

# Swift Academies

## Sickness Management Policy

**Accepted by:** Board of Trustees July 2018

**Approving Body:** Board of Trustees

**Committee:** Standards

**Review Cycle:** 2 years

**Last reviewed:** June 2022

**Date for next review:** June 2024

### 1. Policy Statement

- 1.1 The Board of Trustees recognises that the Trust needs to manage sickness absence proactively to help us to deliver our services – as indeed do all successful organisations.
- 1.2 The Trust is committed to encouraging maximum attendance at work by promoting a culture of employee engagement, commitment and motivation; maintaining a healthy workforce; providing support to employees who are ill to facilitate an early return to work where possible and reduce sickness absence.

### 2. Introduction

- 2.1 The Trust recognises that employees will have periods of genuine illness during the course of their employment that may result in some absence from work. However, sickness absence can cause operational difficulties and service delivery issues in terms of quality, efficiency and costs. It can also impact on the workload of other employees.
- 2.2 Improving levels of sickness absence will improve our capacity and make the most effective use of our financial and human resources. As such, our sickness absence rate continues to be a key performance indicator for the Trust.
- 2.3 This policy has three main aims: -
  - to encourage a healthy attendance culture to minimise sickness absence levels
  - to provide appropriate and reasonable support to employees who are genuinely ill and need to be absent from work to help an early return to work where this is possible e.g. access to counselling.
  - to reduce sickness absence through proactive and effective management and by using the Trust's Disciplinary Procedure where appropriate
- 2.4 The Trust will work to achieve these aims by: -
  - managing sickness absence in a sensitive, supportive and positive manner, based on early intervention
  - providing robust, fair and transparent procedures that will be applied consistently to all employees who are absent from work due to illness
  - communicating this policy to all employees
- 3 training Head Teachers/Head of Schools/other employees with staff management responsibilities under this policy and how to apply the related procedures appropriately

- 4 taking account of individual circumstances and adopting a flexible approach where relevant
- 5 working with employees and in line with medical advice to avoid the need for sickness absence in the first instance, or to facilitate a return to work as soon as possible where appropriate (which may include a return to temporary alternative employment or reduced duties, for which employees will not receive less pay than they would have if they had remained absent from work due to sickness and/or other reasonable adjustments)
- 6 not discriminating against an employee due to disability
- 7 treating sensitive personal information relating to an employee's absence in line with the General Data Protection Regulations (GDPR) 2018
- 8 working with the Trust's HR Provider to record, analyse and report on information relating to all areas of sickness absence to facilitate effective management and inform future policy development

### 3. Scope

This policy and the related procedures apply to all Trust employees.

### 4. Responsibility

***The Head Teacher/Head of School*** is ultimately responsible for driving the 'maximum attendance agenda' and ensuring that this policy and the related procedures are implemented effectively in the Trust. S/he will also ensure that teachers with staff management responsibilities have had relevant training so they can implement this policy effectively.

***Employees with staff management responsibilities*** have primary responsibility for managing sickness absence effectively in their teams. They must ensure that they have received training on how to implement this policy; maintain contact with employees who are absent due to sickness and make Head Teachers/Head of Schools aware of difficult cases.

***Employees*** must acknowledge that the Trust pays them to attend work and that maximum attendance is accepted as the norm. They must comply with this policy and the related procedures and maintain contact with the Trust during any periods of absence.

***The Trust's HR Provider*** are responsible for providing training as required; for advising Head Teachers/Head of Schools/other employees with staff management responsibilities on effective case management; for gathering and analysing management information on sickness absence and for reporting on the Trust's performance. Relevant HR staff may also accompany teachers with staff management responsibilities to review meetings under the formal sickness management procedure.

### 5. Employees with a Disability

- 5.1 The Equality Act covers physical and mental impairments that have a substantial and long-term adverse effect on an employee's ability to carry out normal day-to-day activities.
- 5.2 Employees with a disability are responsible for advising the Trust of this at the application recruitment stage, or thereafter if they develop a disability during the course of their

employment. This includes advising the Head Teacher if the disability has an impact on their role, or if there is anything in the work place that impacts on their disability.

5.3 Under the Equality Act, employers have a duty to make 'reasonable adjustments' where any aspect of working arrangements places employees with a disability at a substantial disadvantage. In the context of this policy, it may be a reasonable adjustment to accept that a disabled employee will need some level of absence from their work for rehabilitation, assessment or treatment relating to their disability. A distinction must be made between disability-related absence and sickness absence so that cases can be managed appropriately.

5.4 Consideration to a reasonably adjusted absence targets for future absences related to the disability.

5.5 The Trust also recognises that it may need to make reasonable adjustments to enable employees who become disabled as a result of sickness to return to work. Types of adjustments may include: -

- making physical adjustments to the workplace, or adjustments to the employee's duties / workload
- transferring the disabled employee to another vacant post, with or without reasonable adjustments being made
- altering the disabled employee's working hours through, for example, part-time working, job sharing or other flexible hours arrangements
- providing special equipment to help a disabled employee to perform his or her tasks and giving training on how to use the equipment.

## 6. Definition of Sickness Absence

6.1 There are two main categories of sickness absence, as defined by Cabinet Office guidelines:

- **Short term Sickness Absence** is absence lasting for less than 20 working days. This may be for an occasional day or for a few days at a time and may be self-certificated or covered by a doctor's certificate.
- **Long term Sickness Absence** is defined as absence lasting for 20 working days or more (which will be covered by a doctor's certificate by default).

## 7. Sickness Scheme

7.1 An employee's entitlement to occupational sick pay is as set out in the relevant national agreement on pay and conditions of service.

