

Attendance Management Procedure

Improving Staff Attendance in Schools Positively Impacts on Service Delivery

At ESCC we believe in providing our employees with a healthy working environment and promoting and encouraging a healthy approach towards life

Key points

- There is an agreed procedure for managing sickness absence that must be followed. Where procedures are followed it is legitimate to dismiss an employee on the grounds of “incapability due to ill health” even where the health reason is genuine.
- It is important to manage sickness absence in a fair, consistent and compassionate way.
- Headteachers and Principals are responsible for managing attendance with support from Personnel and Training (PAT).
- CBOSS provides up to date Absence Management information and PAT will provide trigger information monthly.
- Flowcharts summarising procedure - available under the Attendance management procedure on czone.
- Additional support can be obtained via the Absence Management Toolkit, which will be available shortly.
- Access the activity log for Headteachers/Principals - available under the Attendance management procedure on czone.

Why is it important to manage attendance?

The County Council believes that employees are its most valuable resource and recognises the important contribution made by regular attendance at work to maintain high levels of service to the community.

Managing attendance is not only about ensuring that employees do not take time off work unless they have a genuine reason, it is also about providing a healthy working environment and promoting and encouraging a healthy approach towards life.

It is also important to manage attendance because of the impact staff absence can have on colleagues back in the workplace.

Whilst some staff absence is inevitable, high levels overall can be one of the many indicators of low staff morale. The Council believes that it is important to manage sickness absence in a fair, consistent and compassionate way. Acknowledging staff attendance reinforces an individual value at work and allows Headteachers/Principals

scope in identifying ways in which employees can be supported at an early stage. If absence levels are felt to be too high, Headteachers/Principals may need to review working practices and/or working conditions and/or the culture in the workplace itself.

Who takes responsibility for managing attendance?

- Headteacher/Principal

Responsible for ensuring that arrangements are in place in their schools for the effective management of attendance, which will include regular reporting to service management teams.

- Line Manager

The procedure recognises that day to day absence management issues are best handled on an individual, one-to-one basis and the person best placed to do this is the line manager. An integral part of each line manager's responsibility is to maintain accurate record keeping in order to develop a fair and consistent managerial approach to work attendance.

- The Personnel and Training Team (PAT)

- Support the effective management of attendance by providing information on absence levels and advice and support to managers on the operation of the procedures, during the formal stages (for those schools that have bought into the Employee Relations Service to Schools):

- Individual employees

Have a personal responsibility to take all reasonable measures to ensure their fitness for work. If absences are work related, employees have a responsibility to be proactive in raising concerns as part of the normal staff/Headteacher/Principal relationship.

Working conditions are regulated by Health and Safety legislation and the Headteacher/Principal are expected to ensure that all relevant legislation to protect the health and safety of its employees is complied with and all necessary protection, training and awareness is provided. The Occupational Health Service, Staff Welfare and Counselling Service and PAT Safety Advisers are available to assist Headteachers and Principals in implementing Council policies concerning the health, safety and welfare of employees.

- **Pre-employment and Probation Monitoring**

Managing absence starts at the point of recruitment and selection and it is the responsibility of the Headteacher or Principal, before making or confirming an appointment, to seek health related information from a previous employer such as number of days absence in a given period (usually 12 months or 2 years) with the number of occasions this represented and the reasons for absence. Candidates should not be appointed where previous health record causes concern. Similarly, where a newly appointed member of staff is on probation, the attendance record should be reviewed during the probationary period.

Although attendance should be monitored closely at all times, particular attention should be given to attendance levels during the Probationary Review and Appointment Support periods, as part of the supported introduction to employment procedures

The Attendance Management procedure does not cover employees working within their probationary period. They will have their attendance managed through the Probationary Review Procedure, however the same standards will apply and any breaches to targets set will result in serious consideration given to the employees continued employment.

What is the definition of a sickness absence?

A sickness absence is any absence from work where the employee is unfit through a medical condition or receiving medical treatment except in the following circumstances:

- any pregnancy related illness
- authorised unpaid or paid leave for hospital or doctors appointments at which no actual treatment is to be provided
- authorised leave for dentists appointments
- authorised annual leave

What is the management of attendance procedure?

