

Wellspring Academy Trust
Managing Sickness Absence Policy

Date Approved by Board:	July 2019
Date of Review:	July 2022
Responsible Department:	Human Resources
Policy Applies to:	Wellspring Trust and all Academies within the Trust

The Equality Act 2010 requires public bodies, in carrying out their functions, to have due regard to the need to:

- *eliminate discrimination and other conduct that is prohibited by the Act*
- *advance equality of opportunity between people who share a protected characteristic and people who do not share it*
- *foster good relations across all characteristics - between people who share a protected characteristic and people who do not share it.*

In the development of this policy due regard has been given to achieving these objectives.

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1. Scope

- 1.1. This policy applies to all employees of the Wellspring Academy Trust (the Trust) including those employed by Academies within the Trust. This Policy is not contractual and does not form part of an employee's terms and conditions of employment.

2. Principles

- 2.1. The Trust is committed to providing a supportive, safe and inclusive working environment that encourages all employees to manage their health and wellbeing and maintain their attendance at work. This policy applies to all employees, with the exception of those within the Probationary Period for whom absence issues will be dealt with under the relevant Probationary Policy.
- 2.2. The Trust values the contribution our employees make and this policy provides a framework for a positive, pro-active and consistent approach to the management of attendance. This policy does not cover absence for personal, family or compassionate leave.
- 2.3. Where an employee attends work, but is sent home due to illness, the exact hours of absence will be recorded. For example, if an employees' normal working day is 6 hours and they leave after 2 hours, 4 hours absence will be recorded. For the purposes of absence monitoring, once a half day is reached, this will count towards triggers, for example, if someone has two half days this will count as one day.
- 2.4. Employees have the right to be accompanied at formal meetings, hearings/appeals by their trade union representative or a work colleague. It is the employee's responsibility to make the necessary arrangements for representation. This right does not extend to family/friends or professionals such as solicitors and barristers.
- 2.5. All documentation relating to any absence matters will remain confidential and will be retained on the employees' personal file.

3. Responsibilities and Expectations

- 3.1. Employees are entitled to fair and reasonable treatment if they are absent from work and procedures for managing absence must be applied equitably with due regard for equality issues.
- 3.2. Line Managers are expected to effectively manage absence which is becoming a concern, is detrimental to the Trust/Academy in the judgement of the Line Manager, or represents any potential abuse of the sick pay system. Line Managers should be aware of issues from the

outset of employment that may be covered by the Equality Act with particular regard to disabilities.

- 3.3. Employees shall expect absence to be closely monitored and must be aware that all absences will be managed proportionately.

Employee Responsibilities

- 3.4. All employees have an obligation to attend work during the hours agreed in the terms of their contract. All employees should take reasonable care of their own physical and emotional health and safety to achieve the highest possible levels of attendance. It is important that employees seek help and support whenever they need it. The employee's Line Manager, HR, Occupational Health and trade union representatives are all available to provide help and advice.
- 3.5. When an employee is unable to attend work due to ill health they are required to comply with the Trust's and individual Academy's specified sickness reporting arrangements (these may vary depending on the place of work), which will usually include reporting the absence to their Line Manager or other nominated person within specific timeframes. When reporting an absence, the following information should be given:
- Reason for absence (giving the reason such as 'ill' or 'sick' is not sufficient).
 - Likely length of absence.
 - Ability to attend work on amended/reduced duties/hours (supported by medical evidence where appropriate).
 - Ability to work from home for a short period of time (where appropriate)
 - Details of any work commitments that may need addressing.
 - Contact telephone number so that the Line Manager can maintain regular contact.
 - Agree the appropriate level of contact during self-certification.
- 3.6. For periods of sickness exceeding 7 days, a medical certificate signed by a GP is required.
- 3.7. Return to work **may** be allowed before the expiry date on the medical certificate should the employee feel fit to return to work. See guidance on [Medical Fit Notes](#).
- 3.8. Employees must contact their Line Manager to provide at least one days' notice of their return to work (or as much notice as possible) to ensure the necessary arrangements are in place to support the employee on their return to work.
- 3.9. Whilst absent from work due to illness, employees:
- Should refrain from undertaking any other paid activities as this could potentially be considered to be a breach of the sick pay regulations. In cases of dual employment, specific medical advice should be sought in relation to each post held.