7.2 This should not be taken to mean that high levels of sickness absence are acceptable. The Trust reserves the right to terminate employment before the expiry of contractual sick pay, in

accordance with the procedure for dismissal on ill health/medical capability grounds (please see section 14).

7.3 Any failure to comply with this policy / procedure and / or the sick pay scheme may lead to the absence being determined as unauthorised absence and / or disciplinary action. This may also result in the non-payment of occupational and statutory sick pay and a break in pensionable service equivalent to the period of unauthorised absence.

## **8. Sickness Reporting Procedure**

8.1 Staff absence due to unforeseen circumstances should be reported preferably by phone to the main school number between 8.00am and 8.30am on each morning of absence by the employee. The School will then inform the Trust HR Support Officer of the employee's absence.

## **9. Return to Work**

9.1 If the Head Teacher/Head of School has any concerns about the employee's fitness to return to work, they will contact the Trust HR Provider/Occupational Health Service, for advice.

9.2 Following each period of absence the line manager should meet with the employee within 3 working days and undertake a return to work meeting. This helps to identify short-term absence problems at an early stage and provides the opportunity to discuss any underlying issues that may be causing the absence so they can be addressed before they escalate. The meeting with the line manager should be held at a mutually convenient date and time and a brief summary of the discussion should be recorded on the Trust's Sickness Management form (see Appendix 1) which will be sent to the line manager by the Trust HR Support Officer.

### *Stress Risk Assessment*

9.3 A Primary Risk Intervention System has been developed for use by Head Teachers/Head of Schools. This should be used as part of the return to work discussion following any sickness absence that could be stress-related (due to alleged work or personal circumstances), or prior to the employee's return to work when the return may result in a potentially stressful situation for the employee.

9.4 The assessment aims to identify the hazards and the appropriate preventative and support measures to facilitate staff well-being at work.

## **10. Sickness Absence Review Meetings – Short Term Sickness Absence**

10.1 Review meetings are intended to be supportive in that they allow the School and employee to discuss the absence and to see if there is any help or support the Trust can give the employee.

10.2 Although it is important to allow flexibility according to the circumstances of each case, the School must ensure that they have a formal sickness absence review meeting with the employee once the absence reaches specific 'trigger points'.

10.3 The management of short-term sickness absence has three distinct stages:-

Stage	"Trigger" for formal action	Sanction
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Stage One	Three or more separate occasions or has a total of 10* or more days in a six month period (calculated on a rolling basis)	First Absence Notification
Stage Two	If after a Stage One meeting subsequent absences occur for a further two or more separate occasions or 8* or more days in a six month period (calculated on a rolling basis)	Final Absence Notification
Stage Three	If after a Stage Two meeting subsequent absences occur for a further two or more separate occasions or 6* or more days in a six month period (calculated on a rolling basis)	Potential termination of employment on Medical capability grounds

10.4 \* For part-time staff the number of days' absence will be calculated on a pro-rata basis for the purposes of monitoring against the above trigger points. For the purposes of this policy an employee will only be classed as part-time if they normally work less than full-time during term time.

10.5 Once an employee has hit a trigger under Stage One or Stage Two of the policy they may receive a warning called an Absence Notification. Termination of employment due to short-term absence will usually only be considered when an employee has received a Stage One and Stage Two Absence Notification and the trigger within Stage Three is hit.

10.6 The Trust provides a guide on the "triggers" to short-term sickness absence. However, where the Trust has concerns regarding an on-going pattern of sickness absence the Trust reserves the right to amend the "triggers" in such cases. Employees will be notified of these concerns and the adjustment to the triggers for short-term sickness in such cases.

10.7 Additionally, the Trust reserves the right to enter this procedure at any stage with due consideration of the employment history and sickness record of the employee and any previous actions taken under this procedure.

10.8 Hence, where an individual has previously been subject to a Stage One meeting and following cessation of the formal process their absence deteriorates again, the Trust reserves the right to re-institute this procedure at Stage Two. Where the Trust remains concerned about an individual's short-term sickness record, it may extend Stage One or Two for a period of three months.

10.9 All staff have the right to be accompanied by a Trade Union representative or workplace colleague to any formal meeting or review detailed in this policy.

10.10 Prior to any Stage Three meeting the Trust will make a referral to the Trust's Occupational Health provider or an external medical advisor to establish if there are any underlying medical issues and to provide support to the employee.

10.11 The Trust recognises that there may be occasions where an underlying condition, which is considered a disability, is the cause of cases of short-term sickness absence. In such cases, the Trust may adjust the trigger points appropriately following a Stage One meeting. However, it is important to reiterate that this process is a supportive measure and as such the meetings held in accordance with this policy allow discussions surrounding reasonable adjustments and support to take place.

### **Stage One and Stage Two Meetings**

10.12 Once a trigger has been hit the employee will be invited to the formal sickness meeting under this policy. Notification of the meeting will be sent at least seven calendar days prior to the meeting and will confirm/detail:

- The nature of the concern(s)
- The fact that the meeting is being held under the Trust Sickness Management Policy and that a copy of this is available on the Trust website
- The employee's right to be accompanied by a Trade Union representative or workplace colleague
- That the manager may be accompanied by a representative of the HR Team
- The sickness pattern which has led to a formal instigation of the relevant Stage of the policy
- Copies of any medical information or reports received from the Occupational Health provider
- The sickness record of the employee for their entire employment or last five years (whichever is the shorter)
- That the employee has hit a trigger and could be issued with a warning called a sickness notification.

