



TITLE	REF	VERSION
Sickness Absence Procedure	HRPRO003	1.0

DEPARTMENT	Group HR		
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# SICKNESS ABSENCE PROCEDURE

## Procedure Statement

We aim to deliver the highest quality learning experience to our students, to inspire and develop the change-makers of the future in support of our Learning Philosophy. We always expect employees to set a personal example by having the highest standards of behaviour and attendance.

This procedure sets out clear expectations and rules for employees and their line managers on their requirement to attend work and the steps to be followed when they are unable to attend work due to sickness.

It is our policy to ensure prompt, consistent and fair treatment for all and be clear about the expectations for both the employee and the organisation. Activate Learning aims to encourage all its employees to maximise their attendance at work while recognising that employees will, from time to time, be unable to come to work because of ill health.

While there will inevitably be some sickness absence among employees. If an employee is persistently absent from work, this can damage efficiency and productivity, and place an additional burden on the employee's colleagues. By implementing this procedure, the organisation aims to strike a reasonable balance between the pursuit of its operational needs and the genuine need of employees to take time off work because of ill health and support employee wellness.

When dealing with employees who are absent from work for long periods because of ill health, the organisation will act fairly and sympathetically with the aim to assist employees on long-term sick leave with their rehabilitation and eventual return to work.

## 1.0 Procedure Scope

- 1.1 This procedure will apply to all employees of Activate Learning, including those that are within their probationary period. Agency staff, contractors, consultants and those working under self-employed arrangements are not employees of the organisation and so are not covered by the scope of this procedure.
- 1.2 This procedure covers short and long-term sickness absences and may be managed differently and will follow the appropriate procedure guidance. Where an employee is on long-term sickness absence, but returns to work for short periods, the organisation reserves the right to continue to manage their sickness absence under the long-term absence procedure.

## 2.0 Employee and Line Manager Responsibilities

- 2.1 All employees have a personal responsibility, as well as a contractual obligation, to attend work and should make themselves aware of this Sickness Absence Policy. This policy will be made available to employees through the induction process and is available on SharePoint. All employees must follow the rules and procedures when they are off sick. If an employee deliberately fails to follow the reporting rules, this may be considered to be a disciplinary matter, after an appropriate review of the circumstances.
- 2.2 Line Managers are expected to manage and control their employees' attendance and absence. They should, as a matter of routine, take the following actions each time an employee has been absent from work for a short period (i.e. a period of up to one working week):
  - Create a record whenever an employee phones in to report that they are unable to come to work due to sickness. This includes recording when the call was made, the stated reason for the absence and how long the employee expects to be absent. These notes should be held confidentially and securely in employee records.

- Conduct routine "return-to-work meetings". Each time an employee returns to work following a short-term absence, their Line Manager should speak to the employee about the absence and the reason for it in a fair and factual way. This approach will alert the employee to the fact that the situation is being monitored and will potentially deter casual absences. The Line Manager should be supportive towards the employee and, where appropriate, seek to identify ways in which to assist the employee to improve their attendance in the future.
- Require the employee (on return to work) to complete the self-certification form, updating all details relating to their absence, which is contained within the Return to Work Sickness Absence Form (Appendix 1). This should be signed in front of the Line Manager, who should then countersign it and complete any additional details, scan a copy and attach to an HR Service Desk form for logging on the employee's HR record. The relevant absence dates should be detailed in the service desk submission.
- Be alert to patterns, for example the persistent Monday or Friday absenteeism. If a pattern is identified, the Line Manager should put their observations to the employee directly so that the employee has the opportunity to provide an explanation. The Line Manager should, however, remain open minded and not jump to any hasty conclusions about the employee's absences.
- Try to establish, through investigation and discussion with the employee, any underlying reasons for frequent absences. Until any underlying cause is identified, an appropriate and effective remedy will be impossible to identify.
- Check whether or not absences are in part because of personal or family problems. If this is the case, a reasonable degree of tolerance and sympathy should be shown towards the employee, as the problems may be unavoidable. The Line Manager should be supportive, while at the same time, explaining clearly to the employee that continuing frequent absences from work are unacceptable.
- Check whether the employee's absences are in any way work related, for example as a result of workplace stress. If the problem is work related, the Line Manager should take prompt steps to remove or reduce the factor that is causing the employee's problem.
- Seek medical advice from Occupational Health through referral of the employee to the Organisation's Occupational Health Service, if appropriate, to determine whether there is any underlying medical cause for the employee's frequent absences. If there is a pattern of short-term absences that are for the same condition or the employee believes that there is a common link to a singular ongoing illness the absence should be considered under the long-term absence procedure.
- Set reasonable targets and time-limits for improvement in attendance and ensure that the employee is committed to achieving them. Advice is available from the Human Resources Department, if required
- Warn the employee of the consequences of continuing unsatisfactory attendance, i.e. that they may be subject to a disciplinary process.
- Keep confidential records of all absences, discussions and medical certificates and make sure that the records clearly identify the reasons for an employee's various absences.
- Schedule a follow-up meeting at an agreed time to monitor the ongoing situation.

