



# **MANAGING SICKNESS ABSENCE PROCEDURE**

**September 2017**

# Managing Sickness Absence Procedure

## INTRODUCTION

Radius Trust is committed to providing a safe and healthy working environment for all its employees. We recognise that the health and welfare of our employees are key to delivering effective services. Sickness absence has an adverse impact on the quality of services provided to our pupils/students and affects the workload of other employees. As such, Radius Trust expects excellent standards of attendance from all its employees.

The sickness procedures have been designed to:

- enable Heads/Principals/Managers to manage sickness absence effectively;
- ensure acceptable standards of attendance at work;
- promote a healthy and safe working environment for all employees;
- enable a fair and consistent application of the sickness procedures;
- ensure that employees understand their responsibilities under the procedures;
- provide high standards of employee wellbeing and provision of support.

## GENERAL PRINCIPLES

### Confidentiality

Heads/Principals/Managers and employees must treat all information about any employee's medical or personal situation with sensitivity and in strict confidence. A breach of confidentiality could result in disciplinary action.

### Medical appointments

You are not granted time off for routine visits to the doctor, dentist and opticians. You must make these appointments in your own time.

When given a specific appointment during your normal working hours e.g. hospital, consultant etc. tell your Head/Principal/Manager, giving reasonable notice. You will be given time off to attend appointments like these subject to production of an appointment card or letter or other evidence. Your Head/Principal/Manager will then determine if cover or work reallocation is needed.

### Records and monitoring

Heads/Principals/Managers must record all periods of sickness absence.

Time off for hospital appointments by employees with an underlying medical condition or disability will be recorded separately and not as sickness absence. Sickness arising from the medical condition or disability will be recorded as normal.

Radius Trust will monitor the procedure to ensure it is properly implemented and is being applied consistently and fairly.

### **Representation**

Employees have the right to be accompanied and represented by a work colleague or trade union representative at all stages in the managing sickness absence procedure. Employees are responsible for arranging this representation.

### **Induction, supervision, appraisal and performance management**

As part of the induction process Heads/Principals/Managers will ensure that new employees understand the sickness procedures and the importance of attendance at work.

Attendance will be monitored as part of the normal day to day management and supervision processes.

Where an employee's attendance is under review, circumstances relating to their health and attendance at work will be considered when reviewing and setting objectives as part of the normal induction/appraisal/performance management process.

### **Timescales**

Timescales within this procedure should be followed. They can be varied in exceptional circumstances, for example, when awaiting a consultant's report. When they are varied, the Head/Principal/Manager will write to the employee confirming the new timescale and the reason for departing from the timescales within the procedure.

### **Other forms of authorised absence**

Employees are reminded that any absence must be authorised. If the reasons for absence are not due to illness, correct authorisation procedures for time off must be followed. Failure to follow procedures may result in an absence being treated as unauthorised and may render an employee liable to further action.

Heads/Principals/Managers will ensure that all employees are aware of parental leave provisions and additional leave, which are granted at Radius Trust's discretion. HR can be consulted for information relating to different types of leave.

Heads/Principals/Managers must ensure that the reasons for absences are recorded accurately and clearly and are fully up to date.

Under current employment law, it is automatically unlawful to discriminate against or dismiss a woman for reasons of sickness absence related to her pregnancy.

### **Breaches of the Sickness Procedure**

Employees must follow Radius Trust's sickness absence procedure. Any breach of the procedures may result in disciplinary action.

Circumstances in which a failure to follow procedures occurs could result in disciplinary action being taken. These include:

- abuse of the sickness absence procedures including falsification of sickness records and certificates;
- not following the procedure for reporting absence when an employee could reasonably be expected to do so;
- unreasonable refusal to explain an absence.

This list is not exhaustive and employees are encouraged to seek advice from HR and/or their trade union representative if they are unsure about what to do.

### **Disability**

A disability is a mental or physical impairment, which has a substantial and long-term adverse effect on a person's ability to carry out normal day-to-day activities. The Equality Act 2010 covers people, who have (or have had) such a disability.