10.13 The purpose of the meeting will be to:

- Establish any common theme to the absence and seek to address this with the employee
- Confirm that there is a need to achieve a significant and sustained reduction in sickness absence and this will be the principle consideration for both the manager and the employee
- Allow an opportunity to review the employee's sickness record over their entire employment with the Trust or the last five years (whichever is the shorter) and to highlight any emerging patterns, e.g. falling just before or after weekends or school closure periods. The Trust may also review discretionary leave of absence if this is felt to be impacting on the employee's attendance
- Provide an opportunity to outline/review the support available to the employee and discuss the support detailed in this document
- Identify any adjustments which could be made to the working environment to achieve a sustained improvement in attendance
- Seek the employee's views on any actions the Trust could take to support a significant and sustained reduction in sickness absence
- Confirm that the employee is under formal review for sickness absence, that a significant and sustained reduction in absence is required and detail the review period for such a reduction in sickness absence

- Outline the improvement required and the timescales for this.

10.14 Authority to take action under each stage of the procedure is detailed in the table below. This shows the lowest level of manager who can take action under the policy but this does not preclude a more senior manager taking these actions if appropriate.

10.15 Where an employee wishes to appeal against an absence notification then they should do so in writing to the next most senior manager in the chain within 14 calendar days of the absence notification being issued. Please refer to the section on appeals (section 14) for further information.

Stage	Action	Authorised Manager (Teaching & Support Staff)	Authorised Manager (Centrally Employed Trust Staff)
Stage One	First Absence Notification	Line Manager / Head Teacher / Head of School or CEO	CEO or another Senior Manager
Stage Two	Final Absence Notification	SLT Line Manager / Head Teacher / Head of School or CEO	CEO or another Senior Manager
Stage Three	Termination of Employment	Head Teacher / Head of School or CEO	CEO or Board of Trustees (Committee A)

### ***Review Meeting***

10.16 The formal review meeting will be held with the employee at the conclusion of the review period which will identify whether the employee is meeting the requirement for a significant and sustained reduction in sickness absence.

10.17 The Trust reserves the right to bring forward such a review if the employee's sickness record is demonstrating that there is no significant and sustained reduction in the employee's sickness absence.

10.18 The review meeting will ascertain whether the employee has:

#### **a) A Sustained and Significant improvement in Attendance**

Where an employee shows sustained and significant improvements they will be informed:

- **Stage One Review** - that the formal procedure is concluded and the employee will be removed from the Short-term Sickness Absence process.
- **Stage Two Review** - that they are meeting the requirements for a significant and sustained reduction in sickness absence and that the formal process will revert to Stage One and, subject to a sustained improvement at the end of the Stage One process the employee will be removed from the Short-term Absence process.

#### **b) Failed to demonstrate a Sustained and Significant Improvement**

Where the employee does not meet the required standard and there is no significant and sustained improvement, the employee will be notified that the matter will be escalated with the Short-term Absence process:

- **Stage One Review** - escalated to a Stage Two meeting, however, in exceptional circumstances the Trust reserves the right to take the matter to a Stage Three meeting. This will usually be where an employee has had a poor attendance period over an extended period or short service.
- **Stage Two Review** - escalated to a Stage Three meeting.

### **Stage Three Meeting**

- 10.19 Should the employee show no or insufficient improvement during a review period, a Stage Three meeting will be arranged within 14 calendar days of the written notification to the employee of the outcome of the Stage Two review (in exceptional cases Stage One).
- 10.20 The Trust reserves the right to bring forward any such review if the sickness record is demonstrating that there is no significant and sustained reduction in sickness absence.
- 10.21 The Stage Three meeting will be convened to consider whether there is any additional support or adjustments which could be considered to assist the employee to be able to return to work and/or maintain a satisfactory attendance or if their employment should be terminated on Medical Capability grounds. The meeting will be chaired by the Head Teacher/Head of School. Another senior manager within the Trust may conduct the meeting in the absence of the Head Teacher/Head of School in line with the Trust's Scheme of Delegation. A member of the Trust's HR provider will support the Head Teacher/Head of School at the Stage Three meeting.
- 10.22 The Trust will write to the individual by Recorded Delivery and First Class Post to invite them to the Stage Three meeting. If the individual would prefer another method of communication (i.e. work or home e-mail) they must notify the Academy of their preference. In addition to informing the employee of the purpose and arrangement for the meeting the communication will confirm that the Trust is considering termination of employment.
- 10.23 If the employee fails to attend the Stage Three meeting the Head Teacher/Head of School will decide whether to proceed in the employee's absence or to reconvene the meeting at another time. Before such a decision is taken, attempts should be made to contact the employee to ascertain the reason for his/her absence.
- 10.24 If the Head Teacher/Head of School decides to proceed with the meeting in the employee's absence, the representative of the employee can attend the meeting to either present the employee's case or simply observe the proceedings. The postponement of the meeting will be allowed on one occasion. If the employee is still unable to attend the meeting, they should be provided with the option of either making written submission to the Head Teacher/Head of School, or briefing their representative sufficiently to allow them to adequately represent their wishes and views in the meeting.
- 10.25 At this meeting the Head Teacher/Head of School will consider all the evidence relating to the case, reviewing the actions and support taken at previous stages. Managers involved in earlier Stages of the procedure may be asked to attend the meeting if required to answer questions or present information. The Head Teacher/Head of School will seek the views of the employee and what improvement is demonstrable:



a) **Some notable improvement has been made but the significant and sustained reduction in sickness absence has not yet been met.**

In such cases, serious consideration will be given to extending the review period once, for three months and deferring the meeting. Following the extension of the review period, and where the employee is meeting the requirement for a sustained and significant reduction in sickness absence, the formal process will revert to Stage Two of the process.

b) **Significant and sustained reduction in sickness absence as required by the Trust has not been made.**

Where the Head Teacher/Head of School has considered the evidence and determines that there has not been a significant and sustained reduction in sickness absence and that the employee's sickness absence falls below that which can be reasonably expected of staff, then s/he may give notice of dismissal to the employee and provide details on the individual's right of appeal.