The procedure sets a framework for managing frequent short term and long term sickness absence whilst adhering to the Council's policy on the management of attendance. The arrangements detailed in the procedure are to be followed when employees are, or have been, absent from work due to sickness.

All personal records and any discussions held relating to employees' attendance/absence must be treated in strict confidence.

• Notification of absence

- Each employee must notify the relevant person in their school as soon as they know that they are unable to attend work. Guidance should be issued to all employees and line managers to ensure that they understand their responsibilities for the notification and management of absence:

Headteachers and Principals should ensure that each employee understands the procedures for informing their line-manager of an absence from duty. They should also ensure line managers take responsibility for recording all absences on the 'notification of absence from duty' form and monitoring the absence on a regular basis. The 'notification of absence from duty' form must be forwarded as soon as possible to the Personnel Support Unit for recording on CBOSS.

Are there other policies and procedures linked to management of attendance?

Alongside the Management of Attendance Policy and Procedure there are:

- Health and Safety/Welfare policies
- Policy on Alcohol and Drugs In The Workplace
- Dignity At Work Policy
- No Smoking at Work Policy
- Stress Management Policy
- Effective Management of Poor Performance (Capability) Policy
- Disciplinary Code
- Supported Introduction to Employment

What is the DDA?

The Disability Discrimination Act 1995 (DDA) acknowledges that an employee's illness may fall within the definition of a disability:

'a physical or mental impairment which has a substantial and long-term adverse effect on his/her ability to carry out normal day to day activities'

The definition has four parts:

- the person must have a physical or mental impairment
- the impairment must have adverse effects which are substantial
- the substantial effects must be long term
- the long term substantial effect must have an adverse effect on normal day to day activities

Under the DDA, employers must consider making "reasonable adjustments" to assist employees (or potential employees) who, within the terms of the Act are disabled, to allow them to access work or continue working. This might include the re allocation of duties, the provision of physical aids or permitting different patterns of work - as long as the change is reasonable.

Guidance and advice on the Act is available from the relevant Personnel Officer who will involve the Occupational Health Department, as appropriate. Staff in Legal Services are also available to give advice on the application and interpretation of the Act. The provisions of the DDA are relevant, and should be considered at each stage and underpin the corporate procedures.

What are our absence targets?

The County Council is striving to achieve 100% attendance although we do recognise that employees will have occasional absence. We do however seek to minimise these occasions by following the attendance management procedures.

The County Council has sickness absence targets in order to reduce absence days per employee per year.

In addition, you will need to be aware of the overall absence reduction target your School/College is aiming to achieve to ensure the employee is being treated equitably.

However, there is some scope for discretion in the setting of targets. You may wish to consider utilising the County Council's absence targets or more specifically your Department's absence targets to provide employee's with an expected attendance record for the next 12 months.

Alternatively, an individual target may be appropriate, for instance, if you establish that the person has a potentially short term condition which might be fully resolved after, say, three months (with a strong possibility of frequent intermittent absences/hospital treatments which are likely to exceed the normal target figure during the recovery period), it might be more reasonable to set a further date for review rather than set a target that you know is probably unachievable.

However there will be cases where it is legitimate to issue a target of "no absences" in a given period.

- Targets for part-time staff who do not work Monday to Friday should be in proportion to, and consistent with, the targets set for full-time employees. Special consideration will need to be given to term time only patterns of work and the 3:6 rule:

'Reasonable adjustments' and target setting:

Special consideration needs to be given to absences related to staff who fall within the Disability Discrimination Act.

Special consideration also needs to be given to short-term absence that is caused by ongoing recurring illness. For example, migraines, asthma, arthritis etc.

Should a recurring illness fall under the Disability Discrimination Act your Personnel Representative in collaboration with the County Medical Advisor will give you advice in relation to 'reasonable' target setting which will commonly be in the form of a quota for absence for the specific recurring illness.

Medical reports should then be obtained at 6 monthly intervals. Depending upon the outcome of the medical reports targets may need to be re-set where necessary.

What is meant by the term triggering?

