Attendance Management Policy and Procedure

Key document details

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Attendance Management Policy and Procedure (Staff)

Steel River Academy Trust

Where reference is made to 'Manager' within this policy, this could mean CEO, Principal, Headteacher, line manager, Head of Department/Faculty, Business Manager, Trust or Local Governor, subject to delegation and authority for decision making within the Academy Trust.

Access: If you require this information in an alternative format please contact the HR Advisory Service.

1. Scope

1.1 The current educational climate indicates ongoing change at a significant pace for delivery of high quality teaching in a rich learning environment. This Trust values all members of staff and their health and well-being is important. There are occasions when health related circumstances cause sickness absence and the Attendance Management policy and guidance enables staff to be appropriately supported within a procedural framework that provides for best management practice.

1.2 This policy applies to all employees of this Trust except where other provisions are protected following TUPE Transfer.

2. Purpose

- To be consistent and fair in the application of the attendance management policy;
- To provide appropriate support to employees during an absence and when returning to work;
- To prevent, where possible, sickness absence caused by or as a result of accidents/injuries at work;
- To set and review targets, where absence is an ongoing concern, for Trust employees to improve attendance;
- To regularly monitor and review action taken by managers within this policy;
- To provide adequate support to managers to manage attendance effectively.

3. Responsibilities

- To have a clear reporting procedure for employees to follow in the event of an absence due to illness, including any planned absences for health related matters, referencing any relevant timescales and further procedure if the employee is unable to make contact personally;
- To communicate reporting procedures to all employees outlining their responsibilities;

- To treat matters related to ill health with confidentiality and in line with Data Protection legislation;
- In cases of prolonged absence, to make contact with the employee at the earliest opportunity, before four working weeks if appropriate, to offer support and explore possible options;
- Employees to remain in contact with their manager during their absence, and be contactable by agreed methods and frequency and participate in discussions/meetings with them, to aid engagement and explore appropriate solutions, including reasonable adjustments where appropriate.
- To conduct return to work updates promptly after each absence to clarify reasons for absence and offer appropriate support;
- To seek medical advice where appropriate, via medical practitioners and health and well-being services, according to service agreements;
- Employees to attend any medical appointments and reviews arranged for them by health and well-being partner services.
- Where absence is attributable to an accident at work to refer to accident reporting procedures;
- To maintain accurate and up to date return to work documentation (including risk assessments undertaken);
- To treat as misconduct any suspected abuse of the attendance management policy, in line with the Trust's disciplinary policy;
- To monitor trends, patterns and reasons for absence, reporting attendance information, as appropriate, through team structures within the Academy Trust's leadership team to enable strategic management and ownership;
- Employees must not undertake any leisure, sporting or other activities that could be detrimental to their recovery and return to work (advice should be sought from a medical professional);
- In managing attendance before, during and after any period of absence due to sickness, managers will record the outcome of related discussions with the employee detailing any reasonable adjustments considered and/or agreed. A copy of the notes will be shared with the employee as soon as possible after the meeting.

4. GP Fit notes and sick pay

- Following notification of the absence, the Academy Trust is required to report this to their payroll provider.
- Managers and employees need to ensure that every day of a period of absence is covered either by a self-certification sickness form (see 'Reporting an Absence, Return to Work Meetings & Self-certification form') or a doctor's fit note. An employee who is off sick for seven days or less (including weekends) must complete a self-certification form to cover every day of absence, including half days. This can be done prior to, or on their return to work. The manager retains the form and follows Academy Trust absence reporting procedures.
- For sickness absences of eight days or more (including weekends) a doctor's fit note should be submitted by the employee to the manager following issue by a doctor, ensuring the dates are consecutive and there are no gaps. Upon receipt, the Academy Trust retains a copy of the fit note and the original is returned to the employee.
- If an employee is absent from work through sickness and has not notified their manager as outlined previously, or does not provide the appropriate medical certificate, the absence will be regarded as unauthorised and therefore the absence may be unpaid and may be regarded as a conduct issue, subject to the Academy Trust's disciplinary policy.