The Equality Act 2010 makes it unlawful for an employer to unjustifiably treat a disabled person less favourably than a person who is not disabled for any reason related to the person's disability. This includes protection for employees with cancer, HIV or multiple sclerosis from the point of diagnosis.

The Act requires employers to consider all reasonable adjustments in the work place which would enable an employee to continue working. Radius Trust will ensure that all reasonable adjustments are fully considered.

### **Health and Safety**

The Health and Safety at Work Act 1974 requires all employers to ensure, as far as is reasonably practicable, the health, safety and welfare at work of all employees and to maintain a safe and healthy working environment.

### **Accident, industrial injury or assault at work**

Under the Reporting of Injuries, Diseases and Dangerous Occurrences Regulations 1995 (RIDDOR), employers have a legal duty to report to the Health and Safety Executive (HSE):

- major injuries e.g. broken arm;

- accidents leading to an absence of more than 7 days (including non-working days) – absences of over 3 days must be recorded;
- dangerous occurrences e.g. collapse of scaffolding;
- occupational diseases e.g. dermatitis caused through a work activity.

Further details can be found in the Health & Safety Policy.

Employees must complete an Accident/Incident Report form and an Industrial Injury claim form, if appropriate, as soon as possible after the occurrence.

The Head/Principal/Manager, with advice from the Health and Safety Adviser, will assess whether the circumstances arising from an incident, accident or verbal/physical abuse/assault should be treated as an industrial injury.

The Head/Principal/Manager will:

- consider how the accident or incident occurred;
- obtain information from any witnesses;
- investigate working practices or systems of work including carrying out a risk assessment;
- check training records and level of supervision;
- seek advice and guidance from insurers;
- involve the local Health and Safety representatives.

Absences following an accident, incident or instance of verbal or physical violence at work will be recorded as sickness absence but will not affect an employee's normal sick pay allowance. For teachers, further information can be found in section 9 of the Burgundy Book.

### **Third party accident related sickness absence**

An employee who is absent as a result of an accident where damages may be receivable from a third party will be paid Occupational Sick Pay which will be treated as a loan. It is a requirement of receiving this 'loan' that an employee signs a form of undertaking to include a special damages claim for the full extent of the 'loan' in any claims for damages made against a third party, and to refund to Radius Trust the amount of damages received in respect of such payment.

### **Infectious diseases**

Under teachers' conditions of service, when an approved medical practitioner confirms that there is evidence to show a reasonable probability that an absence was due to an infectious or contagious illness contracted directly in the course of a teacher's employment, full pay should be allowed for the agreed period. Such absence should not be counted against the teacher's entitlement to sick leave. For teachers, further details are available in section 10 of the Burgundy Book. It should be noted that, for consistency, consideration should be given to treating support staff in the classroom in the same way.

## **Stress at work**

Radius Trust is committed to developing stress management strategies and support for managers and employees to assist them in recognising the causes of stress and ways to manage it.

Heads/Principals/Managers and employees should be alert to the signs of stress. Further information and advice is available from HR, Local Authority Corporate Health and Safety Units, the Occupational Health Service and the Employee Assistance Programme.

## **ROLES AND RESPONSIBILITIES**

### **All staff have a responsibility to:**

- attend work;
- follow sickness absence reporting procedures (see below);
- complete the sickness absence form after any period of absence;
- provide a Statement of Fitness for Work (fit note) for any absence of more than 7 consecutive days.

### **Heads/Principals/Managers have a responsibility to:**

- implement Radius Trust's Managing Sickness Absence Procedure;
- ensure the procedure is applied fairly and consistently whilst taking account of individual circumstances and needs;
- regularly check and act upon sickness information;
- consider the information provided by the doctor in the fit note, seeking advice from HR about any modifications suggested by the doctor on the fit note\*;
- ensure a 'welcome back' meeting takes place when an employee returns to work after sickness (full details given on page 9).

\*where the doctor has suggested a phased return and this is agreed, it should normally be limited to a maximum of six weeks, but could be less. The return should be monitored throughout the period to ensure that it is working as intended.

