundy book) and the National Terms and conditions for Local Authority staff (the green book). A copy of these agreements is available at the Academy office.

#### **2. State benefit payments**

The pay you get in full pay periods will be the same as normal pay, reduced by the amount of Incapacity Benefit if it is paid, and including Statutory Sick Pay receivable. The pay you get in half pay periods will be the same as half normal earnings plus Statutory Sick Pay and Incapacity Benefit receivable, so long as the total sum does not exceed normal pay.

You will only be entitled to social security benefits if you have kept to:

- (i) the conditions for the reporting of sickness as required by the Oasis Community Learning office;
- (ii) the rules about claiming of benefits; the obligation to declare any entitlement to benefits to the Academy and to tell Oasis Community Learning about any changes after this which affects your entitlement.
- (iii) the conditions laid down in the relevant national agreement that applies to your contract of employment. More details are available from the Academy Office or the HR team.

#### **3. Normal pay**

Normal pay includes all earnings that would be paid during a period of normal working, but excludes any payments not made on a regular basis.

#### **4. When might sick pay not be made?**

Abuse of the sick pay scheme could result in disciplinary action being taken and possibly dismissal. The times that this might occur are shown below. If an employee:

- lies about their sickness
- is off sick and is not taking reasonable steps to help themselves to get better
- is absent because of sickness due to the employee's own misconduct or neglect
- is absent due to active participation in professional sport or injury while working in the employee's own time on their own accord private gain or for another employer.

In these cases sick pay may be suspended while the line manager looks into the matter. The Academy/Line Manager shall advise the employee of the grounds for suspension and the employee shall have a right of appeal to the Chair of the Academy Council. If the Academy decides that the grounds were justified then the employee shall forfeit the right to any further payment in respect of that period of absence.

Sick pay shall not be paid in a case of accident due to active participation in sport as a profession unless the employer decides otherwise, though Statutory Sick Pay may be payable.

Absence in respect of normal sickness is entirely separate from absence through industrial disease, accident or assault arising out of or in the course of employment. Periods of absence in respect of one shall not be set off against the other for the purpose of calculating entitlements under the scheme.

Absence on account of industrial injury, accident or infectious disease preventing attendance at work will be recorded separately from sickness absence and will usually be paid at the full pay rate for the first 6 months of absence. If the employee has not returned to work at this point then consideration may be given to extending the pay along the lines in the relevant sick pay scheme for the employee.

An employee who is prevented from attending work because of contact with infectious disease shall be entitled to receive normal pay. The period of absence on this account shall not be reckoned against the employee's entitlements under the sick pay scheme.



## **Appendix 3 – Five Point Plan – Return to Work**

### **GUIDANCE FOR CONDUCTING A RETURN TO WORK DISCUSSION FIVE POINT PLAN**

#### **1. Welcoming Back**

- Welcome the employee back to work.
- Re-emphasise to the employee that their contribution is valued by Oasis Community Learning and (in the case of Academy-based staff) the Academy and his/her team.
- Remind the employee that a return to work discussion is standard practice after any sickness.

#### **2. Enquire about Health**

In a supportive manner, Principal/Managers/Line Managers should engage the employee in a two-way conversation about their absence to ascertain if the employee is fit to return to work. You may wish to consider:

- Exploring the reason for absence/any underlying issues.
- Is the reason for absence covered by the Equality Act?
- Has the employee visited their GP and followed the advice given?
- Is any further support required i.e. counselling or referral to Occupational Health?

#### **3. Consequences and Observations**

Principal/Line Managers should discuss the consequences of an employee's absence on their work, their colleagues and the service provision. Employees should be reminded of the necessity for full attendance wherever possible and attention drawn to their attendance during the previous 6 months (or a longer period if appropriate); this may relate to the number of separate absences during a specified period of time, the total amount of absence or characteristics of absence that emerge as a pattern, or may indicate an underlying condition or possible contributing factor(s).

It may also be necessary to inform the employee that their absence rate now represents a concern and explain the improvements required.

If the reason for the absence is likely to affect the employee's ability to do his or her work and is long term (i.e., has lasted at least 12 months), or is likely to be so you should discuss with the employee any reasonable adjustments which may help to reduce the employee's sickness absence levels.