10.26 The employee will be notified of the decision at the Stage Three Meeting in writing within seven calendar days of the meeting. If applicable the letter will specify the reasons for dismissal, the date on which the employment will end and the right of appeal against the dismissal or the notice of dismissal in accordance with section 14 of this policy.

10.27 A flow chart summarising the Short-term Sickness Absence Procedure is attached at Appendix 2.

### ***Frequent Periods of Sickness Absence***

10.28 If the employee has returned to work but hits or continues to hit the sickness triggers following further periods of sickness absence, the Head Teacher/Head of School should continue to arrange a formal review meeting every four weeks (from the date of the last meeting), unless agreed otherwise with the Trust's HR Provider.

10.29 At these meetings, the Head Teacher/Head of School must continue to check progress in terms of the employee's health, discuss the pattern and extent of sickness absence; previous sickness absence record/medical history, the affect of the absences on the Trust and any appropriate management interventions. Clear objectives/targets for action prior to the next review meeting should be set, recorded and issued to the employee.

10.30 Where the Occupational Health Doctor advises that there is an underlying medical condition that justifies absence from work, or indeed where the Occupational Health Doctor advises that there is no underlying medical condition but there is equally no doubt that the absences have genuinely been for sickness reasons, the Head Teacher/Head of School must advise the employee that the Trust will do everything reasonable to help them to improve their levels of sickness absence. However, they must also advise the employee sensitively that if there is not a substantial and sustained improvement in attendance, their employment may be at risk.

10.31 When the Trust cannot reasonably continue to tolerate high levels of sickness absence and all reasonable options have been exhausted, the Head Teacher/Head of School must contact the Trust's HR Provider to discuss future employment implications and appropriate case management (although it is again important to consider on a case-by-case basis whether there is a need for flexibility and any implications under the Equality Act).

### ***Concerns about Genuine Nature of Sickness Absence***

10.32 If the Head Teacher/Head of School has concerns relating to the authenticity or circumstances of any sickness absence, the case may become a conduct issue to be addressed under the Trust's Disciplinary Procedure. The Head Teacher/Head of School must contact the Trust's HR Provider to discuss this and seek advice from Occupational Health prior to taking any action.

## **11. Sickness Absence Review Meetings – Long Term Sickness Absence**

11.1 Long-term absences are generally defined as being 20 working days or longer or where the date of the person returning to work is unclear. In exceptional cases, where the employee has a chronic underlying medical condition which results in a number of short-term absences in quick succession the Trust may decide to follow the Long-term Procedure rather than the Short-term one

11.2 If the employee's absence continues, the Head Teacher/Head of School should arrange a review meeting with the employee every four weeks (from the date of the last meeting), unless agreed otherwise with the Trust's HR Provider.

11.3 At these meetings, the Head Teacher/Head of School must continue to check progress in terms of the employee's health and likely return to work date, discuss feedback on any management interventions and agree further interventions where appropriate.

11.4 The Head Teacher/Head of School should set clear objectives/targets with the employee in terms of the action required prior to the next review meeting. These must be recorded and issued to the employee.

11.5 The Head Teacher/Head of School must also advise the employee that the Trust will do everything reasonable to facilitate a return to work. However, they must also advise the employee sensitively that if the absence continues, their employment may be at risk. Section 14 provides further information on the termination of employment on Medical Capability grounds.

## **12. Management Interventions**

12.1 It is essential that Head Teachers/Head of Schools manage any sickness absence appropriately, consistently and effectively.

12.2 A sickness absence review meeting to discuss appropriate management intervention must generally be convened once an employee has met a sickness trigger point. However, this does not prevent Head Teachers/Head of Schools from recommending and accessing appropriate interventions before the employee reaches the trigger points if this would be helpful.

12.3 Any one, or a combination of interventions, may be appropriate depending on each case and may be repeated during the course of the absence (or on the employee's return to work where appropriate). Head Teachers/Head of Schools should discuss relevant interventions with the Trust's HR Provider.

### ***Counselling Services***

12.4 Employees may find it helpful to access counselling services to discuss any work related or personal difficulties that may be contributing to the absence. The Trust has an external

contract providing free, confidential telephone or face-to-face counselling sessions to all Trust employees. Further details are available from the Head Teacher/Head of School.

### ***Occupational Health***

12.5 The Trust's Occupational Health Service provides up-to-date, professional medical advice to Head Teachers/Head of Schools / teachers to help them to make informed decisions about an employee's health in relation to their work. Occupational Health can: -

- advise on how best to manage the case from a medical perspective
- advise whether the employee has a disability under the Equality Act definition and recommend reasonable adjustments as appropriate
- advise whether the employee would benefit from a referral to physiotherapy services □ advise whether a phased return to work, temporary alternative work, reduced duties or adjustments would be appropriate
- ask the employee for permission to access information from their doctor or specialist and for permission to disclose relevant information to appropriate management

12.6 It is important to emphasise again that Head Teachers/Head of Schools do not need to wait until the employee has reached a trigger point before they can refer them to Occupational Health. Indeed, an early referral is invariably helpful for all concerned.

12.7 Failure to attend an Occupational Health appointment without a valid reason may result in loss of pay and decisions about continued employment being based on information available at that time.

### ***Physiotherapy Services***

12.8 Employees may access free physiotherapy sessions, subject to it being available and subject to approval from Occupational Health.

### ***Phased Returns***

12.9 In appropriate cases where an employee has had long-term sickness absence, the Trust may suggest a 'phased return' to work. This enables employees to return to work initially on reduced hours to ease the transition and can facilitate an early return.