## **MANAGING SICKNESS ABSENCE PROCEDURE**

### **What you should do if you are unable to come to work due to sickness**

Radius Trust is committed to providing effective services for our pupils and students. Managing absence is essential in achieving this aim.

If you are unable to come to work because you are sick, you must make every effort to contact your Head/Principal/Manager. You should follow the correct procedure as agreed by your school. You should telephone to report your absence – only ask someone to make contact on your behalf in extreme circumstances. Your Head/Principal/Manager needs to know what is wrong and, if possible, how long you are

likely to be away. If your Head/Principal/Manager is not available, speak to a nominated officer within your school – your manager is responsible for identifying who this is.

If you are absent for more than 7 calendar days you must produce a doctor's fit note and contact your Head/Principal/Manager again with your expected date of return. You should continue to produce fit notes throughout your period of absence.

On your return, your Head/Principal/Manager will give you a Sickness Absence Certificate to complete and return.

Your Head/Principal/Manager will record the dates and number of working days you are away and the reason why. HR will send this record to the payroll provider at the end of each month

If you are expected at work and do not arrive and you haven't contacted your school, your Head/Principal/Manager may telephone your home or mobile number to find out if there is a problem. This will be done sensitively.

Employees who leave part way through the day should record absences as follows:

- Leaves before completing 1.5 hours: 1 day sickness absence
- Leaves half way through their normal working day: half day sickness absence
- Leaves within final hour of their normal working day: no absence recorded

When you return to work your Head/Principal/Manager will welcome you back to check that you are feeling better and tell you about anything that happened while you were away. You will complete a sickness absence certificate. Your Head/Principal/ Manager will countersign this and pass it to HR to notify your payroll provider. Original fit notes will be held by HR.

If you come to work but your Head/Principal/Manager considers you are too ill to carry out your duties, they can send you home.

Your period of absence begins as shown above. If you are still unwell the following day, please report in sick as outlined above.

### **Sickness and annual leave**

If you become ill while on annual leave (support staff) or during a Radius Trust holiday period (all staff), telephone your school in the normal way and obtain a fit note as soon as you can. If you are deemed fit to return to work during Radius Trust holiday periods, you should obtain a medical certificate to confirm fitness and send it to HR.

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

Radius Trust will normally only accept medical certificates from a GP/MD. They will accept certificates from other medical practitioners such as osteopaths if they are

accompanied by a note from the employee's GP confirming that the treatment has been recommended.

You must not alter any certificate issued by your doctor. Falsification of a doctor's certificate is a serious disciplinary offence and could result in disciplinary action including dismissal.

From April 2010 the fit note replaced the sick note. It is the form that your doctor will give you when your health affects your ability to work

The fit note allows your doctor to provide you with more information on how your condition affects your ability to work. This will help your Head/Principal/Manager to understand how they might be able to help you return to work sooner.

The changes mean that your doctor can:

- advise when you may be fit for work with some support;
- suggest common ways to help you return to work;
- give information on how your condition will affect what you can do.

The fit note can still be used as evidence for why you cannot work due to illness or an injury. You won't need the fit note as evidence until after your seventh calendar day of sickness.

Where you are eligible for Statutory Sick Pay the requirements for the payment of this will not change if your doctor recommends that you 'may be fit for work', and you and your employer agree that you should remain off work.

If you need to apply for benefit the rules and processes have not changed. If your doctor has recommended that you 'may be fit for work' you can still apply for benefit.

When your doctor provides you with a fit note they will advise you on one of two options. Either you will be 'not fit for work' or you 'may be fit for work'.

#### 'Not fit for work'

Your doctor will choose this option when they believe that your health condition will prevent you from working for a stated period of time.

#### 'May be fit for work'

Your doctor will choose this option when they believe that you may be able to return to work while you recover with some help from your Head/ Principal/ Manager.

Your doctor may include some comments which will help your Head/Principal/ Manager understand how you are affected by your condition. If appropriate, they can also suggest one or more common ways to help you return to work.