This term relates to those individual employees who breach the targets set across the Council for the number of absence days taken in a specified period and/or the duration of the absence. The current targets are:

- three separate absences in a 6 month period (3:6) on a rolling basis
- one occasion of 8 working days or more continual absence

The 3:6 rule applies in all cases, irrespective of the nature of illness or duration of individual periods of absence. A pattern of absence which otherwise causes concern can trigger a Stage 2/3 meeting, even if the 3:6 rule has not been breached.

- **Information concerning triggers**

The Personnel and Training Team (PAT) issue trigger reports to managers notifying them of any staff that have triggered. On receipt of these, a Stage Two trigger meeting needs to be arranged by the line manager and the appropriate action taken.

How do I manage frequent short term sickness absence?

The frequent short term sickness absence procedure is based on four key stages:

- Stage One – Return to Work Interview
- Stage Two – Return to Work Trigger Meeting
- Stage Three – Return to Work Trigger Meeting
- Stage Four – Return to Work Trigger Meeting

Most absence concerns are unlikely to progress beyond stage one. Where matters do progress, the issues will be dealt with fairly giving the employee opportunity to make representations and to be proactive in seeking to resolve the problem.

Short term absences that may in nature be unrelated may collectively signal general poor health. In such circumstances, there is likely to come a point where (assuming attendance management procedures have not successfully resolved the problem) the interests of the organisation will outweigh the interests of the individual. This means that employees may be dismissed in some circumstances.

- **Stage One – return to work interview**

The line manager meets with the employee returning to work, following any period of short-term sickness absence (defined as any period of less than four weeks) regardless of duration/nature of absence. This would normally be a short, informal and private meeting using the following format:

- acknowledge that absence has taken place
- review the absence record - consider discussing possible implications with employee if previous absence is identified
- enquire (sympathetically) about the illness and as to whether GP assistance was sought and if so will further appointments be required in the future
- discuss what support the employee may need to ease the process of return
- provide an update on work issues and the cover arrangements put in place

- ensure the absence has been properly recorded on 'notification of absence from duty' forms for recording purposes and sent to the Personnel Support Unit
- make a file note of the discussion and retain as a management record on employees supervision/personal file

As line-managers are not always able to physically meet staff every day (due to different work bases), a telephone conversation may be substituted.

- **Stage Two – return to work trigger meeting**

This meeting would automatically take place (in person) where an employee had been absent due to sickness on:

- three occasions during the previous 6 months (on a rolling basis) and/or
- one occasion of 8 or more working days continual absence.

A stage two trigger meeting (in person) will cover the same issues as a stage one return to work interview, plus:

- other than in exceptional circumstances, inform employee that this level of absence causes concern and issue a standard letter
- reflecting the meeting and containing the target expectations (see section 'What are our absence targets') for their attendance at work
- consider seeking a report from Occupational Health:

- **Stage Three – return to work trigger meeting**

A stage three trigger meeting (in person) would apply automatically where an employee triggers for:

- a second time of three occasions during the previous 6 months (on a rolling basis) and/or
- a second time of one occasion of 8 or more working days continual absence.
- further concern from the manager
- a breach of the target expectations set at stage two

A stage three trigger meeting will cover the same issues as a stage one return to work interview and the stage two trigger meeting, plus:

- other than in exceptional circumstances inform employee that the level of absence causes further concern and issue a written Notification of Concern (NOC) to be held on record for 12 months:
- where a Notification of Concern (NOC) is issued, inform the employee of the expectation of attendance during the next 12 months (see section 'What are our absence targets?') and that a Stage Four trigger meeting would apply if sickness absence levels reached trigger points and/or fall below targets set.
- the employee has the right of appeal against a Notification of Concern (see 'Issuing a Notification of Concern')
- seek (another) report from Occupational Health (contact your departmental Personnel Officer(s) for guidance on this).

See below for an example and guidance on issuing 'Notifications of Concerns'. This includes information on when it is acceptable to not issue a Notification of Concern and Strategy for Improvement.