2.3 Before taking any formal action in respect of an employee who has had frequent absences from work, the Line Manager should take the following action:

- Check the employee's absence record to gain an accurate assessment of the number of days' absence that they have had, the number of separate occasions that they have been absent and whether or not they are tangibly worse than that of other employees in the Organisation.
- Seek advice from the HR Department on the appropriate action to take in line with the Organisation's procedures.

2.4 Absences from work will be regarded as frequent if:

- There are three or more sickness absences in any three-month period.
- Any period of absence exceeds ten working days or two calendar weeks (whichever is shorter).
- Any period of absence that causes the Line Manager to be concerned, e.g. a pattern of absences.

2.5 An employee who needs to be absent from work due to sickness must comply with the following rules:

- Notify their Line Manager by telephone if they are sick (or unable to attend work for any other reason). Notification should be as early as possible and, in any event, no later than one hour after the employee's start time. The employee should be prepared to state the reason why they cannot attend work, and how long they think the absence will last.

- Attend a meeting with their Line Manager on return to work to discuss the absence and the reason for it. One of the purposes of this meeting will be to establish whether or not the Line Manager can provide any support to the employee that could facilitate attendance at work in the future (for example, if the employee's absence was in any way work related).
- The employee should complete, along with their Line Manager a Return to Work Sickness Absence Form, on return to work for all periods of sickness absence.
- Provide a Doctor's certificate or "fit note" for a period of sickness absence not exceeding seven calendar days if the organisation specifically requests it. In these circumstances the Organisation will reimburse the employee for the cost of obtaining a certificate if it has to be obtained privately.
- Provide a Doctor's certificate or "fit note" for any periods of sickness exceeding seven days (this includes non-working days) *As an example if an employee went sick on a Tuesday, if they did not return back to work by the following Tuesday then they would be required to obtain a "fit note" from their GP to cover the period of absence from day eight onwards.*
- Agree on request to be interviewed and/or examined by an Occupational Health Specialist nominated and to authorise the release of any medical report from the Doctor to HR. The organisation will meet all costs associated with any such examination and/or medical report.
- Cooperate with the organisation with regard to the possible implementation of any adjustments to job duties, hours or working conditions, resulting from recommendations made by a medical advisor, notwithstanding the fact that the advice on a "fit note" is not binding on the organisation.
- Ensure that their sickness absence record on their iTrent record is complete and up-to-date and sickness certification forms are submitted to their line manager.

2.6 If there is any suspected misconduct in use of this procedure by the employee then the organization reserves the right to switch to use the Disciplinary Procedure. For example, in the following circumstances:

- An absence is not genuine or not for the reason provided;
- The employee is undertaking inappropriate activities while off sick, such as carrying out work for another organisation; or
- The correct sickness absence notification and evidence procedure has not been followed.
- The employee has significant absence levels, which do not have an underlying link to a long-term medical condition.

### 3.0 Entitlement to Paid Sick Leave

- 3.1 Eligible employees will be entitled to receive Occupational Sick Pay (OSP)/Statutory Sick Pay (SSP). Entitlement to occupational sick pay is as detailed in the employee's terms and conditions of employment, provided that the organisation receives notification and certification as detailed within the Sickness Absence Policy.
- 3.2 Sick pay entitlement is based on service completed at Activate Learning as at the first day of sickness. When determining payment for sickness, account is taken of all cumulative periods of sickness during the preceding twelve months as at the first day of sickness. Only continuous service at the organisation will count towards entitlement for sick pay (or any TUPE protected service).
- 3.3 If the employee is entitled to receive Statutory Sick Pay (SSP) or is in receipt of any other allowances or benefits, these will be offset against any entitlement to full pay. Where the employee is entitled to receive half pay, the total sum of pay plus SSP, if appropriate, and any other benefits or allowances, must not exceed half pay. If necessary, the half pay allowance will be reduced. If a public holiday or an efficiency closure day occurs during a period of sick leave, the employee will continue to receive sick pay.
- 3.4 In determining an employee's entitlement to Occupational Sick Pay (OSP), their base salary will be considered to be normal pay. Casual, non-contractual overtime and other non-contractual payments will not be included for calculation of normal pay. For those employees who are not eligible for OSP or exhaust their OSP may be eligible for SSP if they have a period of sickness absence from work of at least four days in a row and three 'waiting days' (days on which the employee would usually be required to work) have passed. SSP is payable for up to 28 weeks in any period of absence at a weekly rate set by the Government for the relevant tax year.
- 3.5 Should the correct medical certificates not be received, the organisation reserves the right to withhold OSP and the absence will be treated as unauthorised absence and may result in disciplinary action.