12.10 This needs to be agreed via Occupational Health and will be subject to time limits and a work pattern recommended by Occupational Health and agreed by the Head Teacher/Head of School and the employee, according to individual circumstances. Employees will not receive less pay than they would have if they had remained absent from work due to sickness.

12.11 In some cases, the employee and Head Teacher/Head of School may agree that the employee will use other relevant leave available to reduce the amount of time at work for the first few weeks following the return to work. Alternatively, they may agree that the employee will have a temporary reduction in hours, with the employee just being paid for the time worked.

### ***Temporary Alternative Work / Reduced Duties / Adjustments***

12.13 An employee may be unable to return to their contracted job due to illness or injury but their Doctor or Occupational Health may feel that they are able to return to work to a different job in the Trust on a temporary basis– i.e. the "fit note" as opposed to a "sick note" concept.

Alternatively, an employee may be able to return to reduced duties or following other reasonable adjustments to their contracted job on a temporary basis.

12.14 In such cases, the Trust will make the necessary arrangements so that the employee can return to work as soon as possible. Any such arrangements will generally remain in place until the employee is able to resume the full duties of their substantive post.

### **13. Conduct Cases**

13.1 Sickness absence may become a conduct issue to be addressed under the Trust's Disciplinary Procedure if the employee has an absence or patterns of self-certificated sickness absence (or indeed absence certified by a sick note) that cause management concern in terms of the authenticity or circumstances of the absence. However, managers must seek advice from the Occupational Health Doctor/Adviser to check that there is no known underlying medical condition and also discuss the case with the Trust's HR Provider before taking any action in this respect.

13.2 A potential conduct case involves an investigation into the absence(s) and may result in sanctions up to and including dismissal, the non-payment of occupational and statutory sick pay and a break in pensionable service equivalent to the period of unauthorised absence. Employees have a right of appeal against any disciplinary sanction issued.

13.3 Other issues that could lead to action under the Trust's Disciplinary Procedure are:

- failure to comply with this policy/procedures
- engaging in activities that might delay recovery or exacerbate the illness or injury
- engaging in other employment whilst absent due to sickness (unless the nature of the illness prevents them from working in one employment contract but not in others)

Further information is available from the Trust's HR Provider and the Trust's Disciplinary Procedure.

### **14. Medical Capability Cases**

14.1 Generally, if a period of long term sickness absence reaches the four month stage and the Occupational Health Doctor/Adviser advises that there is no possibility of a return to work before the employee has been absent for six months and the employee's job can no longer be kept open, the Head Teacher/Head of School must contact the Trust's HR Provider to discuss possible dismissal on capability grounds, given that the employee is unable to do their job because of their illness.

14.2 Subject to advice from the Trust's HR Provider, it may also be appropriate to consider possible dismissal on these grounds where an employee has frequent periods of absence and the Occupational Health Doctor/Adviser advises that there is an underlying medical condition that justifies absence from work (or indeed where the Occupational Health Doctor/Adviser has advised that there is no underlying medical condition but there is equally no doubt that the absences have genuinely been for sickness reasons) but all reasonable options have been exhausted and the Trust cannot reasonably continue to tolerate such high levels of sickness absence.

14.3 However, it is important to consider the full circumstances on a case-by-case basis to assess whether there is a need for flexibility and to ensure that all reasonable action has been taken (i.e. all relevant avenues have been explored, including any implications under the Equality Act).

14.4 A Medical Capability hearing will be convened to consider the continued employment of the member of staff will be held with the Head Teacher/Head of School. Another senior manager within the Trust may conduct the hearing in the absence of the Head Teacher/Head of School in line with the Trust's Scheme of Delegation. A member of the Trust's HR provider will support the Head Teacher/Head of School at the hearing.

14.5 The Trust will write to the individual by Recorded Delivery and First Class Post to invite them to the hearing. If the individual would prefer another method of communication (i.e. work or home e-mail) they must notify the Academy of their preference. In addition to informing the employee of the purpose and arrangement for the hearing the communication will confirm that the Trust is considering termination of employment.

14.6 If the employee fails to attend the Medical Capability hearing the Head Teacher/Head of School will decide whether to proceed in the employee's absence or to reconvene the meeting at another time. Before such a decision is taken, attempts should be made to contact the employee to ascertain the reason for his/her absence.

14.7 If the Head Teacher/Head of School decides to proceed with the hearing in the employee's absence, the representative of the employee can attend the meeting to either present the employee's case or simply observe the proceedings. The postponement of the meeting will be allowed on one occasion. If the employee is still unable to attend the meeting, they should be provided with the option of either making written submission to the Head Teacher/Head of School, or briefing their representative sufficiently to allow them to adequately represent their wishes and views in the meeting.

14.8 At this meeting the Head Teacher/Head of School will consider all the evidence relating to the case, reviewing the actions and support taken at previous stages. Managers involved in earlier Stages of the procedure may be asked to attend the meeting if required to answer questions or present information. The Head Teacher/Head of School will seek the views of the employee and consider:

- The medical evidence available to the Trust at the time of the hearing
- Any reasonable adjustments that can be made to facilitate a return
- Evidence from the welfare meetings
- Whether a date for return to work can be established within a reasonable timescale

14.9 Where the Head Teacher/Head of School has considered the evidence and determines a return to work within a reasonable timescale cannot be established then the panel may give notice of dismissal to the employee and provide details on the individual's right of appeal.

14.10 The employee will be notified of the decision to terminate their employment on the grounds of medical capability within seven calendar days of the hearing and will specify the reasons for dismissal, the date on which the employment will end and the right of appeal against the dismissal or the notice of dismissal in accordance with the information below.