Employees shall have the right of appeal against the decision of a line-manager to issue a Notification of Concern under Stage 3 and a Second Notification of Concern or Final Notification of Concern under Stage 4 (see 'Issuing a Notification of Concern')

- **Stage Four - return to work trigger meeting**

A stage four trigger meeting would apply automatically where an employee triggers for:

- a third time of three occasions during the previous 6 months (on a rolling basis) and/or
- a third time of one occasion of 8 or more working days continual absence.
- a Notification of Concern (NOC) has been issued
- further concern from the line-manager
- a breach of the target expectations set at stage three

- In order to facilitate a stage four meeting, the line-manager will need to give the employee five days written notice of the meeting and inform them that they are welcome to be accompanied by a trade union representative or work colleague. The line-manager will normally be accompanied by a Personnel Officer at this meeting.

Where an employee indicates that he/she is unable to attend a stage four meeting because of ill-health the meeting will be delayed on one occasion for up to seven working days if that is likely to enable the employee to attend.

A stage four trigger meeting will enable the manager to:

- review the absence history of the employee
- consider any report from Occupational Health
- consider any issues relating to the Disability Discrimination Act
- consider any issues involving industrial injury
- consider any issues relating to stress taking into account the Council's policies on Stress Management
- take into account employees length of service
- hear representations from the employee and/or representative

Having considered carefully all of the factors above you may decide to:

- re set targets and issue a Second Notification of Concern (SNOC): to be on record for 12 months (See below for an example and guidance) If any concerns arise during that period a further Stage Four meeting to be convened; or,
- re set targets and issue a Final Notification of Concern (FNOC) to be on record for two years (See below for an example and guidance). If any concerns arise during that period a further Stage Four meeting to be convened; or,
- refer the case to be considered under arrangements which might lead to the employee's dismissal (see 'Consideration of Dismissal')

What is a Notification of Concern?

- A Notification of Concern, Second Notification of Concern and Final Notification of Concern are a written account, using a standard template, informing the employee of their attendance expectations during the next 12 months:
- A Notification of Concern and Second Notification of Concern will be held on record for 12 months and a Final Notification of Concern will be held on record for two years. If the employee's absence levels fall below the expectation the next stage of the procedure will be put in place.

The employee should be given an opportunity to explain why a Notification Of Concern, Second Notification of Concern or Final Notification Of Concern should not be issued. This might be appropriate if the employee was covered by the DDA or if an unreasonable workload or bullying at work claimed to be the main factor in the employees absence. Any request should be considered carefully by the line-manager taking into account any report from Occupational Health.

• Issuing a Notification of Concern

If you decide to issue a Notification of Concern, Second Notification of Concern or Final Notification Of Concern despite a request by the employee not to do so, the employee may appeal against the decision. (see 'The Appeal Process'). Any appeal must be made in writing by the employee to the line-manager, within five working days from the date the Notification of Concern, Second Notification of Concern or Final Notification of Concern was issued to the employee. Once issued, a copy of the Notification of Concern should be sent on immediately to your relevant Personnel Officer in order that it can be placed on the employees personal file.

The appeal will be heard by a different manager (senior to or at the same level) as the manager making the decision against which the employee is appealing. The appeal will be heard at a meeting which the employee can be accompanied by a work colleague or TU rep.

PAT support for formal meetings will be available if the school has purchased the Employee Relations Service to Schools; however the Headteacher/Principal/line-manager will take responsibility for putting these arrangements in place.

• Agreeing a strategy for an improvement in attendance

If you decide not to issue a Notification of Concern, Second Notification of Concern or Final Notification of Concern you will need to seek a strategy for improvement in the employees attendance. This may include:

- in the case of employees protected by DDA, an individual attendance expectation based on advice from Occupational Health
- a review of the employees workload and/or the relationship with colleagues or line managers
- a specified attendance expectation (personal trigger points) over the next 12 months

In all cases employees must be informed that the Stage Three meeting (in the case of Notification of Concerns) and Stage Four meeting (in the case of Second Notification of

Concerns and Final Notification of Concerns) would be reconvened if attendance levels fall below the levels specified.

How do I manage long term sickness absence?

- Any employee absent from work for a consecutive period of 4 weeks or more will be regarded as having a long term sickness absence and it will be necessary to seek a report from the County Medical Adviser at this point (contact your departmental Personnel Officer(s) for guidance on this).