- Should refrain from undertaking any unpaid activities that may be detrimental to their health and recovery, and cause delay to their return to work.
 - Are obliged to attend all sickness absence meetings (this is covered for teachers in the Burgundy Book (Conditions of Service for Teachers in England and Wales) paragraph 8.1(iv) and Green Book (National Joint Council for Local Government Services) Part 3, paragraph 4.2).
 - Are required to attend OHU appointment(s). Should the employee fail to attend an OHU appointment without a reasonable explanation (for example an unforeseen emergency) this will result in the employee being charged for the cost of the appointment.
 - May be requested to provide their consent in order for a medical report to be obtained from their GP.
- 3.10. All employees should endeavor to engage with all of the requirements as per section 3.9. as failure to do so without providing a valid reason may be construed as abuse of the sickness scheme and disciplinary action may be taken.
- 3.11. When an employee does not engage in the process, there will be an absence of detailed information relating to the employee's absence. In these exceptional circumstances, decisions will be based on the information that is to hand in order to be able to progress through the procedure.
- 3.12. Prior to returning to work an employee may be requested to provide a medical certificate to prove fitness for work, or visit Occupational Health, depending on the nature of the job, reason and length of absence.
- 3.13. An employee will be required to provide a medical certificate if their absence is before or after a period of annual leave.
- 3.14. On returning to work, employees must report to their Line Manager in order that the return to work discussion can take place.

Line Manager Responsibilities

- 3.15. Line Managers are responsible for ensuring that every effort is made to achieve the highest levels of attendance. They are expected to monitor absence and ensure that the application of the policy is fair and consistent. They should also ensure that all sickness absences are managed with discretion, confidentiality and compassion.
- 3.16. Line Managers have an important role to play, directly and indirectly, in the interventions to reduce absence levels. Employees should discuss any problems at an early stage so that support or advice can be given before matters escalate.

3.17. Line Managers will:

- Promote good working relations, facilitate an environment of trust and recognise where early intervention/support may be offered.
- Complete the appropriate HR documentation.
- Maintain regular contact with the employee to demonstrate concern for their welfare, promote inclusion, offer reasonable support and discuss alternative options which may facilitate an earlier return to work. Where appropriate/necessary mutually agreeable alternatives for maintaining regular communications should be explored.
- Monitor absence patterns and trends.
- Refer employees to Occupational Health if appropriate - ensuring the employee is advised of the referral and its content.
- Conduct formal meetings and hearings (where appropriate).

4. Sickness Absence During Pregnancy

- 4.1. An employee who is suffering from a pregnancy related illness will be protected under the Equality Act 2010 and therefore should not be treated unfavourably because of this.
- 4.2. If a pregnant employee is absent due to sickness, the employee must ensure that they report whether or not their illness is pregnancy related, providing medical evidence where necessary. However, in some cases, in the very early stages of pregnancy (i.e. the first 12 weeks), it is understood that an employee may not wish to disclose that pregnancy is the reason for absence. When this is disclosed, records can be amended to reflect the correct reason for absence.
- 4.3. Where there is a pregnancy related absence within the four weeks before the Expected Date of Childbirth (EWC), the Maternity Pay and Leave Period are automatically triggered on the first day after the first day of absence.
- 4.4. It is recommended that a new and expectant mothers risk assessment is carried out (see Appendix 1) so that reasonable adjustments can be put in place where necessary.

5. Managing Sickness Absence Informally (Return to Work Discussions)

- 5.1. Line Managers must meet with the employee informally after every period of sickness absence to determine reasons behind sickness absences and to identify any underlying medical conditions that the employee may need support with to enable them to sustain their attendance at work.

- 5.2. The meeting should be held, wherever possible, on the first day back after absence, in a comfortable and informal setting and can be recording using the Notification of absence form/return to work discussion (Appendix 4).
- 5.3. Employees must be informed of the sickness absence triggers and that re-occurrences of absences could lead to a formal Sickness Absence Meeting being convened, where a warning could be issued.
- 5.4. Where the employee has not met the required attendance, a formal Sickness Absence Meeting will be convened.