This could include:

- a phased return to work – where you may benefit from a gradual increase in your work duties or working hours, for example after an operation or after injury;
- altered hours – allowing you the flexibility to start or leave later, for example if you struggle travelling at busy times;
- amended duties – to take into account your condition, for example removing heavy lifting if you have had a back injury;
- changes to your workplace – to take into account your condition, for example allowing you to work on the ground floor if you have problems going up and down stairs.

If your doctor has indicated that you 'may be fit for work', the fit note will give your Head/Principal/Manager the information needed to begin a discussion on whether you can return to work. Your Head/Principal/Manager may consider it necessary to refer you to Occupational Health at this stage (see page 17 for further details).

The outcome of these discussions could be:

- that it is possible for you to return to work, **or**
- that it is not possible for you to return to work at this stage.

Where it is possible for you to return to work your Head/Principal/Manager will discuss with you how your return will happen, what support you will receive and for how long and whether your pay will be affected if you return to work on different hours and duties.

Where it is not possible for your Head/Principal/Manager to make the changes required to help you return to work, you will be informed of this and you will not be able to return to work until you have further recovered. You can use the fit note as if your doctor had advised you were 'not fit to work'. You will not need to see your doctor for a new fit note until this one has expired.

If you do not agree with your Head/Principal/Manager on when and how you will return to work, you should explain to them why you disagree. There may be issues which your employer was not aware of when they made their decision. If you are a member of a trade union you may want to ask your union representative to help you with this conversation, or you may wish to ask a work colleague for support. Your Head/Principal/Manager will have your and Radius Trust's best interests in mind when coming to a decision and may want to seek further advice from Occupational Health before coming to a final decision.

## **SHORT TERM SICKNESS ABSENCE**

Heads/Principals/Managers will monitor and analyse sickness absence to ensure that appropriate action is taken and that all employees are treated consistently.

### **Informal action: welcome back meeting**

Following any period of sickness absence Heads/Principals/Managers will speak to employees on their return to work. The purpose of this meeting is to:

- welcome the employee back;
- check the employee is fit to return;
- check whether there are any underlying problems;
- inform the employee about what has been happening in their absence.

The Head/Principal/Manager will take a supportive approach.

The meeting should take place at the earliest opportunity after the employee returns to work.

Employees will complete a sickness absence certificate on their first day back from sickness, which Heads/Principals/Managers will countersign.

Heads/Principals/Managers are responsible for keeping the sickness absence certificates and fit notes together with any other information about absences in their Radius Trust setting on the Trust personnel file and for informing their payroll provider of the period of absence.

### **First stage formal attendance meeting**

Heads/Principals/Managers have a duty of care towards their employees. Each instance of sickness absence will be treated on its merits. Where an employee's sickness absence causes grounds for concern, the Head/Principal/Manager will meet with the employee to investigate the reasons for the concern, including any underlying causes. An example of cause for concern might be a pattern of absence, such as regularly being absent on certain days of the week or year.

The reasons for undertaking formal action will include:

- the total absence (certified and uncertified) in a rolling 12-month period **and/or**
- the number of spells of absence in a rolling 12 month period.

Radius Trust has decided that a total of eight days or three periods of absence in a rolling year would be an appropriate measure. These triggers will be used consistently across the Trust's workforce, but may be increased for disabled staff if it is a reasonable adjustment under the Equality Act 2010 to support them to attend work.

The formal attendance meeting will be arranged as soon as possible once the process has been triggered. At least 3 days' notice in writing will be given to the employee. As it is a formal meeting, notes will be taken.

An employee may be accompanied at the meeting by a work colleague, trade union representative or trade union official.

Heads/Principals/Managers will not allow action under this procedure to be unreasonably delayed because representatives are not available.

At the end of the attendance meeting, the Head/Principal/Manager will either:

- conclude that no further action is needed at this stage **or**
- agree an action plan with the employee for improving attendance.

The Head/Principal/Manager will monitor and review the employee's attendance against the action plan. The action plan may consist of the following, which is not exhaustive:

- any support measures e.g. Employee Assistance Programme
- measurable targets
- timescales and review dates

The employee should be informed of the consequences should their attendance not improve to an acceptable level.

The decisions/actions decided by the Head/Principal/Manager should be confirmed in writing within 5 working days to the employee.