It is recognised that in cases of prolonged or long term sickness, it will not always be possible to resolve the situation through improvement in the employee's absence record and ill health retirement or termination of contract may have to be considered. However, it is important that the principles of good practice apply to ensure the situation is handled sensitively and in a fair, consistent and compassionate way.

The long term absence procedure consists of 5 time frames, linked to the date the absence commenced:

- Week 5
- Week 9
- Week 15
- Week 21
- Week 27

- **Week 5**

It is important for the Headteacher/Principal/Line Manager to maintain contact with the employee from the date the absence commenced and agree a means of keeping in touch. At week 5, the Headteacher/Principal/Line Manager will contact the employee by telephone or letter to arrange an informal meeting, this may be at the employee's home or other mutually acceptable venue.

- where possible the Headteacher/Principal/Line Manager will seek to agree a strategy for returning the employee to work and
- Consider obtaining a report from Occupational Health if return to work is not imminent

- **Week 9**

At week 9, the Headteacher/Principal/Line Manager should consider issuing a Notification of Concern and should therefore:

- invite employee to attend a review meeting with at least five days written notice, accompanied by a trade union representative or work colleague:
- The Headteacher/Principal/Line Manager will normally be accompanied by a Personnel Officer. The meeting may proceed in the employee's absence but will be delayed on one occasion for up to seven working days if that is likely to enable the employee to attend. In any event every effort will be made to obtain a written submission from the employee and/or oral representations on their behalf if they are unable to attend.

Where a week 9 review meeting takes place the Headteacher/Principal/Line Manager will:

- review the employees current absence
- consider any report from Occupational Health
- consider any issues relating to the Disability Discrimination Act
- consider any issues involving industrial injury or other work related issues
- consider the employees length of service and previous sickness record
- hear representations from the employee and/or representative

The Headteacher/Principal/Line Manager, with telephone advice from PAT as appropriate, will review the circumstances and decide which of the following actions are appropriate:

- review again at week 15 or before and/or
- make further contact with employee by visit or letter and /or
- refer to Occupational Health (if not done previously) seeking likely date of return to work and any actions that might assist the process including any reasonable adjustments and/or
- issue a Notification of Concern
- fix date for week 15 meeting and/or
- such other action as is judged appropriate in all the circumstances

- **Week 15**

At week 15, the Headteacher/Principal/Line Manager should consider issuing a Notification of Concern (if not already done so at week 9), Second Notification of Concern or Final Notification of Concern and should therefore:

- invite employee to attend a review meeting with at least five days written notice, accompanied by a trade union representative or work colleague:
- The Headteacher/Principal/Line Manager will normally be accompanied by a Personnel Officer. The meeting may proceed in the employee's absence but will be delayed on one occasion for up to seven working days if that is likely to enable the employee to attend. In any event every effort will be made to obtain a written submission from the employee and/or oral representations on their behalf if they are unable to attend.

Where a week 15 review meeting takes place the Headteacher/Principal/Line Manager will:

- review the employees current absence
- consider any report from Occupational Health
- consider any issues relating to the Disability Discrimination Act
- consider any issues involving industrial injury or other work related issues
- consider the employees length of service and previous sickness record
- hear representations from the employee and/or representative

The Headteacher/Principal/Line Manager, with advice from PAT as appropriate, will review the circumstances and decide which of the following actions are appropriate:

- review again at week 21 or before and/or
 - issue a Second Notification of Concern (SNOC) or Final Notification of Concern (FNOC)
 - set a date for a return to work within the next 6 weeks and/or
 - discuss the possibility of medical redeployment to a different post in the same establishment or elsewhere and/or
 - discuss the possibility of the employee seeking ill-health retirement and/or
 - postpone any decision until the week 21 review meeting
- **Week 21**

At week 21, the Headteacher/Principal/Line Manager should consider issuing a Final Notification of Concern (if not already done so at week 15) and should therefore:

- invite employee to attend a review meeting with at least five days written notice, accompanied by a trade union representative or work colleague:
- The Headteacher/Principal/Line Manager will normally be accompanied by a Personnel Officer. The meeting may proceed in the employee's absence but in that event every effort will be made to obtain a written submission from the employee and/or oral representatives on their behalf.