6. Triggers

6.1. Absence monitoring trigger points are:

- Three or more sickness absences in a 3-month period.
- Six or more working days lost due to sickness absence in a rolling 12-month period.
- A pattern of absence which is causing concern.

Reaching one or more trigger points will lead to the formal Sickness Absence Meeting.

- 6.2. Where a disability is disclosed consideration can be given to an amendment to the triggers. Likewise, where triggers have been met and the absences are linked to a previously unknown disability, triggers can be amended.
- 6.3. A Notice of Concern letter may be issued to employees as a supportive intervention prior to reaching the trigger point(s) at the discretion of the Line Manager (See **Appendix 3 – letter 1**).

7. Managing Short-Term and Frequent Absence

Formal Sickness Absence Meeting (Stage 1)

- 7.1. Where the monitoring trigger point(s) have been met, the employee will be invited to attend a formal meeting (**Appendix 3 - letter 2a**).
- 7.2. Every reasonable effort should be made by the employee and representative to be available for the meeting. If the employee's representative is unable to attend on the specified date, the employee may request that the meeting be postponed. Provided that the new date and/or time is reasonable, and within 5 working days of the original date, this will be accommodated.
- 7.3. If an employee attends with a TU representative or work colleague, the chosen representative should not answer questions on the employee's behalf or address any meeting without the employee's prior consent.
- 7.4. During the meeting the Line Manager will discuss with the employee:
 - Details of employee absences.

- Causes/reasons for absence.
 - Underlying medical issues.
 - Support and reasonable adjustments.
 - Occupational Health Referral (if required).
 - Expectations regarding attendance at work.
 - Impact of non-attendance.
- 7.5. At the end of the meeting the Line Manager will make a decision as to whether it is appropriate to issue a written warning (Stage 1 of the procedure) (**Appendix 3 – letter 2b**) in conjunction with any further support appropriate to enable the employee to meet the required level of attendance. Where it is decided not to issue a warning, the procedure will revert back to section 5.0.
- 7.6. Where a warning has been given, realistic and achievable targets should be set and a review period put in place of 3 months. In general terms, this means no further absences. However, consideration will be taken in respect of employees with a disability before confirming the decision.
- 7.7. A referral to Occupational Health will be made to provide further medical advice unless there are pending specialist appointments which would provide useful information for the consideration of OHU.
- 7.8. Where a warning and monitoring period has been put in place and adequate improvements have been made over the time period specified, the employee will be managed in accordance with Section 5.
- 7.9. Line Managers may consider that, where the employee's attendance has shown considerable improvement, but where full attendance has not been maintained during the monitoring period, a 3-month extension to the monitoring period and warning can be put in place.

Stage 2

- 7.10. Where a monitoring period has been put in place and there are no improvements i.e. further sickness absences have occurred, a further formal Sickness Absence Meeting must be convened to consider issuing a final written warning with a further monitoring period of 3 months. However, consideration will be taken in respect of employees with a disability before confirming the decision. At the end of this period, a review meeting will be held to determine next steps. Where acceptable attendance has been achieved, the option may be to revert to the informal monitoring in accordance with section 5. Alternatively, the manager may extend the monitoring period where the employees' attendance has shown considerable improvement but where full attendance has not been maintained.

- 7.11. Where adequate progress has not been made within this further monitoring period and the employee has been issued with a final written warning, they will be informed both verbally and in writing that the matter will progress to a formal Sickness Absence Hearing where their ongoing employment will be considered and which may lead to their dismissal.
- 7.12. Employees have the right of appeal against any formal sanction within 10 working days of the sanction being issued (refer to section 14).