- 3.6 If the employee returns to work after a period of sickness absence on a phased return to work, then their non-working time during the phased return may be paid, using any OSP entitlement that the employee is eligible to within their sick pay allowance.
- 3.7 The organisation reserves the right to withhold or suspend sick pay under its contractual sick pay scheme at its discretion. Circumstances whereby sick pay may be withheld are detailed below:
- The employee has failed to comply with the notification and evidence requirements within this policy;
  - The employee refuses to attend a medical examination at the reasonable request of the organisation.
- 3.8 If sickness or injury is caused by actionable negligence of a third party which could lead to potential claim for damages to be made, the employee shall promptly notify their Line Manager and provide them with all such information as they may reasonably require. Upon receipt of an award of damages they shall refund to the organisation that portion of it attributable to loss of earnings for the relevant period, not exceeding the aggregate of the remuneration actually received by the employee for that period.

#### **4.0 Notification and Certification of Sickness Absence**

- 4.1 An employee who is unable to attend work because of sickness must notify their Line Manager as soon as it is reasonably practicable. Employees must contact their Line Manager normally before their normal start time and, at latest, within one hour of their usual start time. Notification must be made by phone.
- 4.2 Employees who are absent due to sickness must make every effort to communicate directly with their Line Manager about their absence and to keep them informed of the progress of their absence. If this is not possible, the absent employee may communicate directly with the HR Department instead, but this should be by exception only. The Line Manager must record the employee's sickness absence, at the earliest possible date, on their iTrent record.
- 4.3 A medical certificate (Fit Note), completed by a qualified medical practitioner, and must be submitted for any absence which exceeds seven calendar days. Subsequent certificates must be submitted if the absence continues beyond the period covered by the initial statement. The medical practitioner will normally determine the length of absence covered by each certificate. Where the first medical certificate covered a period of more than fourteen days, or where more than one certificate has been necessary, the employee may be required to obtain a final certificate indicating his/her fitness to resume duties before returning to work.
- 4.4 An employee who goes into hospital or other similar institutions is required to submit a doctor's statement that shows dates of admission and discharge, or Fit Note.

#### **5.0 Absences Due to Injury Caused by Accidents**

- 5.1 An employee who is absent as a result of an accident will not be eligible to receive Occupational Sick Pay if damages might be recovered from a third party. However, Occupational Sick Pay will continue to be paid in accordance with the entitlement set out in this policy, subject to the employee signing an undertaking that the total amount of the advance OSP will be refunded should a claim be successful.

#### **6.0 Termination or Suspension of Allowances**

- 6.1 This procedure will cease to apply from the date on which an employee leaves the employment of Activate Learning. If the employee fails to comply with the reporting arrangements for sickness absence or fails to submit appropriate medical evidence of their continuing absence from work, their entitlement to SSP and/or OSP may be suspended or denied.

#### **7.0 Employees Who Fall Sick Whilst at Work**

- 7.1 Employees who are taken ill whilst at work must report their sickness as soon as possible directly with their Line Manager in person, or by telephone. Sickness absence that results in the employee leaving work due to illness before 12.00pm, will be classed as full day's absence. Sickness absence that results in the employee leaving work due to illness, after 12.00pm will be classed as half a day's absence. All absences, including half days, must be logged on iTrent and the appropriate sickness certification undertaken.

## **8.0 Sick Payments on Termination of Employment**

8.1 The Organisation reserves the right to terminate employment before the entitlement to OSP or SSP has expired, where there are exceptional circumstances (such as little realistic prospect of the employee returning to work) and all other options have been exhausted.

## **9.0 Allowances and Benefits to be offset against Occupational Sick Pay**

9.1 The following allowances will be offset against any entitlement to full pay:

- The gross amount of Statutory Sick Pay receivable under the Social Security Contributions and Benefits Act 1992;
- The amount of incapacity benefits and SSP receivable as defined under the National Insurance Acts and Regulations and the Social Security (Incapacity for Work) Act 1994;

9.2 All employees are obliged to declare to Activate Learning their entitlement to any benefits. If the employee fails to do so, Activate Learning will be entitled to deduct the maximum such benefit obtainable.