### **First stage formal review**

Where the employee's attendance has shown improvement to an acceptable standard they will be informed by their Head/Principal/Manager in a review meeting and advised to maintain an acceptable standard of attendance in the future. If the level of attendance is subsequently not sustained, the Head/Principal/Manager will arrange to meet with the employee to explore the reasons why and decide if any further action is needed.

If the employee's attendance has not improved to an acceptable standard, the Head/Principal/Manager will discuss this with the employee and explain why it is necessary to either:

- move to the second stage of the procedure. The employee needs to be advised of the seriousness of this matter in moving to a second stage, which could lead to termination of employment **or**
- exceptionally, extend the review period under the first stage formal process.

### **Second stage formal attendance meeting**

Should an employee not improve their attendance to an acceptable level after the first stage review, the Head/Principal/Manager will arrange a second stage formal meeting with the employee, giving 5 working days' notice in writing.

The Head/Principal/Manager will examine with the employee their absence record and explore with them any other reasons which may be affecting their level of attendance.

The employee has the right to be accompanied by either a work colleague, trade union representative or trade union official.

The Head/Principal/Manager will advise the employee that their attendance must improve and confirm any further actions that the employee and Head/Principal/Manager will take to achieve that improvement. A date must be agreed to review progress.

If the employee has been referred to the Occupational Health Service, any reports provided will normally be discussed with the employee.

The decisions/actions decided by the Head/Principal/Manager should be confirmed in writing within 5 working days to the employee.

### **Second stage formal review**

During the review period the Head/Principal/Manager will monitor the employee's attendance and give helpful feedback and support as necessary.

During and/or at the conclusion of the review the Head/Principal/Manager will meet with the employee to review their attendance.

The Head/Principal/Manager must have the most up-to-date attendance figures and any medical information available.

The possible outcomes of the meeting(s) are:

- The employee is informed that their attendance has improved to an acceptable level and advised that the standard of attendance must be maintained in the future. The employee's attendance will continue to be monitored and if the improvement is not sustained over a period of at least 3 months the process will move to a final stage attendance hearing. If it is not sustained for at least a year it can be referred back to a second stage formal meeting.
- There has been some improvement but a further period of monitoring and review is appropriate. The period will be relevant to the circumstances.
- There has been little or no improvement to an acceptable level and the Head/Principal/Manager decides to move to a final stage attendance hearing. The employee must be advised that their continued employment with Radius Trust may be at risk.

The decisions/actions taken by the Head/Principal/Manager should be confirmed in writing within 5 working days to the employee.

### **Third or final stage attendance hearing**

In reaching this stage of the procedure, the Head/Principal/Manager must have:

- thoroughly considered with the employee the reasons for the absences;
- explored all the available options to improve attendance;
- allowed a reasonable period of time for improvement.

The Clerk to the Governors/HR will arrange an attendance hearing. The Head/Principal, who will have had no prior involvement, will be appointed to hear the case. In cases where it has been necessary for the Head/Principal to manage the case, it will be necessary for a panel appointed by the Governing Body to hear the case and make the decision. An HR Adviser may be asked to advise. The purpose of the attendance hearing is to consider the employee's attendance record and any actions taken to enable the employee to improve their attendance.

The Clerk to the Governors/HR will write to the employee, giving at least 5 working days' notice of the arrangements for the hearing. The Head/Principal or appointed panel will conduct the hearing and an accurate record will be made. They may adjourn the meeting to carry out further investigations or agree to a reasonable request from either side to adjourn the meeting.

Radius Trust must ensure that any relevant medical advice and documentation obtained is included within the material available at the hearing. If no recent relevant medical advice is available then the Trust must consider whether any further more up to date information should be sought, which may include advice from an independent Specialist Medical Adviser where appropriate.

### **Format for the hearing**

The Head/Principal or Chair of the appointed panel will explain the purpose of the hearing, how it will be conducted and what the outcomes may be.