8. Formal Sickness Absence Hearing – Stage 3

- 8.1. The decision to progress to a formal hearing will be confirmed in writing (**Appendix 3 – letter 4**). Refer to **Appendix 2** for Process at Formal Sickness Absence Hearings and Appeals.
- 8.2. Membership of panels will consist of between one and three members, depending on the specific circumstances.
- 8.3. The panel will comprise of members of the Trust's Executive and Senior Management Team who have had no previous involvement in the matter and are not conflicted (i.e. the CEO, Executive Principals, Principal, Executive Vice Principals, Heads of School or members of the Support Centre's Leadership Team).
- 8.4. In instances where a hearing relates to an Executive Principal, Principal, Executive Vice Principal or Head of School, the Hearing panel members should comprise of the relevant Local Governing Body (LGB) Chair or Vice Chair (or another LGB member appointed by the LGB Chair), along with up to two members of the Trusts' Executive Management Team (i.e. the CEO, Executive Principals or members of the Support Centre's Leadership Team). The composition of the Panel will be agreed jointly between the LGB Chair and the Trust.
- 8.5. The employee must be provided with all evidence to be considered at the hearing e.g. list of absences, Occupational Health Advice, evidence of meetings in relation to absence, support provided, job description etc. at least 10 working days prior to the hearing.
- 8.6. In some cases, the employee may wish to submit documentation for consideration by the panel. This should be provided no later than 5 working days prior to the date of the hearing.
- 8.7. Should the employee request their representative attend on their behalf, or if they wish to provide a written submission, the person hearing the case will consider this.
- 8.8. Every reasonable effort should be made by the employee and representative to be available for the hearing. If the employee's representative is unable to attend on the specified date, the employee may request that the meeting be postponed. Provided that the new date and/or time is reasonable, and within 5 working days of the original date, this will be accommodated. Where no agreement can be reached, the hearing date will be set by the person managing the case, usually the employee's Line Manager.

- 8.9. Should the employee/their representative fail to attend without reasonable explanation, the person hearing the case will make a decision whether to proceed in their absence.

9. Outcome of Formal Hearing

- 9.1. The possible outcomes of the formal hearing are:

- Dismissal on the grounds of sickness absence capability.
- Further period of review and an extension to the final written warning.
- No further action required due to extenuating circumstances.

- 9.2 A recommendation could be to seek further advice from Occupational Health/medical professionals.

- 9.3. The employee will be notified verbally of the outcome by the person that heard the case. The decision will also be confirmed in writing within 5 working days, wherever possible, informing the employee of their right of appeal.

10. Managing Long-Term Sickness Absence

- 10.1. Long-term sickness absence is defined as absence of 4 or more consecutive weeks and will result in progression to a formal Sickness Absence Meeting.

- 10.2. Line Managers must maintain regular contact with employees whilst they are off sick to demonstrate concern for their welfare, promote inclusion, offer reasonable support and seek to discuss alternative options which may facilitate an earlier return to work.

- 10.3. The formal Sickness Absence Meeting may be held earlier than 4 weeks for early intervention (Appendix 3- Letter 3a).

- 10.4. Where an employee has had an absence of 4 consecutive weeks or more, and on their return to work they continue to have intermittent absences, a holistic view of the employee's overall attendance at work will be taken and managed accordingly. In these circumstances, advice should be sought from the HR Business Partner.

11. Formal Sickness Absence Meeting

- 11.1. A formal meeting will be confirmed in writing (**Appendix 3 – letter 3b**).

- 11.2. When covered by a Fit Note (Dr's Certificate), for insurance purposes, an employee should only be on site/on Academy Premises, for the period of the meeting.

- 11.3. Where there are expectations that the employee is able to make a full recovery and return to work but requires more time, a further formal Sickness Absence Review Meeting will be convened to discuss progress. The Line Manager will provide the employee with a written outcome of the meeting (Appendix 3 – letter 3c).

- 11.4. Where there is ongoing medical intervention taking place, Line Managers should convene regular review meetings to monitor progress with a view to supporting their return to work. The Line Manager will also refer the employee to Occupational Health. The Line Manager will provide the employee with a written outcome of the meeting (Appendix 3 – letter 3c or letter 3d).
- 11.5. The medical certificate or/and the Occupational Health report may recommend reasonable adjustments. Such adjustments may include a phased return to work, a reduction in working hours (temporary or permanent), amended duties, or workplace adaptations. The Line Manager is advised to consult with the Human Resources Business Partner on receipt of such recommendations.
- 11.6. Where Occupational Health identify that an employee is unfit to work for the foreseeable future (approximately 3 months or more) a formal Sickness Absence Hearing will be convened which may result in dismissal.
- 11.7. In all cases where the employee is permanently unable to return to their substantive role due to medical reasons the option of ill health retirement should be considered.
- 11.8. Where the employee has returned to work they will be managed in accordance with Section 5.