## **10.0 Medical and Health Appointments**

10.1 Employees are allowed to attend routine medical or dental appointments. In such situations, it is reasonably requested that employees make their Doctor and Dentist appointments outside of normal working hours insofar as this is possible, or at least to make sure that appointments are made at either the beginning or the end of the working day so as to minimise disruption. Where time off is required, please give as much notice as possible to allow the organisation to cater for the time off, so to not disrupt operations. The employee may be asked to produce appointment cards or letters of confirmation of their attendance at medical or health related appointments. This time should be made up by the employee and agreed with the line manager.

10.2 Medical or dental emergencies requiring urgent unforeseen medical or dental attention are likely to fall within the remit of sickness absence, as are cases where the employee is to be admitted to hospital as an inpatient, for example to undergo an operation. In this case sick pay is payable if applicable.

10.3 Where the employee is pregnant, she has a statutory right to reasonable time off work with pay to attend antenatal appointments made on advice of a Doctor, Midwife or Registered Nurse. Except in the case of the first appointment the employee may be required to produce medical confirmation of the pregnancy and an appointment card showing that the antenatal appointment has taken place. An employee who is a prospective father, or the partner of a pregnant woman, can take unpaid time off work to attend up to two antenatal appointments.

## **11.0 Return to Work (RTW) Interviews**

11.1 RTW interviews are a vital part of supporting employees on their return to work, whereby the Line Manager meets with the employee, in private, on their return from every episode of absence. The RTW interview form must be completed at the meeting and signed by both the line manager and employee. It is the line manager's responsibility to log the absences on iTrent and submit the RTW form and the appropriate sick certifications to HR via the HR Service Desk. The forms, and guidance on conducting the interview, are available on SharePoint.

## **12.0 Sickness during Annual Leave**

12.1 An employee who has pre-planned annual leave that has been approved and is unable to take their annual leave due to illness, will have their annual leave refunded provided that they report their absence to their line manager on the first day of sickness. Employees must also complete a Return to Work Sickness Absence Form with their Line Manager for the first seven days of their absence and a medical certificate (fit note) for absence from eight calendar days. Employees will accrue annual leave during periods of sickness absence.

## **13.0 Occupational Health Service**

13.1 There may be occasions where it is considered necessary to request details on the health of an employee from their Doctor, and this will be obtained via the Occupational Health Service. The employee will be asked for permission to refer to Occupational Health in the first instance.

13.2 Where medical reports from an employee's Doctor are necessary, the Occupational Health provider will

fully inform the employee of their rights under the Access to Medical Reports Act 1988, their rights under the Data Protection Act 2018 and their permission will be sought for the report to be obtained.

- 13.3 Where the employee has any queries on their rights under the Access to Medical Reports Act 1988 and/or Data Protection Act 2018 or the procedure to be followed, they should contact the HR Department. When requesting a report, Occupational Health/the organisation will provide the Doctor/Specialist with as much information as possible on the role of the employee and explain why the report is being sought.

Activate Learning will provide the Doctor/Specialist with:

- the employee's signed form consenting to the request to seek a medical report;
- confirmation that the employee is aware of their rights under the Access to Medical Reports Act 1988 and/or Data Protection Act 2018;
- details of the major features of the employee's job; and
- information on the employee's absence record relevant to the condition seeking advice about

The Doctor/Specialist will be asked to identify the following:

- the nature of the employee's illness;
- when, if ever, the employee is likely to be fully fit to resume their normal duties;
- if the employee is unfit to resume his/her normal duties, what alternative duties they might be fit to undertake;
- when the employee is likely to be fit to undertake any alternative duties;
- what reasonable adjustments could be made to working conditions or work premises to facilitate a return to work; and
- the likelihood of recurrence of the illness once the employee has returned to work.

- 13.4 Employees have the right of access to a report before Activate Learning sees it. If the employee wishes to see the report, they should inform the Occupational Health Service of this, so that they can inform the Doctor/Specialist. The employee will then have 21 days to contact the Doctor/Specialist in order to see the report. If the employee does not contact the Doctor/Specialist within this period, the medical practitioner can pass the report on to the organisation. Where the employee refuses permission to contact their Doctor/Specialist, the employee will be informed that a decision relating to their employment may be made without the benefit of access to medical records. The same procedure will be followed where an employee delays in giving his/her consent.

- 13.5 Where an employee feels that the report is misleading or incorrect, they may ask the Doctor/Specialist to amend it. If the Doctor/Specialist does not agree with the employee and does not alter the report, the employee may attach a statement to the report to reflect their views. Alternatively, having seen the report, an employee may request that access to the employer be withheld. The employee will be informed that a decision relating to employment may be made without the benefit of access to medical records.