The Head/Principal/Manager, accompanied by an HR Adviser, if required, will present information on the circumstances of the case and the actions taken to help the employee to improve their attendance. The employee will have an opportunity to present information on their attendance record and reasons why they have been unable to attend work. The employee has the right to be accompanied by either a work colleague, trade union representative or trade union official. Both the Head/Principal/Manager and employee will be able to refer to relevant supporting documentation and question and be questioned. At the end of the hearing, both the Head/Principal/Manager and employee or their representative may sum up. The Head/Principal or appointed panel will carefully consider all the information presented and any advice from the HR Adviser, if present, in reaching a decision.

### **Outcomes of final hearing**

The outcomes from a final stage attendance hearing are:

- Dismissal on grounds of capability relating to attendance.
- Exceptionally, a further period will be identified in which to improve attendance. The review period will be relevant to the circumstances of the case and will not

normally be less than 6 weeks or more than 3 months. Attendance will be monitored and reviewed on an ongoing basis and the employee will be given regular feedback. At the conclusion of the further review period a meeting will be arranged to consider what action is necessary, including dismissal on the grounds of capability relating to attendance.

- If the Medical Adviser confirms that redeployment would benefit the employee and enable them to improve their attendance, this should be explored before the employee is dismissed.

The decision will be given verbally after the hearing, if possible, and confirmed in writing within 7 working days. The right of appeal will be given.

## **LONG TERM SICKNESS ABSENCE**

Long term absence is defined as:

- a specific/unspecific medical condition or illness which is not expected to be permanent but where it is difficult to establish a return date;
- a chronic illness ( defined as likely to last more than three months where it is unlikely that an individual will recover sufficiently to return to their current job).

As a guideline six weeks' continuous absence, or a recurrence of the same illness totalling six weeks or more over a 12-month period, could be considered as long-term absence. Heads/Principals/Managers should action a referral to seek Occupational Health's view/advice as soon as possible.

### **Keeping in touch**

Heads/Principals/Managers will maintain regular contact with absent employees. This will be handled sensitively and could be in the form of telephone calls, written communication, group newsletters or work or home visits. Home visits will only be undertaken with the employee's agreement. Employees should keep their Head/Principal/Manager informed of their progress and of when they are likely to return to work.

### **Obtaining medical advice**

Where a Head/Principal/Manager is considering referring an employee to the Medical Adviser they will explain to the employee the reason for the referral and arrange the referral at the earliest opportunity. Further information on medical referrals is given on page 17 of this procedure.

### **Review**

The Medical Adviser will arrange an appointment for the employee and provide Radius Trust with information and advice on their medical condition in relation to their employment.

The Head/Principal/Manager will request that the employee attends a long term absence review meeting to share the information received from the Medical Adviser, consult with the employee and to consider whether the continued employment of the employee is reasonable in the circumstances. HR and, where appropriate, the Employee Assistance Programme may also be involved.

The options are:

#### Return to Work

1. The Medical Adviser confirms that the employee will be able to return to work on a specified date.
2. The Medical Adviser will provide details of any temporary or permanent adjustments which will aid the employee's return to work and help their recovery. The Head/Principal/Manager may also need to consider factors such as the employee's access to the workplace and where possible ensure that any reasonable adjustments/ arrangements are made to enable this to happen.
3. The Medical Adviser may suggest a phased return to work. A phased return to work would be up to a maximum of 6 weeks. This period would be on the individual's full pay.
4. If a phased return to work is suggested by the Medical Adviser, the Head/Principal/Manager will discuss with the employee how their phased return to work will be undertaken.

#### Redeployment/dismissal

1. Where the Medical Adviser advises that an employee will be unable to return to their current job for health reasons but is able to perform other duties, Radius Trust will make every effort to identify a suitable vacant position.
2. The Medical Adviser will provide advice about any restrictions on the type of work which might be considered as a suitable alternative post in the circumstances.
3. HR will look for a suitable vacancy across the organisation.
4. A meeting should be arranged with the employee to explore options and complete a skills audit.
5. It should be ensured that the employee is aware of the role of HR and the Employee Assistance Programme, not only in looking for a suitable alternative work but also for 1:1 confidential support.
6. Any potentially suitable post should be checked for appropriateness with the Medical Adviser before an offer is made.
7. Where a vacancy is identified and confirmed as suitable by the Medical Adviser, the incoming Head/Principal/Manager will prepare an induction and training plan to facilitate the move.
8. Radius Trust will endeavour to find a suitable vacant position within a period of 3 months. The employee will be given their contractual notice at the appropriate time, so that the end of their notice coincides with the end of the 3 month search. The most up to date medical advice should be sought.
9. Pay protection does not apply in cases of redeployment due to ill health.