Where frequent/long-term absence has occurred over a 12-month period, the Principal/Line Manager should update the employee of the effect on their current entitlement to Occupational Sick Pay.

It must be pointed out that the Academy/OCL takes non-attendance very seriously and that it could lead to action being taken under the procedure for poor job performance, if improvement is not achieved. In the majority of ill health-related discussions there will be no recourse to the discipline procedure and Principals/Line Managers should take care to ensure that employees understand that measures to improve attendance are not intended as a disciplinary or punitive issue. Principals/Line Managers should however be mindful that the Disciplinary procedure may apply for conduct related issues such as failure to notify absence, unauthorised/uncertified absence or abuse of the sick pay scheme.

#### **4. Completion of Formalities**

It is only after this discussion has taken place that the return to work form must be completed with the employee along with any additional notes, which will be shared with the employee.

#### **5. Future Action**

Before ending the interview it must be made very clear to the employee what is expected of them in the future and what actions Oasis Community Learning/the Academy may be required to take next time they are absent from work as a result of sickness.

The outcome of the meeting should be confirmed to the employee in writing, providing timescales for the next meeting/review, or to confirm that the process has terminated, where appropriate.

If reasonable adjustments have been discussed as a result of the illness being covered by the Equality Act, you should agree a date to review progress towards making the adjustments and/or to assess the impact of the adjustments. These details should also be confirmed in the outcome letter.

## Appendix 4 - Equality Act 2010 and Reasonable Adjustments

The Equality Act 2010 has replaced the 'Employees with a Disability and their Sickness Absence-Disability Discrimination Act 1995 and 2005' and the Race Relations Act 1976 and is in place to eliminate all types of discrimination against employees in the workplace. The purposes of this guide, is to outline the provisions in place to protect disabled employees during the management of sickness absence.

The Principal/Line Manager must clarify, via Occupational Health, whether the ill health of the employee comes under the definition of disability as defined in the Equality Act 2010 and related Regulations. There are over 9 million people with a disability in the UK, which makes up 18% of the population – a significant minority group.

The Equality Act has made it easier for a person to show that they are disabled and protected from a disability. A person has a disability, for the purposes of the Act, if s/he has:

“A physical or mental impairment which has a substantial and long term adverse effect on his/her ability to carry out normal day to day activities.” Long term means that the condition must last, or be likely to last, for more than 12 months. The applicant's ability to carry out normal day-to-day activities can be adversely affected in one or more of the following ways:

- Mobility.
- Manual dexterity.
- Physical co-ordination.
- Ability to lift or otherwise move everyday objects.
- Speech, hearing or eyesight.
- Memory or ability to concentrate, learn or understand.
- Understanding the risk of physical danger.

The Act makes it unlawful for an employer to discriminate against an employed disabled person:

- In the terms and conditions of employment afforded.
- In the opportunities for promotion, transfer, training or receiving any other benefit.
- Refusing to afford or deliberately not affording any such opportunity; or
- By dismissal or subjecting the employee to any other detriment (unless dismissal can be justified).
- Failing to provide reasonable adjustments for disabled employees and applicants.
- Subjecting a disabled person to harassment or victimisation.
- Undertaking disability related discrimination.

As with the previous Acts, the Equality Act puts a duty on the employer to make reasonable adjustments for their staff to help them overcome disadvantage resulting from an impairment (e.g. by providing assistive technologies to help visually impaired staff use computers effectively).

The Act includes a new protection from discrimination arising from disability. This states that it is discrimination to treat a disabled person unfavourably because of something connected with their disability (e.g. a tendency to make spelling mistakes arising from dyslexia). This type of discrimination is unlawful where the employer or other person acting for the employer knows, or could reasonably be expected to know, that the person has a disability. This type of discrimination is only justifiable if an employer can show that it is a proportionate means of achieving a legitimate aim. Additionally, indirect discrimination now covers disabled people. This means that a job applicant or employee could claim that a particular rule or requirement you have in place disadvantages people with the same disability. Unless you could justify this, it would be unlawful.

The Equality Act also includes a new provision which makes it unlawful, except in certain circumstances, for employers to ask about a candidate's health before offering them work. The exception would be where positive action can be given to assist a candidate with a positive disclosure, during the recruitment procedures.