- 13.6 If Activate Learning wishes to take action following the report, this will be taken only after consultation with the employee and full and careful consideration of all the facts provided. The line manager and HR will request a meeting with the employee to discuss the report and identify what action is to be taken.

- 13.7 Where an employee has a condition that is considered to be a disability or impairment under the Equality Act 2010, reasonable adjustments will be made where they will assist the employee in maintaining an acceptable attendance record and can be accommodated within the Department/Faculty. Reasonable adjustments may be implemented for a limited period to allow an employee to recover from a long-term absence. They may include:

- Reduction of hours on a temporary or permanent basis;
- Reduction of work duties on a temporary basis;
- Change of work location on a temporary or permanent basis;
- Provision of electronic aids, such as a modified laptop, phone or software;
- Changes to the ergonomic environment, including changing or replacing chairs, desks and rests;
- Giving additional training and/or time off for development;
- Provision of a support worker, where approved through government support;

- Modifying written materials;
- Changing the physical access at work;
- Reduction of responsibilities and grade.

#### **14.0 Managing Short Term Absence**

14.1 All employees are encouraged to maximise their attendance at work while recognising that, from time to time, they may be unable to come to work for short periods due to sickness. Short-term sickness absences from work are defined as those lasting less than four weeks.

14.2 Absence that is a result of an employee's pregnancy will be disregarded for the purposes of monitoring short term absence. In addition, the employee's normal pattern of attendance will be taken into account. The organisation will act on periods of unacceptable levels of absence. To ensure a fair and consistent approach is adopted, investigations will commence with those employees who hit the sickness absence management triggers which are:

- Three or more sickness absences in any three-month period.
- Any period of absence exceeds ten working days or two calendar weeks (whichever is the shortest).
- Any period of absence causing the Line Manager to be concerned for example trends in absences when absences follow a pattern e.g. every last or first day of the week.

14.3 The HR Department will advise Line Managers on managing absence effectively. If the Line Manager has any concerns about an employee's absence, or health, they must discuss it with their Associate HR Business Partner before taking any action with the employee.

#### **15.0 Absence Review Meeting (Stage 1) – Informal stage**

15.1 When an employee hits a trigger point, as defined above, a welfare meeting (Stage 1) will be arranged. At the meeting the Line Manager will cover as many of the following points as are appropriate at the time. Note: This meeting outline will be followed for stages 2 and 3 within the policy and for long term sickness absence review meetings.

- Look at the employee's absence history and note if this is their first absence in a long time, if so, this should be taken into consideration;
- Exploring whether there may be some underlying reason causing the high level of absence;
- Discuss any personal or work-related issues contributing to the absences;
- Consider what support the Line Manager or other services, such as Occupational Health, are able to give to assist the employee to improve their attendance;
- Exploring what the employee may be able to do to improve the situation, e.g. advice from their GP, referral to a specialist etc.;
- Advising the employee that, whilst they should not attend work if unfit to do so, the continuing high level of absence from work cannot continue indefinitely;
- Agree a reasonable period of time over which the employee's attendance can be assessed;
- Indicate what the next step will be if the employee fails to reach the standard required. A letter will be sent to the employee confirming the facts and the action to be taken, and specifying what will happen if attendance is not improved;
- Giving the employee an opportunity to comment on the position and for those comments to be considered;
- Consider whether referral to the Occupational Health service would assist the Line Manager's and employee's understanding of the employee's health problems and to get a medical view on the likelihood of the employee achieving an acceptable level of attendance for the future.
- Consider, if necessary, whether there are alternative vacancies which the employee would be competent to fill.
- The employee may be considered disabled within the meaning of the Equality Act 2010, to consider making reasonable adjustments to the employee's job to accommodate their short-term or long-term requirements.

15.2 If target levels are achieved and maintained for the agreed period of time the employee will be informed in writing that normal monitoring practices will continue to apply. It is expected that employees will wish to return to a lower level of absence monitoring and Line Managers will support them in maintaining an acceptable level of absence. In some circumstances the employee may be required to provide private medical certificates for all absences from work due to sickness, regardless of their duration.

- 15.3 At any stage in this procedure, following investigation, should the employee's Line Manager feel that the employee's absences are not due to an underlying medical condition, but are casual in nature, formal management of employee's absences will be dealt with in accordance with the Disciplinary Policy.