10. If no suitable vacancy is found and the Head/Principal/Manager is contemplating dismissal on the grounds of capability due to sickness after all avenues have been exhausted, the Clerk to the Governors/HR will arrange a hearing with the Head/Principal or, in cases where it has been necessary for the Head/Principal to manage the case, it will be necessary for the a panel appointed by the Governing Body to hear the case and make the decision. The person/panel hearing the case will have had no prior involvement in the case. An HR Adviser may attend to give advice.
11. The Clerk to the Governors/HR will write to the employee, giving at least 7 working days' notice of the arrangements for the hearing. An accurate record will be made of the hearing.
12. The employee will be written to in confirmation of the outcome. Where the outcome is termination of employment, the employee will be given the right of appeal against dismissal.

#### Early Retirement on the Grounds of Ill Health

1. Where an Independent Medical Adviser confirms that an employee is permanently unfit to continue in Radius Trust's employment or any comparable local government employment, early retirement may be granted with enhanced pension benefits, assuming that the employee is a member of the Local Government Pension Scheme (LGPS) or Teachers' Pension Scheme (TPS). It should be confirmed with HR whether the employee is a member of the LGPS and entitled to benefits.
2. Teachers' entitlement to ill health retirement and benefits will be assessed by Teachers' Pensions.
3. The statutory dismissal procedures should be followed.

#### Further Review

1. The Head/Principal/Manager considers that dismissal may be appropriate. *(Note: The Medical Adviser may confirm that an employee may be fit to return to work but not in the foreseeable future and the Head/Principal/Manager cannot cover the absence indefinitely for operational reasons.)*
2. The employee will be requested to attend a further review meeting/hearing to consult about his or her medical condition and the effects of the absence on the performance of the contract of employment. A review hearing for long-term absence cases where dismissal is contemplated will not be arranged until at least **one** review meeting has taken place.
3. The employee will be invited to make any observations that they feel may be relevant to their case.

#### **Format of final review hearing**

If the Head/Principal/Manager is still contemplating dismissal on the grounds of capability due to sickness after all avenues have been exhausted, the Clerk to the Governors/HR will arrange a hearing. The Head/Principal or, in cases where it has been necessary for the Head/Principal to manage the case, a panel appointed by the Governing Body, who have had no prior involvement, will hear the case and make the



decision. An HR Adviser may be asked to attend to give advice.

The Clerk to the Governors/HR will write to the employee, giving at least 7 working days' notice of the arrangements for the hearing. Minutes will be taken of the hearing.

The employee will be written to in confirmation of the outcome and given the right of appeal. If dismissal is decided on, it should be implemented from the date of the hearing.

The Head/Principal or Chair of the Panel hearing the case will explain the purpose of the hearing, how it will be conducted and what the outcome may be.

The Head/Principal/Manager, accompanied by a HR Adviser if required, will briefly summarise the circumstances of the case and the considerations taken in reaching this final stage.

The employee has the right to be accompanied by either a work colleague, trade union representative or trade union official.

Both the Head/Principal/Manager and employee will be able to refer to relevant supporting documentation, question and be questioned. At the end of the hearing, both the Head/Principal/Manager and employee or their representative may sum up. The Head/Principal or Panel will carefully consider all the information presented and any advice from the HR Adviser, if present, in reaching a decision.

The decision will be confirmed in writing within 7 working days.

### **Appeals (short and long term absence)**

The grounds for appeal against dismissal available to employees include:

- procedural deficiency;
- suitability of redeployment opportunities;
- consideration of appropriate reasonable adjustment;
- medical opinion.