Where it is determined that an employee has a recognised disability (as defined by the Act) an employer has a significant responsibility to consider any reasonable adjustment which would ensure that the employee does not suffer any detriment in comparison to another employee who does not have a recognised disability. Where Managing Absence is concerned, this includes provisions to assist the employee in improving their attendance record and ultimately in retaining their employment with the Organisation/Academy as far as reasonably practicable.

Below are a few examples of adjustments that may be considered:

- Adjustments to premises.
- Allocating some of the disabled person's duties to another person.
- Altering his/her working hours.
- Transferring him/her to an existing vacancy/new post.
- Giving or arranging specific training for him/her.
- Acquiring or modifying equipment.
- Modifying instructions or reference manuals.
- Modifying procedures for testing or assessment.
- Providing a reader or interpreter.
- Providing supervision.
- Adjusting target attendance levels beyond the normal target.
- Ensuring that absence to attend regular rehabilitation or treatment directly related to the disability is reported separately to sickness absence. Although this time is still logged as absence it should not disadvantage the employee in relation to the application of internal policy.
- Assigning him/her to a different place of work.
- Where it is not possible for appointments to be made outside of working hours, to allow him/her to be absent during working hours for rehabilitation, assessment or treatment.

The most important principle is to discuss any special needs in full with the employee.

In all circumstances relating to employees who have a disability, the Principal/Line Manager should seek advice from Oasis Community Learning Human Resources.

## **Appendix 5 -Roles and Responsibilities**

### **Roles and Responsibilities**

#### **Principals / Line Managers Responsibilities:**

Principals/Line Managers have a duty of care for the health, safety and welfare of their staff members and they are responsible for ensuring that every effort is made to achieve the highest level of attendance. The role of the Principal/Manager is crucial to the success of the process and s/he is responsible for ensuring the monitoring of sickness absence and that this procedure is applied correctly and consistently. The Principal/Line Manager must arrange to provide termly reports to the Academy Council (for Academy-based-staff) and OCL HR (for all employed staff).

Principals/Line Managers should, as part of their day-to-day responsibilities, ensure that:

- All employees have a clear understanding of the sickness absence reporting procedures. This must include who they report to and the time by which sickness must be reported to the nominated person prior to their commencement time. These responsibilities must be communicated to all new employees as part of their induction.
- When reporting sickness absence, employees need to give the reason for their absence, the likely duration and any work commitments that need addressing. If the employee has not reported prior to commencement time, the Principal/Line Manager should make general enquiries about the welfare of the individual - always the prime consideration. If the absence remains un-notified or is late it could result in either the non-payment or incorrect calculation of the employee' sick pay.
- The appropriate payroll documentation giving details of absence is completed in a timely manner.
- Absence patterns and trends of employee absence are monitored monthly. Such monitoring will indicate the need for an employee to have a formal return to work interview and determine whether any further actions are needed e.g. referral to Occupational Health.
- An informal discussion, where appropriate, is held by a relevant manager with the employee on his/her return to work and that a record of the discussion is made on the agreed pro forma.
- The employee is referred to Occupational Health for medical advice at an appropriate stage – this could also take place prior to any absence, with the employee's agreement, as a preventative measure.
- All action and decisions made at informal meetings, review meetings or capability meetings are monitored and recorded, and appropriate letters and forms are satisfactorily completed.
- In cases of long-term sickness, with the support of Occupational Health and advice from OCL Central HR, maintain regular contact with the employee to demonstrate concern for his/her welfare and offer reasonable support. The Principal/Line Manager may also consider and discuss with HR, alternative options which may facilitate an earlier return to work.
- At all stages of sickness, the Academy is in receipt of the relevant GP certificates and that, where a sick note has expired, employees should be reminded that this is the case and asked to send a certificate in by a given date. S/he should also ensure that employees do not return to work unless they are fit enough to do so.

- If an employee is failing to comply with their responsibilities under the sickness procedure, i.e. failing to report sick, failing to provide a reason or sickness certificate, this is explored with the employee and it is pointed out that continued non-compliance may result in deduction of salary and/or action being taken under the Disciplinary Procedure.
- To seek advice from their HR representative for guidance on due process, as appropriate.