## **16.0 Absence Review Interview – Written Warning (Stage 2)**

- 16.1 If the employee's attendance continues to be at an unacceptable level a formal review meeting will be arranged (Stage 2). HR will write to the employee setting out the Line Manager's concerns and formally inviting the employee to the formal meeting. The employee may bring a work colleague or a representative of a recognised trade union to accompany and represent them. A member of the Human Resources Department will also be in attendance. The employee will be informed of the timing and location of the meeting and will be given reasonable notice of the meeting to allow the employee time to prepare. If the employee concerned is a trade union representative the Director of People and Change and the appropriate trade union officer must be notified before any formal action is taken. At the meeting the Line Manager will explain her/his concerns to the employee and ask them to explain why their attendance has not improved or why the improvement has not been maintained. The employee's Line Manager will remind the employee of the need for them to maintain a satisfactory level of attendance and will give them every opportunity to set out their case and answer the concerns raised.
- 16.2 After the meeting the Line Manager will consider what has been discussed and decide what action should be taken. The Line Manager may decide that no formal action should be taken and move the process back to Stage 1 or may decide to issue a written warning. If the Line Manager decides to issue a written warning s/he will advise the employee that the letter represents the first stage of the formal procedure and that failure to improve may lead to a final written warning and, subsequently, dismissal.

The letter will specify the following points:

- The employee's current attendance level
  - The required level of attendance which the employee is required to achieve and sustain
  - The period of time within which the Employee must achieve the required attendance level
  - Any actions which will be taken to support the employee in achieving the required attendance level
  - Any actions which the employee has agreed to take in order to achieve the required attendance level
  - The employee's right to appeal against the warning and how to make an appeal
- 16.3 A copy of the written warning will be kept on the employee's file, during the period whereby the warning is live/valid. The written warning will be current for a period of twelve months. After the period of twelve months has lapsed, the warning becomes null and void.

## **17.0 Absence Review Interview – Final Written Warning (Stage 3)**

- 17.1 Should the employee's attendance continue to be at an unacceptable level a further formal review meeting will be arranged. The meeting will follow the same process as for Stage 1 and Stage 2 and will review the actions that have been taken by the employee and the organisation and what effect they have had. The employee's Line Manager will also discuss with the employee what other actions might reasonably be taken to help improve attendance. These might include agreeing to redeploy the employee to another role and/ or changing their working hours or pattern of attendance.
- 17.2 After the meeting the employee, the Line Manager will consider what has been discussed and decide what action should be taken. The Line Manager may decide that no formal action should be taken or to extend the review period under the first written warning. Alternatively, the Line Manager may issue the employee with a further written warning, which is added to the previous warning (on the proviso that the previous warning is still within the valid period), resulting in a final written warning. The Line Manager will inform the employee of their decision and confirm this in writing. If the Line Manager decides to issue a Final Written warning, they will advise the employee that the letter represents the final stage of the procedure and the employee will be made aware that failure to improve may lead to the employee's dismissal. The letter will specify the following points:
- The employee's current attendance level
  - The required level of attendance which the employee is required to achieve and sustain
  - The period of time within which the employee must achieve the required attendance level
  - Any actions which will be taken to support the employee in achieving the required attendance level

- Any actions which the employee has agreed to take in order to achieve the required attendance level
  - A clear statement that if the employee does not achieve and sustain the required attendance level their employment will be terminated by reason of your capability
  - The employee's right to appeal against the warning and how to make an appeal
- 17.3 A copy of the written warning and accumulative final written warning as a result, will be kept on the employee's file, during the period whereby the warning is live/valid. The final written warning will be current for a period of eighteen months. After the period of eighteen months has lapsed, the warning becomes null and void.

## **18.0 Absence Review Meeting – Dismissal (Stage 4)**

- 18.1 If the employee's attendance continues to be at an unacceptable level, a further meeting will be arranged. This level of meeting will be chaired by a member of GET, supported by a HR Advisor.
- 18.2 HR will write to the employee setting out the Line Manager's concerns and formally inviting the employee to the meeting, making the date, time and place clear. Reasonable notice will be given. The employee may bring a work colleague or a representative of a recognised trade union. A member of the Human Resources Department will also be in attendance, and a minute taker. The employee will be informed in writing that the meeting may result in dismissal.
- 18.3 The meeting Chair will consider what has been said and will decide what action should be taken.

In reaching their decision the Chair will consider the following matters:

- That the organisation's Sickness Absence Policy has been properly applied and that the employee has been clearly informed that if they do not achieve and sustain the required attendance level their employment will be terminated by reason of their capability;
- Any actions which have been taken by the organisation to support the employee in achieving the required attendance level and whether there are any further actions which should reasonably be taken;
- Any actions which will be taken by the employee in order to achieve the required attendance level;
- The nature of the job and the consequences for the organisation, learners and other staff due to the employee's absences;
- The advice of the OH service on the type, likely duration and effect of the employee's illness, if applicable;
- The employee's current attendance level, the level of attendance required to achieve and sustain and whether there is a reasonable prospect of the employee achieving an acceptable level of attendance within a reasonable time period;
- The advice of the OH service on the organisation's ability to make reasonable adjustments to the job, working environment or arrangements in order to help the employee attend at an acceptable level. This particularly applies to employees with a recognised disability under the Equality Act 2010. For example, agreeing to redeploy the employee to another role or changing the working hours or pattern of attendance.