Appeals against dismissal on the grounds of capability due to ill health must be made in writing to the Clerk to the Governors within 10 working days of the receipt of the letter informing them of the decision. A panel appointed by the Governing Body for this purpose will hear appeals and may be advised by an HR Adviser. Where an employee's appeal relates to medical grounds, the Chair of Governors/Head/Principal may be asked to appoint a medical referee, assuming that advice from a Specialist Medical Adviser was not obtained or advice is not sufficiently current e.g. the circumstances associated with the original advice have changed. Radius Trust will pay the fee for a medical report as appropriate.

There will be no further right of appeal.

## **Further advice and guidance**

HR can advise on a range of issues relating to absence and to disabilities.

The Employee Assistance Programme can advise on counselling, terminal illness, stress and mental health issues.

The Occupational Health Service can provide advice and information and organise health promotions and health checks.

## **Annual leave**

Support staff will accrue statutory annual leave during periods of long term absence and are entitled to take that leave on their return to work. Account should be taken of the needs of the service when arranging for this leave to be taken. Heads/Principals/Managers could consider agreeing for a proportion of the leave in these circumstances to be carried forward to the new leave year or agreeing to pay accrued leave.

This is in line with decisions from the House of Lords and the European Court of Justice that leave can be carried over to the next financial year if it can't be taken, or the employee could receive pay in lieu.

## **Sick pay**

Heads/Principals/Managers/Governors may be asked to extend the sick pay allowance in exceptional circumstances.

## **OCCUPATIONAL HEALTH**

### **Referral to the Medical Adviser**

The role of Occupational Health is to advise Radius Trust on any medical issues affecting an employee's performance and attendance. If a Head/Principal/Manager is concerned about an employee's health relating to their work and attendance at work, the employee will be referred to the Occupational Health Service.

Circumstances which may give rise to a referral include:

- levels of absence;
- an employee's health prompts a review;
- need to identify if there is an underlying medical condition or disability;
- need for information and advice about an employee's medical condition;
- employee raises concerns about their own health and the working environment;
- accidents in the workplace which may or may not be an industrial injury;
- return to work following a long term absence;
- need for information and advice on temporary or permanent adjustments, including the suitability of redeployment, which would enable the employee to return to work;

- need for information and advice on disability and reasonable adjustments;
- information provided by the doctor in the fit note;
- the likely duration of an absence and when the employee will be fit to return to work;
- ill health retirement.

Radius Trust may refer an employee to the Occupational Health service for up to date information and advice at any stage within these procedures.

Information provided by the Medical Adviser will be used by Radius Trust to make an informed decision about an employee's future employment with the organisation.

### **Access to medical records**

The Access to Medical Records Act 1988 allows individuals to check the accuracy of medical reports prepared by a medical practitioner who has responsibility for the care of that individual. Employees will be asked to sign a consent form to allow the Medical Adviser to approach the employee's GP or consultant for information. If an employee refuses to give their consent, Radius Trust may draw their own conclusions from this refusal. Employees can elect to see any medical report before the Medical Adviser gives advice to Radius Trust based on information contained in the report.

### **Making the referral**

Heads/Principals/Managers are responsible for arranging referrals to the Medical Adviser. The Medical Adviser will need the following information:

- the employee's job description, person specification and a risk assessment which is relevant to the employee's duties and work context, including any risk to the individual and Radius Trust;
- a full record of the employee's absences;
- any other relevant information including any special needs;
- a copy of the fit note where the doctor has suggested a phased return or adjustments to be made.

Employees can be required to attend a medical examination by a medical practitioner nominated by Radius Trust. It is in the interest of employees to attend appointments with the Trust's Medical Adviser. This will enable an informed decision to be made regarding an employee's health and their continued employment with the Trust. If medical information is not available, Radius Trust will have no choice but to take action in line with the sickness procedures without medical advice on the employee's future employment. It will only be possible to rearrange the appointment given in exceptional circumstances.

## **RELATED POLICIES AND PROCEDURES**

Disciplinary Procedure

Equality & Diversity Policy  
Grievance Procedure  
Staff Code of Conduct