5. Phased Return

5.1. Phased returns

Where an employee returns to work on a part time basis following long-term sickness absence, with the expectation that they will be able to work their full contractual hours (or other such amended contractual hours as agreed) within a reasonable period of time (usually four weeks), then, in accordance with medical advice provided by the Occupational Health doctor or the Fit for Work service, the following arrangements will normally be made in relation to pay:

- Where the employee has exhausted their sick pay entitlement, the salary payment made will be based on the number of hours worked during the phased return.
- Where the employee has not exhausted their sick pay entitlement, the employee will be paid in accordance with the number of hours worked, or the occupational sick pay entitlement that would be payable if the employee remained off work due to sickness absence, whichever is the greater amount.

5.2. If the employee returns to work with a Fit Note which states 'may be fit for work', the employee should notify their manager immediately. The advice on the note will be discussed together with any additional measures that may be needed to facilitate the employee's return to work, taking into account the doctor's advice. Consideration will be given as to how the advice impacts the employee, the job, the workplace, service delivery, pupils and colleagues. The doctor's comments, any of the return-to-work tick boxes and any other action that could facilitate a return to work will be considered with due regard to the Equality Act 2010. Options may include:

- phased return to work;
- altered hours;
- amended duties;
- consideration of redeployment;
- workplace adaptations;
- other reasonable adjustments such as temporary variations to contract.

5.3. If a return to work is possible, the agreed action plan will be documented and implemented. If it is not possible to provide the support suggested by the doctor, the employee will remain on sick leave and will not normally need to return to their doctor to obtain a revised Fit Note unless this is required in the circumstances. A review date will be set.

5.4. Consideration will be given as to whether a risk assessment is required to ensure the health and safety of the employee in light of the reason for their ill health, for example a stress, ergonomic, menopausal or more general risk assessment may be required.

5.5. The employee may return to work before the expiry of a Fit Note without going back to see their doctor, even if their G.P has indicated that they need to assess them again. This will not breach the Trust's Employer's Liability Compulsory Insurance, providing a suitable risk assessment has taken place if required.

6. Procedure

5.1 Engagement and meetings

Regular engagement between the manager and the employee is important for open and transparent communication. Consultation meetings will be held between the manager and the employee to discuss support available to help improve attendance, to clarify procedural steps, and any potential impact on their employment. The frequency and content of consultation meetings for prolonged absence will be determined on a case by case basis subject to the nature of the absence. Employees will be invited to meetings by letter or email with reasonable notice and notified of their right to be accompanied, subject to the Academy Trust's local arrangements. The outcome of all formal meetings held under the attendance management procedure will be confirmed with the employee as soon as possible.

6.2. Triggers:

3 or more occasions in any rolling 6 month period*

4 or more occasions in any rolling 12 month period*

Any period of absence of four weeks or more

*An occasion is defined as a period of absence that may be consecutive days, single days or half days. This includes intermittent absences and longer periods of absence. Recurrent absences with the same illness in short succession (i.e. one week) may be considered as one occasion subject to discussion regarding underlying medical cause for absence. Rolling periods refer to the 6 or 12 months previous to the latest absence.

The Academy Trust will determine a consistent approach to setting appropriate improvement targets, and where possible agreed with the employee, depending on individual, team or department circumstances. Targets may include reference to team absence levels, broader Academy Trust absence level or a fixed number of days.

6.3 Initial review

When triggers are met, the manager will arrange an attendance management consultation with the employee to discuss their attendance. Appropriate targets and support will be discussed with the employee and the manager will set the target over a three month review period to help the employee improve their attendance. If after the three month monitoring period the employee *has* achieved the targets set, a meeting will be held to confirm that no further action is required. If targets *have not* been achieved refer to 5.4 of this procedure.

6.4 Formal notification

If the employee has not sufficiently improved their attendance against the targets set in the initial review period, a further attendance consultation meeting will take place with the employee and a formal notification will be issued to allow the employee a further three month review period and support to improve attendance. In exceptional circumstances subject to provision within the policy, the manager may wish not to issue formal notification, however they must make a note on the file, seeking medical advice where appropriate.