Having considered all the above the Chair will then decide what action should be taken, this is likely to be one of the following:

- Recommend further actions and / or reasonable adjustments which the organisation should make to support the employee to achieve an acceptable level of attendance;
- Allow a further time period for the employee to achieve the required level of attendance;
- Give notice of the termination of the employee's employment by reason of capability.

The Chair will inform the employee of their decision and confirm this in writing. If they decide to terminate the employee's employment the letter will state:

- The employee's attendance record
- The findings and decision of the formal meeting
- The date of termination and notice arrangements
- The employee's right to appeal and how to make an appeal

## **19.0 Managing Long Term Sickness Absence**

- 19.1 The employee should maintain regular contact with the organisation and submit medical certificates on time. The contact may be through the HR Department or the employee's Line Manager. Regular contact with the employee will be made through the employee's Line Manager and/or the HR Department.
- 19.2 Where the sickness absence is for four consecutive calendar weeks or more (or sooner for absences connected to mental health and stress) the Line Manager (and/or a HR representative) will contact the employee and arrange a formal meeting (welfare meeting). If the employee is unwell to come to the office, the organisation reserves the right to visit the employee at his or her home or arrange a neutral meeting venue. At the meeting the employee may be accompanied by a colleague representative or a recognised trade union official. A member of the Human Resources Department will also be in attendance.
- 19.3 The welfare meeting will aim (if applicable):
- Seek to establish the reasons for the employee's absence and its likely duration;
  - Consider whether to take Occupational Health Advice or advice from another medical specialist;
  - Consider offering alternative employment or a shorter working week, if this would enable the employee to return to work;
  - If the employee may be considered disabled within the meaning of the Equality Act 2010, to consider making reasonable adjustments to the employee's job to accommodate their short-term or long-term requirements;
  - If applicable inform the employee that long-term absence due to ill-health may put their employment at risk (bearing in mind the needs of the organisation at that time);
  - Set a date at which dismissal will be considered if the employee is still unable to return to work; a letter will be sent to the employee confirming the facts and the action to be taken;
  - If the employee's sickness absence continues, to arrange further welfare meetings as appropriate to review the employee's state of health and establish a likely return-to-work date.
- 19.4 Dependant on the individual circumstances of employee's sickness absence case, this may result in a variation on the number of welfare meetings required during their period of absence. If Occupational Health advice or other specialist medical advice is obtained, a meeting between the employee, Line Manager and HR will be set up to discuss options and future actions. These actions may include:
- review the employee's absence record to assess whether it is sufficient to justify dismissal;
  - make reasonable adjustments (where possible) to their work and/or working environment, where the employee has a medical condition that could be a disability under the Equality Act 2010;
  - consult with the employee and their representative or union official;
  - obtain up-to-date medical advice;
  - advise the employee in writing as soon as it is established that termination of employment has become a possibility;
  - meet with the employee to discuss the options and consider the employee's views on continuing employment;
  - review if there are any other jobs that the employee could do prior to taking any decision on whether or not to dismiss;
  - allow a right of appeal against any decision to dismiss the employee on grounds of long-term ill health; and arrange a further meeting with the employee to determine any appeal;
  - following this meeting, inform the employee of its final decision;
  - act reasonably towards the employee at all times;
  - Continued monitoring where the employee is not fit to return to their full duties;
  - A phased return to work where the employee is fit to return to work, but not immediately to the full duties of their post;
  - Any other recommendation made by the Occupational Health service.
- 19.5 Where absence is for a clearly defined period (e.g. due to surgery or a broken limb) and the employee anticipates returning within a specified period, an Occupational Health appointment may be made to consider any reasonable adjustments. Consideration will be given to a phased return for any employee and especially those who have been absent for longer than 4 weeks. This will be based on medical advice and will be considered to allow the employee to return to work with appropriate support. Any phased return will be planned by the Line Manager, in consultation with the employee. The phased return will be monitored by the Line Manager and further plans made, if

appropriate, for extension of the phased return. If the employee has returned on less than their contractual hours, they may use their OSP entitlement for their non-working hours during this time. If OSP has been exhausted then the employee will receive payment for the hours that they work only, during their phased return.