14.11 Alternatively, if the Head Teacher/Head of School considers that the employee will be able to make a successful return to work within a reasonable timescale then he/she may decide to postpone a final decision for a period of up to three months.

## **Right to Appeal against an absence notification, dismissal or notice of dismissal**

14.12 Where the employee wishes to appeal against an absence notification, dismissal or notice of dismissal they should write within 14 calendar days to the Authorised Manager. The employee should state, in their written communication:

- The grounds for the appeal, (these grounds will normally be an error in procedure or error in fact or error in law)
- Supply sufficient details to support the grounds of appeal

14.13 The relevant levels of authorisation for each stage of the procedures are summarised in the table below:

<b>Level of Caution</b>	<b>Authorised Manager (Teaching/ Support Staff)</b>	<b>Appeal to (Teaching/ Support Staff)</b>	<b>Authorised Manager (Centrally Employed Trust Staff)</b>	<b>Appeal to (Centrally Employed Trust Staff)</b>
First Absence Notification	Line Manager / Head of School / Head Teacher / CEO	Head of School / Head Teacher / CEO or Board of Trustees (Committee B)	CEO or another Senior Manager	CEO or Board of Trustees (Committee B)
Final Absence Notification	SLT Line Manager / Head of School / Head Teacher / CEO	Head of School / Head Teacher / CEO or Board of Trustees (Committee B)	CEO or another Senior Manager	CEO or Board of Trustees (Committee B)
Termination of Employment	Head of School / Head Teacher / CEO	CEO or Board of Trustees (Committee B)	CEO or Board of Trustees (Committee A)	Board of Trustees (Committee B)

14.14 The employee will be given preferably at least 5 working days' notice of the date of the appeal hearing in writing. They have the right to be accompanied to the hearing as specified previously. The appeal panel will impartially review the sanction imposed.

14.14 If an employee cannot attend because of illness their Trade Union Representative could attend in their absence. Where an employee confirms they do not wish to attend the hearing it should go ahead in their absence and a decision be based on the evidence available.

14.15 On the conclusion of the Appeal process, the employee's rights of appeal within the Trust are concluded.

### **Teachers' Pension Scheme (TPS)**

14.16 To qualify for benefits under the TPS regulations, employees must have at least two years' pensionable employment.

14.17 Ill health benefits can be granted under the TPS if the employee is assessed as being permanently incapable of any teaching until normal retirement age (60 for employees in the TPS prior to 1st January 2007 and 65 for employees joining the TPS after this date, subject to transitional arrangements).

14.18 There are two different levels of benefit that can be awarded: -

*Total Incapacity Benefit (TIB)* – this is awarded to an employee assessed as being unable to undertake any type of gainful employment, for which enhanced benefits are payable.

*Partial Incapacity Benefit (PIB)* – this is awarded to an employee assessed as being permanently unable to teach but able to do other work. Benefits payable are not enhanced.

### ***Local Government Pension Scheme (LGPS)***

14.19 To qualify for benefits under the three-tier ill health system for employees introduced by the Local Government Pension Scheme (LGPS), employees must have at least three months' LGPS membership, or have had a transfer of pension rights into the LGPS.

14.20 For all three levels of benefit, an independent doctor must judge the employee to be permanently unable to carry out their current job because of ill health or infirmity of mind or body (i.e. until age 65) and to have a reduced likelihood of getting full time work in the future (in any capacity) before age 65.

14.21 The doctor will also advise how long it is likely be before the employee is capable of getting 'gainful employment' (employment for not less than 30 hours in each week for a period of not less than 12 months).

14.22 Different levels of benefit are then paid depending on this decision, as follows: -

- If the employee has no reasonable prospect of being capable of obtaining gainful employment before age 65, ill health benefits are based on the membership they would have if they had stayed in the LGPS until age 65
- If the employee is unlikely to be capable of obtaining gainful employment within three years of leaving but may be capable of doing so before age 65, ill health benefits are based on the membership built up to leaving, plus 25% of the employee's prospective membership from leaving to age 65
- If the employee is likely to be capable of obtaining gainful employment within three years of leaving, or before age 65 if earlier, ill health benefits are based on their membership at leaving. Payment of this lowest or 'third tier' of ill health benefit will be stopped after three years, or earlier if the individual obtains gainful employment, or if judged capable of getting such employment.

## **15. Grievance Cases**

15.1 If an employee raises a grievance about the application of this policy in relation to their case, or due to perceived inaccuracies in sickness reporting, or against the Head

Teacher/Head of School for actions that the employee feels has caused the sickness absence, the Head Teacher/Head of School must contact the Trust's HR Provider for advice on how to progress this in relation to each specific case.

15.2 Any grievances must be investigated and heard swiftly so as not to prolong the sickness absence. Employees have a right of appeal under the Grievance Procedure.

15.3 The requirement to attend an appointment with Occupational Health or a sickness absence review meeting does not constitute a grievance.

## **16. Suspension on Medical Grounds**

16.1 If the Occupational Health Doctor advises that an employee is unfit to carry out their normal contracted duties but the employee disagrees with this, the Trust may suspend the employee on health grounds. This allows the Trust to remove the employee from any health and safety risk until the matter can be resolved.

16.2 The Head Teacher/Head of School is responsible for taking any such decision and must confirm this to the employee in writing. Suspensions will be on full pay and will not normally last more than 28 calendar days.