12. Formal Sickness Absence Hearing (Long –Term)

- 12.1. Please refer to section 8 and 9 for the process to be followed at the formal sickness absence hearing and possible outcomes

13. Right of Appeal for both intermittent absence and long-term absence.

- 13.1. Employees have the right of appeal against any sanction given as a result of a hearing within 10 working days of receiving their confirmation letter and (where appropriate) should provide supporting evidence (for example, if new medical evidence has come to light). The Appeal Form in Appendix 5 should be used for this purpose but a letter outlining the grounds for appeal is also acceptable.
- 13.2. Membership of all appeals Panels will consist of between one and three members, depending on the specific circumstances.
- 13.3. The Panel will be drawn from the Trust's Executive and Senior Management Team who have had no previous involvement in the matter and who are not conflicted (i.e. the CEO, Executive Principals, Executive Vice Principals, Heads of School or Members of the Support Centre's Leadership Team) and/or a member of the LGB with agreement of the LGB Chair.
- 13.4. In instances where an appeal hearing relates to an Executive Principal, Principal, Executive Vice Principal, or Head of School, the Panel will comprise of the relevant LGB Chair or Vice Chair (or

another LGB member appointed by the LGB Chair), along with the CEO (or a person appointed to deputise for the CEO) and up to one member of the Trusts' Executive Management Team (i.e. the CEO, Executive Principals, or members of the Support Centre's Leadership Team). The composition of the Panel will be agreed jointly between the LGB Chair and the CEO.

- 13.5. The employee will be given 10 working days' notice of the Appeal **Hearing (Appendix 3 – letter 6)** and be informed of:
- The name(s) of the person(s) who will hear the case.
 - The date, time and location of the hearing.
 - The right to representation.
 - A copy of the relevant policy.
- 13.6. The appeal will be conducted having regard to the matters set out on the Appeal Form and/or letter from the employee, and the outcome letter of the sickness absence hearing.
- 13.7. The person(s) hearing the appeal will receive the Appeal Form and/or letter, relevant documents referred to in the sickness absence hearing and a copy of the letter confirming the outcome of the sickness absence hearing.
- 13.8. At the appeal stage, either party may decide that it is relevant for witnesses to attend the meeting. In circumstances whereby it is impracticable or unacceptable for witnesses to attend, the person hearing the appeal will determine the weight placed on the evidence provided.
- 13.9. Every reasonable effort should be made by the employee and representative to be available for the appeal hearing. If the employees' representative is unable to attend on the specified date, the employee may request that the meeting be postponed. Provided that the new date and/or time is reasonable, and within 5 working days of the original date, this will be accommodated.
- 13.10. If following reasonable attempts to arrange a suitable date for all to attend and the employee/their representative is still unavailable, the person hearing the appeal may determine that the appeal is withdrawn.
- 13.11. The appeal should normally be conducted in one day except in exceptional circumstances.
- 13.12. If an employee attends with a TU representative or work colleague, the chosen representative does not have the right to answer questions on the employees' behalf or address any meeting without the employees' consent. They will be allowed to address the appeal panel and present the employees' case.
- 13.13. The process for the Appeal Hearing will be as outlined in the Process at a Formal Appeal Hearing (see Appendix 2).
- 13.14. The person(s) hearing the appeal has authority to confirm, reduce, or revoke (confirm a period of continued monitoring) the original outcome. The decision of the person(s) hearing the appeal is final.

- 13.15. Where possible the decision will be given to the employee at the conclusion of the meeting and confirmed in writing no more than 5 working days after the hearing (Appendix 3 – letter 7).
- 13.16. The written record of the appeal hearing should be completed as quickly as possible after the date of the hearing.
- 13.17. All documents pertaining to this procedure should be retained on the employee's personal file as per point 2.5.

14. Infectious Diseases and Industrial Injury

- 14.1. Employees prevented from attending work due to contact with an infectious disease or having an industrial injury, as determined by their GP or Occupational Health, will be managed in accordance with this policy.

15. Monitoring and Review

- 15.1. The policy will be reviewed to ensure consistency of application and adherence to Equalities legislation.
- 15.2. The policy will be reviewed every three years.

This policy has been consulted and agreed with the following Trade Unions: NEU, ASCL, Unison, GMB, Unite and NAHT. Consultation has taken place with NASUWT.