### **Employee's Responsibilities:**

All employees have an obligation to attend work during the agreed hours, except in cases of authorised absence. When an employee is absent due to sickness, s/he must:

- Report the sickness to the nominated person at work by the quickest practical means within 1 hour prior to their commencement time, giving the reason, likely timescale for absence and any work commitments which may need addressing. Employees must also advise the Line Manager of any changes to these details. Late notification may result in either the non-payment or incorrect calculation of sick pay.
- Follow reporting and certification processes as outlined in the Policy.
- For periods of sickness from 4 to 7 days, complete a self-certification form on return to work. For periods of sickness exceeding 7 days, a medical certificate signed by a registered medical practitioner must be obtained and forwarded to the Office Manager/Principal's PA at the Academy.
- Not return to work after a period of absence unless fit to do so. As much notice as possible must be given of the expected date of return so that the Line Manager can ensure the necessary arrangements are in place to support the employee on their return.
- If certified sick by a medical practitioner, not to attend work except as a process of re-entry, to maintain contact with work colleagues or to attend review meetings as part of a mutually agreed return to work plan.
- Not undertake other paid or unpaid activities which might delay the return to work or be detrimental to his/her health and recovery. If in doubt, the employee should seek to discuss with the Principal/Line Manager or a member of the HR team.
- Visit Occupational Health (as identified by Oasis Community Learning) prior to returning to work, if requested by the Principal/Line Manager. Employees are contractually obliged to attend such appointments where reasonably requested, to enable appropriate management of their absence.
- On returning to work, employees must, as soon as reasonably possible, report to the Academy office/Line Manager in order that the return to work discussion can take place.
- Employees are responsible for their health and wellbeing and have an obligation to minimise their absence from work. Employees must adhere to the requirements stated within this process, particularly in terms of sickness notification, providing 'Statements', and keeping in regular contact during longer term absence.

## **Human Resources Responsibilities:**

Human Resources will at all times assist Principal/Line Managers in carrying out their role by:

- Provide information and advice on the monitoring of absence levels.
- Provide specialist advice and support to managers in dealing with absence issues; providing information and guidance on policies and procedures relating to absence and on possible options to consider which would facilitate an earlier return to work.
- Liaising with Principal/Line Managers on long-term sickness absence/erratic attendance cases. In exceptional circumstances a member of the HR Team may accompany and assist the Principal/Line Manager when meeting employees.
- Providing guidance to Academies in all aspects of managing sickness absence to include making OH referrals, preparing a return to work and implementing reasonable adjustments.
- Attending interview meetings where formal action is required e.g. capability ill health review meetings and hearings.
- Advising on implications of the Equalities Act 2010, based on current case precedents e.g. reasonable adjustments required.
- Providing advice regarding changes in legislation and best practice, by the review of absence procedures.

## **Occupational Health Responsibilities:**

Oasis Community Learning has engaged the services of an independent Occupational Health Provider to support and raise awareness of health issues with staff and to undertake reviews and provide professional advice on health issues relating to work; and to provide health assessments to:

- Advise on fitness for work with a view to supporting staff to continue at work;
  - Advise on reasonable adjustments;
  - Facilitate rehabilitation for staffing returning to work following a period of ill health; and
  - Advise on capability issues.
- If OCL are concerned about an employee's sickness absence, a referral will be made to an OH adviser for a medical assessment to seek advice on reducing sickness absence and/or facilitating a return to work where this is possible. OH will arrange an appointment to see an employee as quickly as possible after referral is made.
  - Provide relevant medical information in regards to an employee's condition and circumstances to allow Principals/Line Managers to be able to take informed management decisions about a particular employee's likely return to work, ability to contribute to the work of OCL and, where necessary, the long-term prognosis regarding the employees overall health.
  - OH will endeavour to deal with employees in a referral process, professionally and sympathetically.
  - Provide a copy of the medical report to the employee, upon their request and OCL so that a follow up meeting to discuss the findings can be arranged.

- Periodically provide a wide range of practical advice and guidance on health and wellbeing issues, which OCL will circulate across the organisation for information.

**Union/workplace representative responsibilities:**

Representatives are responsible for:-

- To provide appropriate and timely advice and support to their members through their absence management in order to seek an appropriate resolution.
- Ensuring that they make themselves available to attend designated meetings in the formal procedures and to avoid delaying proceedings by non-availability.
- Ensure the policy is implemented fairly and sensitively to their member and that their member acts appropriately in accordance with the spirit of the policy.