## **17. Health and Wellbeing**

17.1 The Trust may provide a range of health and well-being services (some of which are referred to earlier in this policy), which may include: -

- Health and Safety services
- Occupational Health Services (also available for preventative health care for employees and provides health promotion programmes)
- Counselling and physiotherapy services
- a number of policies that may help to address certain underlying causes of absence i.e. the Stress and Anti Harassment and Bullying Policies
- arrangements for covering absence from work unrelated to sickness, as detailed in the Trust's Leave of Absence Policy
- procedures for requesting changes to work patterns, locations or days of work if the employee has caring responsibilities for children or adults, or wishes to ease into retirement

Further information is available from the Academy office.

## **18. Employee Representation**

18.1 The trade unions have been consulted on this policy. They will support their members in trying to achieve a successful return to work as soon as possible and accompany and represent their members' views and cases at formal meetings relating to this and any associated policies / procedures.



## **19. Training**

19.1 All employees with supervisory/staff management responsibility should receive training on how to implement this policy effectively. Further information is available from the Trust's HR Provider.

## **20. Monitoring and Review**

20.1 Measuring and monitoring sickness absence accurately are key elements of successful sickness absence management.

20.2 All sickness absence will be monitored, including the reasons and duration. Data will be collected and analysed to identify particular patterns of absence, use of management interventions and the overall cost of sickness absence.

20.3 The Trust's HR Provider will report on all areas of sickness absence to Academies on a termly basis.

## **21. Advice**

21.1 For further advice on this policy, or if Head Teacher /Head of School have any concerns about practical application, please see the related guidance (which gives detailed background on the procedural areas of this policy), or contact the Trust's HR Provider

## Appendix 1 – Sickness Management Form

### Swift Academies Sickness Management

#### Section A – Sickness Absence Reporting

Employee name		Employee job title	
Employee number		Academy/School	

First date of sickness (inc weekend)		Half day/shift?	
Reason for absence/additional information			

Does employee hold any other jobs within the Trust?    Yes/No *Delete as applicable*

If yes, will the employee be absent from all jobs?        Yes/No *Delete as applicable*

Is absence due to work related illness/injury?            Yes/No *Delete as applicable*

Does employee hold any other jobs within the Trust?    Yes/No *Delete as applicable*

#### Section B – Return to Work details

First date of sickness		<i>If first date of sickness has changed please amend</i>	
Last date of sickness		Actual date returned to work	

Is the employee returning on a phased return?            Yes/No *Delete as applicable*

Return to work interview: Summary of discussion and action required by manager and/or employee