Following the three month formal notification period, another attendance management consultation meeting will be held and an outcome determined, subject to content of discussion held, with one of the following three possible outcomes:

1. Satisfactory progress has been made and the target has been achieved; at this point the process ends. However, this will be on the understanding that if there are further relapses in attendance within six months of the monitoring end date, subject to discussion with the employee, the manager will issue final notification; refer to 5.5 of this procedure.
2. The target has not been achieved and subject to discussion with the employee, a final notification is issued as part of the meeting; refer to 5.5 of this procedure.
3. In exceptional circumstances - a decision may be made to postpone the outcome of the meeting and extend the monitoring period by a maximum of one month to allow further review.

6.5 Final notification

The duration of final notification is six months during which time monthly reviews will take place, where appropriate. The employee will be informed of each of the review meetings and the possible outcomes in writing within a reasonable timeframe.

Where the employee has been issued with a final notification they have a right of appeal against this and a right to be accompanied. The employee must submit their appeal within ten working days from the date of receipt of the letter with the final notification.

If the employee has achieved their targets, a further attendance consultation meeting is held at the end of the six month final notification period and final notification expires. However subject to circumstances, this will be on the understanding that sustained improvement is required and if further relapses in attendance occur within six months of expiration of the final notification, consideration may be given to progress to panel.

If the employee does not achieve the targets set during the final notification period, the manager will hold an attendance consultation meeting and, subject to discussion and case details, the case will progress to a panel.

6.6 Prolonged absence

Where an employee is absent for a prolonged period in excess of four weeks, including during any review period, this will be considered as an occasion of absence in this procedure. An attendance consultation meeting will be held, subject to the nature of the illness, and a referral to medical partners will be discussed and completed (if not already addressed). During the continued period of absence regular attendance consultation meetings will be held with the employee to enable regular updates, discussion regarding medical information and to support the employee returning to work, including consideration of reasonable adjustments where appropriate.

If the absence remains ongoing with no foreseeable return to work date, and/or a prolonged recovery timescale that is unsustainable for the Trust, the case will then be progressed to Attendance Panel. This will be subject to case circumstances, having explored appropriate support mechanisms and any related reasonable adjustments to improve attendance during the attendance management process, including whether medical redeployment, or ill health retirement are applicable to the case.

6.7 Medical redeployment and ill health retirement

If the employee remains absent due to ill health and the Trust cannot sustain the absence, and a return to work is not foreseeable, then the manager should consider whether medical redeployment is applicable or available, and whether ill health retirement should be considered and discussed with the employee. It should be noted that the decision in relation to ill health retirement is separate from any

decision to dismiss an employee on grounds of ill health / capability and must be considered prior to dismissal.

6.8 Formal meeting alternative to attendance panel

Where a case is likely to progress to attendance panel, in some circumstances it may be appropriate for a formal meeting to be offered to an employee and, where agreed, held instead of an Attendance Panel (the use of this process must be subject to mutual agreement). Where this takes place it is essential that due process is followed in accordance with the attendance management policy and procedure to avoid allegations of unfairness, undue pressure or discrimination. Whilst an individual may be agreeable to a process alternative to a panel hearing, the procedure remains formal with the following steps:

- The employee should be invited to a final attendance review meeting. It must be explained that dismissal is being proposed. The employee must be informed of their right to a formal hearing and given a copy of the attendance management policy and procedure with explanation, as necessary. If the decision is reached to use a formal attendance meeting, the employee will be asked to confirm their agreement in writing. A signed copy of the agreement should be retained for Academy Trust records.
- The employee should be encouraged to be accompanied, subject to Academy Trust local agreement, by a trade union or professional association representative (if applicable) or work colleague at the final review meeting and the formal attendance meeting. The employee is encouraged to seek separate advice prior to and during the meetings from trade union or professional association representatives or to seek independent advice prior to the formal attendance meeting. The employee will be reminded of their rights to a formal hearing and given a full explanation of the evidence and proposed action and be afforded the opportunity to comment on and question the facts of the case.
- If there is agreement to the proposed action (dismissal) management must confirm in writing to the employee the facts of the case and the process that has been followed including the date of the meeting, those present, the information and advice given about the employees' rights under the formal procedure (including the appeal process) and their understanding of these (see 5.10).

Should an employee wish to retract their agreement to dismissal prior to or during the formal attendance meeting, then a panel hearing should be arranged under the normal procedure.

There may be circumstances where an employee does not wish to attend or is too ill to attend. Where this occurs the formal meeting must proceed in the employee's absence to reach a decision and this should be formally communicated with the employee, following the procedure outlined.