The Headteacher/Principal/Line Manager, with advice from PAT as appropriate, will review the circumstances and decide on the most appropriate action to take and decide whether to:

- review again at week 27 or before. Any such delay would be exceptional and normally only be appropriate in extremely sensitive cases and upon the recommendation of Occupational Health

Where a week 21 meeting takes place the line-manager will consider all the factors (as set out in week 15 review meeting) plus:

- the possibility of agreeing a mutual termination of employment with notice or
- the possibility of agreeing and finalising medical redeployment or ill health retirement and/or
- advising the employee that the circumstances will be referred to a hearing to consider the employees dismissal if unresolved within the next 6 weeks

• **Week 27**

The line manager, with advice from Personnel as appropriate, will review the circumstances and decide which of the following actions are appropriate:

- repeat the process followed at the week 21 assessment (notification letters are available under the Attendance management procedure on czone).
- such a decision would be exceptional and normally only appropriate where the employee had continuous service with the County Council of 5 years or more and an outstanding sickness absence record

- refer the case to a hearing at which the possibility of the employees termination of employment would be considered (see 'Consideration of Dismissal').

- **Date of dismissal**

Reasonable management action to dismiss for long term sickness absence cannot be delayed only on the basis that an employee's occupational sick pay has not run out. Each case has to be considered carefully and proportionately on its merits.

Summary of managing absence

Managing sickness absence starts at the point of recruitment and selection and the employee's health record should be reviewed throughout the Probationary Review and Appointment Support periods.

Line managers are responsible for managing attendance with support from PAT and should ensure all sickness absence is managed through the Attendance Management Policy and Procedure.

Where references to the Occupational Health Department or County Medical Adviser (CMA) are made the employees consent for an approach to their own doctor will be sought. The County Council has in place procedures for such referrals, advice can be provided by PAT. In the event of consent not being given the employee may be required to see the County Medical Advisor (CMA) and/or the CMA will be asked to give an opinion based upon available information at the time. (Access to Medical Records Act 1988 will apply)

The appeal process for Notifications of Concern

- **Stage Three – Notification of Concern**

Line Manager presents the case to a Headteacher/Principal or Headteacher/Principal presents the case to a panel of Governors. PAT support and advice given as appropriate. Employee may be accompanied by a TU representative or a work colleague.

- if employee exercises his/her right to appeal against the Notification of Concern, arrange a formal meeting to consider the appeal within ten working days of receiving the written registration of appeal. Secure PAT support
- give the employee written notice of the appeal hearing date/time and venue, along with the opportunity to bring a trade union rep/work colleague
- exchange of documents should occur within three working days of the date of the appeal hearing.
- Headteacher/Principal/panel of Governors will reach his/her/their decision having listened to the case put by both sides and following an adjournment.
- Headteacher/Principal/ panel of Governors to notify the employee and manager of the decision, in writing, within five working days of the appeal. Headteacher/Principal/ panel of Governors may choose to give an oral decision on the day but this will be confirmed in writing within 5 working days.
- if the Headteacher/Principal/panel of Governors upholds the decision to issue a Notification of Concern, the employee must be informed that there is no further right

of appeal within the County Council. The Notification of Concern shall remain on the employee's record for 12 months and, providing the absence record gives no further cause for concern in this period, shall thereafter be regarded as time expired. Should an employee's attendance lapse in a subsequent period of employment, any additional Notification of Concern will be given under Stage 4 and will remain on record for 12 months (Second Notification of Concern) or 2 years (Final Notification of Concern).

• **Stage Four – Second Notification of Concern or Final Notification of Concern**

Line Manager presents the case to a Headteacher/Principal or Headteacher/Principal presents the case to a panel of Governors. PAT support and advice given as appropriate. Employee may be accompanied by a TU representative or a work colleague.