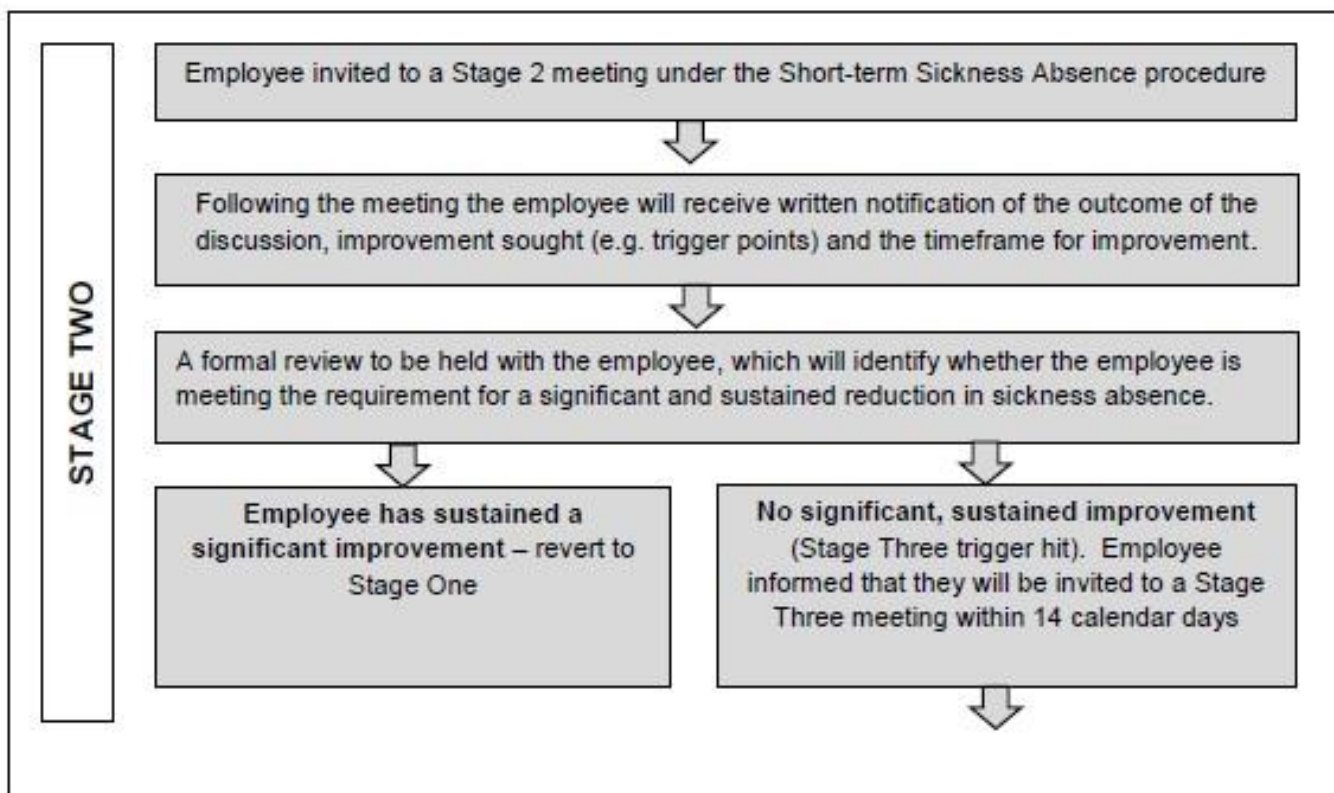
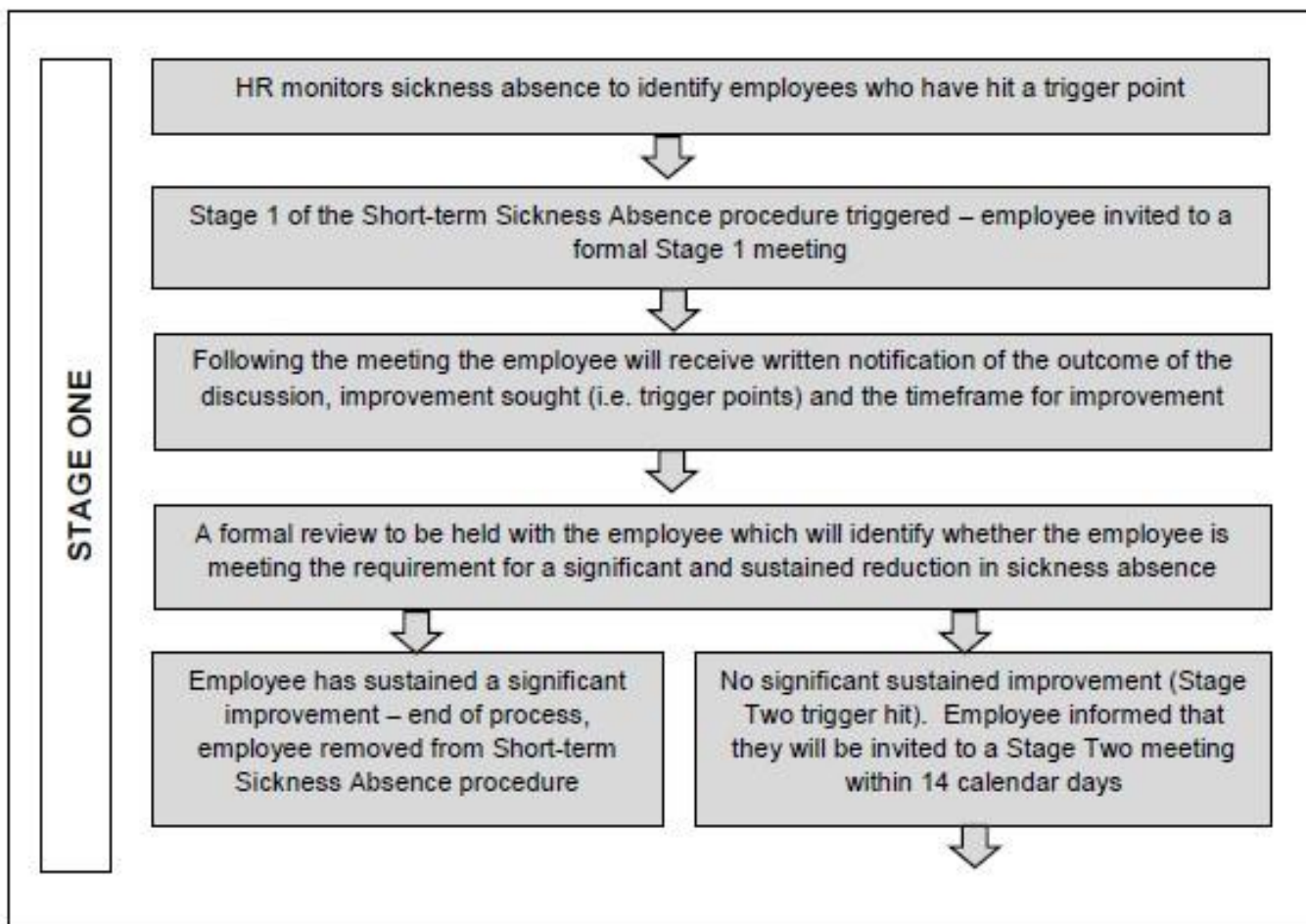
**Line Manager/Authorised Officer declaration**

The content of this form has been completed and confirmed with the employee named above during the return to work interview. The employee is aware that should they give false or misleading information, this could result in disciplinary action which may lead to dismissal.

Name of Line Manager/Authorised Officer		Date	
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Please return completed form to the Trust HR Support Officer

**Appendix 2** – Please note that on the flow chart below “Headteacher” also refers to Head of School or other employees with staff management in their responsibilities



**STAGE THREE**

Stage Three meeting with the Headteacher arranged to consider the continued employment of the member of staff

If the employee fails to attend the Stage Three meeting the Headteacher will decide whether to proceed in the employee's absence or to reconvene

Headteacher decides to proceed with the hearing in the employee's absence – the employee's representative can attend the hearing to either present the employee's case or observe the proceedings

Headteacher decides to postpone. Postponement of the hearing will be allowed on one occasion only.

The Headteacher determines:

There has not been a significant and sustained reduction in sickness absence – the Headteacher gives notice of dismissal to the employee and provide details of the employee's right of appeal.

That some notable improvement has been made but the significant and sustained reduction in sickness absence has not yet been met. Serious consideration will be given to extending the review period once, for three months and deferring the decision.

Following the meeting the employee will receive written confirmation of the decision

Employee will be invited to a formal review with the Headteacher after 3 months of the Stage 3 Meeting

The Headteacher determines:

There has not been a significant and sustained reduction in sickness absence – the Headteacher gives notice of dismissal to the employee and provide details of the employee's right of appeal.

That some notable improvement has been made but the significant and sustained reduction in sickness absence has not yet been met. The employee will revert to Stage 2 of the process.