6.9 Attendance Panel and Appeal Hearings

Where panel or appeal hearings are required the relevant Hearing and Appeals procedure will be used. The employee must be invited to an attendance management hearing and given appropriate notice of the hearing. Any documentation which the manager will be using at the hearing must be given to the employee, their representative, and the panel at least 5 working days prior to the hearing, subject to the Academy Trust's local agreement. The Academy Trust's Hearing and Appeals procedure will be used. Where an employee or their representative is unable to attend an alternative date should be suggested within five working days.

Panels / Headteachers will normally be advised by a HR representative. If, as an outcome of the attendance hearing, the panel decide that the employee's level of absence is unacceptable, given the circumstances of the case, or the Academy Trust cannot sustain the absence, despite all the measures taken to facilitate a return to work and / or improve attendance, the outcome reached will be either of the following:

1. Extension of the period for improvements in attendance or continuation with the monthly review, and / or modification the targets set, together with a revised action plan and monitoring programme, or;
2. First written warning, live for 6, 9 or 12 months at the discretion of the hearing officer.
3. Final written warning, live for 6, 9 or 12 months at the discretion of the hearing officer.
4. Termination on the grounds of capability due to ill health. Notice will be given in accordance with this procedure and will be either contractual or statutory, whichever is greater.

At any attendance management panel it is important for management to ensure that:

- All reasonable adjustments suggested either by the employee or medical partners, such as occupational health, have been considered
- Medical advice has been obtained and considered
- Medical redeployment and Ill health retirement options have been considered

The Academy Trust should notify the employee of the outcome of the hearing within five working days, in writing after the panel, and where the outcome has resulted in dismissal, provide reasons and the right of appeal.

6.10 Appeals against termination

An employee has a right of appeal against the decision of the attendance panel to terminate their employment within ten days of notification of outcome of the attendance panel. The appeal should be heard as soon as possible and where possible before the termination takes effect. Appeals against termination will be heard in accordance with the Academy Trust's hearing and appeals procedure. Panels will normally be advised by the Trust HR Provider.

6.11 Exclusions from the Attendance Management policy and procedure

The following appointments are not recorded as sickness for the purposes of the attendance management policy:

- GP appointments
- Dental appointments
- Hospital appointments
- Medically prescribed treatment appointment
- Any form of absence that is not related to the sickness of the employee

Where these prevent attendance at work, evidence of appointments must be seen and approved by managers. It is expected the employee will take all reasonable steps to attend the above appointments whilst avoiding disruption to the workplace, subject to circumstances e.g. in the employees own time or at the start or end of their working day/shift.

Sickness absence which is as a direct consequence of pregnancy will be recorded as absence, but will not be included in calculating absence for the purpose of attendance management procedures. Sickness absence which is a direct consequence of a disability is still recorded as absence, but managers need to consider reasonable adjustments in individual cases in line with the relevant legislation.

Absences arising out of an accident, assault, injury or disease whilst undertaking the duties of the post will be recorded as absence and where the Trust acknowledge liability will be excluded in calculating absence for the purpose of attendance management . However all such absences will be subject to investigation in accordance with the Trust's terms and conditions and Health and Safety policy.

7. Statutory obligations

This policy recognises the requirements to comply with the following legislation where applicable:

- Equality Act 2010
- Health and Safety at Work Act 1974
- Management of Health and Safety Regulations 1999
- RIDDOR - Reporting of Incidents, Diseases, Dangerous Occurrences Regulations 1995 (as revised 1999)
- Human Rights Act 1998
- Employment Rights Act 1996
- Data Protection Act 2018
- Access to Medical Records Act 1988

In application of this policy it is expected that managers will follow the principles of the above legislation regardless of the reason for absence.

OPTIONAL PARAGRAPH – Other Trust policies may also apply when using the attendance management policy:

- Leave policy
- Appraisal Policy
- Code of Conduct Policy
- Health and Safety policy
- Resolving Issues at Work policy
- Contractual terms and conditions for employers e.g. Green Book, Burgundy Book , STPCD
- Pay policy
- Reorganisation, Redeployment and Redundancy

This policy and accompanying procedures are not intended to replace or undermine the provisions contained in any contractually agreed documents.