- if employee exercises his/her right to appeal against the Second Notification of Concern or Final Notification of Concern, arrange a formal meeting to consider the appeal within ten working days of receiving the written registration of appeal. Secure PAT support.
- give the employee written notice of the appeal hearing date/time and venue, along with the opportunity to bring a trade union rep/work colleague
- exchange of documents should occur within three working days of the date of the appeal hearing.
- Headteacher/Principal/panel of Governors will reach his/her decision having listened to the case put by both sides and following an adjournment.
- Headteacher/Principal/ panel of Governors to notify the employee and manager of the decision, in writing, within five working days of the appeal. Headteacher/Principal/manager may choose to give an oral decision on the day but this will be confirmed in writing within 5 working days.
- if the Headteacher/Principal/ panel of Governors upholds the decision to issue a Second Notification of Concern or Final Notification of Concern, the employee must be informed that there is no further right of appeal within the County Council. The Second Notification of Concern shall remain on the employee's record for 12 months and the Final Notification of Concern for 2 years. Providing the absence record gives no further cause for concern in this period, shall thereafter be regarded as time expired. Should an employee's attendance lapse in a subsequent period of employment, any additional Notification of Concern will be given under Stage 4 and will remain on record indefinitely.

Consideration of dismissal

In the event of a dismissal recommendation the Headteacher/Principal is to present case to a panel of Governors (appropriate PAT/legal support available to Headteacher/Principal). Employee may bring a TU representative or work colleague.

- if employee appealed successfully at Stage 4 (i.e. Final Notification of Concern disregarded) but has triggered again/not met target etc the issue will be dealt with under Stage 4. Involve PAT at the outset.
- if employee was given a Final Notification of Concern under Stage 4 and did not appeal or appealed unsuccessfully and subsequently triggered/not met target etc or has been absent for a continuous period of 27 weeks, consideration should be given

by manager (in conjunction with a Personnel Officer) as to whether to recommend dismissal. Careful consideration also needs to be given as to the reason(s) put forward for satisfying any recommendation to dismiss (e.g. capability and/or some other substantial reason etc.) Legal advice must be sought in relation to this. Consideration should also be given to seeking another expert medical opinion.

- the appellant/management and witnesses must exchange documents simultaneously not less than 5 working days of the date of the hearing
- there may be circumstances in which the Headteacher/Principal believes a further period for improvement should be set, subject to review.
- if dismissal is recommended, Headteacher/Principal informs the employee in writing with details of the arrangements for the hearing.
- the employee should be suspended (with pay) pending the dismissal hearing (the period of suspension should not then count as further absence for the purpose of these procedures).
- the County Medical Adviser may be called as a witness to give expert evidence.
- the line manager may be called as a witness to give evidence.
- Headteacher/Principal/Panel of Governors to hear the case. If dismissal confirmed, employee to be notified in writing within 5 working days of the hearing along with his/her right of appeal. The employee to be given contractual notice and put on full pay for notice period. The employee should be told not to attend work during the notice period. Alternatively, consideration may be given to making a payment in lieu of this period.
- employee must register appeal in writing within 10 working days of receipt of the letter.

Right of appeal against dismissal

In the event of an appeal, the dismissing officer presents the management case to a panel of Governors (appropriate PAT/legal support available to the dismissing officer). Employee may bring a TU representative or work colleague.

- if employee exercises his/her right of appeal a formal appeal hearing will be convened, if possible, within employee's period of notice, but in all events within 2 months of receiving appeal notification.
- Both the employee and management side will receive written notice of the appeal date/time and venue. The employee will be notified of the opportunity to bring a trade union rep/work colleague.
- the appellant/management and witnesses must exchange documents simultaneously not less than 5 working days of the date of the hearing via PAT. Members to receive all documents at the same time.
- formal hearing takes place, normally to rehear the entire case. The dismissing officer presents her/his case and is questioned upon it. The employee then presents her/his case and is questioned upon it. The employee sums up after the Headteacher/Principal. Both parties may call witnesses as part of their presentation.
- Panel to notify the employee and the dismissing officer of the decision, in writing, within 5 working days of the Appeal. (In addition, the panel may choose to give the decision orally following an adjournment on the day of the Appeal but this should be followed up in writing).
- if Appeal is upheld, the suspension will be lifted with immediate effect with or without a further formal Notification of Concern and arrangements made for a return to work normally to employee's original post. Appeal Panel to state what, if any, further action should occur (within the procedures) should further absences occur.

- if Appeal is not upheld, the decision is final with no further right of appeal within the County Council.