- 19.6 If an employee refuses to sign a consent form, or to attend an appointment with the Occupational Health service, a decision about their employment may need to be taken without the benefit of medical advice.
- 19.7 Where the Occupational Health service considers that a further medical opinion from a specialist is needed, this will be arranged by the HR Department. Where there is a significant difference of opinion between the employee's GP/medical specialist and the Occupational Health service, the organisation will consider arranging for a separate medical opinion to be reported on. If the employee's attendance record does not improve, or if his or her long-term absence continues, a final welfare meeting will be arranged. At this point, unless there are reasonable grounds to believe that there will be an improvement in the foreseeable future, the organisation's decision to dismiss the employee by reason of incapability will be explained.
- 19.8 In the event of a dismissal, the employee may appeal in writing to the Director of People and Change, stating the reasons for the appeal, within five working days of the receipt of the dismissal letter. The appeal will be heard in accordance with the organisation's Disciplinary Appeals procedure.

## **20.0 Ill Health Retirement/Dismissal**

- 20.1 Where the Occupational Health service recommends that the employee is unable to return to work because of their medical condition, the employee may decide to apply for ill health retirement, where they are a member of the Local Government Pension Scheme (LGPS) or the Teachers' Pension Scheme (TPS).
- 20.2 Ill health retirement will be considered to be a dismissal and a dismissal meeting will be arranged in line with this policy. For TPS members, the decision to allow ill health retirement rests entirely with the appropriate pension scheme and is not made by the organisation. For LGPS members, the decision is made by the organisation, subject to confirmation by LGPS. Where the employee is not a member of the LGPS or the TPS, or an application for ill health retirement has been unsuccessful, the organisation may decide to dismiss them, where the advice is that they are not fit to return to work after a substantial length of absence, or that there is little prospect of them becoming fit within a reasonable timeframe. The dismissal will usually be for the reason of capability.

## **21.0 Dismissal for reasons of Incapability due to Ill Health**

- 21.1 Before a decision to dismiss the employee is taken, full consideration will be given to their employment record, absence record, the availability of suitable alternative work, and the effect on their past and current absence. The employee will be advised of their right to appeal against the termination of their employment for ill health retirement or ill health dismissal.

## **22.0 Definitions Within This Procedure**

The following definitions are used in this procedure:

**"Organisation"** means Activate Learning

**"Employee"** means the individual who is employed by the Organisation

**"Line Manager"** means the individual who is directly managing the Employee

**"Senior Manager"** means a manager who is higher in the hierarchy of the Organisation than the Line Manager

**"Period of sickness absence"** or **"instance of sickness absence"** means any continuous period of sickness absence, of whatever length, during which the employee does not work.

**"Short-term sickness absence"** means any period of sickness lasting up to four weeks.

**"Long-term sickness absence"** means any period of sickness lasting longer than four weeks.

**“Formal review period”** means a defined period during which an employee is required to show an improvement in their sickness absence levels under the Organisation’s policy

**“SSP”** means Statutory Sick Pay.

**“OSP”** means Occupational Sick Pay.

**“RTW”** means Return to Work

**“OH”** means Occupational Health


## **References**

Disciplinary Procedure

Capability Procedure

## **Appendices**

Appendix 1 - Return to Work Form

Sickness Absence Return-to-Work Form				 <b>ACTIVATE LEARNING</b>	
Employee's Name					
Location					
Line Manager's Name					
Dates of Absence; From		To	Total No of Days		
Reason given for absence:					
Has the Employee sought medical advice concerning this period of absence?					
Medical certificate given? Y/N (attach when provided)					
Is any support required to enable the Employee to return to work effectively?					
Number of days sick leave taken in the previous 52 weeks (Excluding this absence)					
Number of days sick leave taken in the previous 52 weeks (Including this absence)					
Triggers	Has the Employee taken had three or more absences in the last 3 months? Y/N				
	Do the absences exceed 10 working days or 2 calendar weeks absence (whichever is less)? Y/N				
	Is the absence causing the Line Manager concern e.g. trend or pattern of absence? Y/N				
Is absence due to a work-related injury? Y/N			(If applicable, apply RIDDOR reporting procedure)		
Line Manager's comments following return to work interview:					
Employee's comments following return to work interview:					
<b>Declaration</b>					
<p>I declare that I have not worked during the period of absence which I have stated and the information given is complete and correct. Where my absence related to sickness I claim benefit in accordance with the Organisation Sick Pay arrangements. I agree that the information included above may be recorded in any way deemed appropriate by the Organisation for a proper management of the Organisation and its affairs, consistent with the provisions of current legislation. I understand that if I provide inaccurate or false information about my absence it may, depending on the circumstances, may lead to non-payment of sick pay and may be treated as gross misconduct and may result in my summary dismissal.</p>					
Signed (Employee)				Date	
Signed (Line Manager)				Date	