

# Heart of the Forest Community Special School

## Staff Attendance Policy



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## **1.0 Introduction**

- 1.1 The Governing Board recognises the importance of managing attendance in a supportive manner, promoting fairness and transparency in the treatment of employees and ensuring that acceptable standards are sustainable and maintained.
- 1.2 It is based on the principles of the ACAS Code of Practice on discipline and grievance and current employment and educational legislative requirements.
- 1.3 The policy applies to the following employees:
  - 1.4.1 Support staff: where there are concerns which informal action has been unable to address or which are serious enough to require formal action
  - 1.4.2 Teachers: where there are concerns which the appraisal process has been unable to address or which are serious enough to require formal action
- 1.4 This policy provides a framework for the Headteacher/manager to manage:
  - 1.4.1 An employee's unacceptable level of short-term absence to encourage a high attendance level
  - 1.4.2 An employee's long-term absence to support their recovery and return to work
  - 1.4.3 The occasions where an employee cannot return to work
- 1.5 For further information on how to support employees through sickness absences, including assisting with their return to work, please refer to the School's Sickness Absence Policy.
- 1.6 This policy does not form part of any employee's contract of employment and is entirely non-contractual. It may be amended, withdrawn, suspended or departed from at the discretion of the council at anytime.
- 1.7 Please note if the school has purchased legal insurance which covers employment issues you should refer to the terms and follow any requirements of the policy.

## **2.0 Informal action**

- 2.1 Informal action would normally be taken when an employee has had:
  - 2.1.1 Periods of short-term absence that are of concern to the Headteacher/manager, such as recurring patterns of absence
  - 2.1.2 A period of long-term absence where the prognosis is good and a return to work is expected within 12 weeks and there is otherwise a history of good attendance
- 2.2 Informal action to address the situation should be taken as soon as a concern arises about an employee's absence and should not be delayed. For teachers, informal action should be taken straight away but should also be discussed as part of the teachers' appraisal process regular meetings. A similar process can be used for support staff appraisals via one to one/supervisory meetings.
- 2.3 Informal action may include:

- 2.3.1 An in-depth return to work meeting,
  - 2.3.2 A verbal warning, and
  - 2.3.3 The reinforcement of expectations surrounding an employee's attendance
- 2.4 Expectations agreed during a return to work meeting are developed to suit the individual circumstances, but would normally include the criteria for success, time scales for improvement and support available.
- 2.5 Whilst the manager determines the criteria, it is important that the employee understands what is required to achieve success and helps to identify ways in which they can be supported. Arrangements for monitoring and review will be agreed.
- 2.6 If improvement is not achieved at this stage, or sustained, then progression to formal action may be taken.

### **3.0 Formal action**

- 3.1 Formal action should be taken when the employee has:
- 3.1.1 Repeated periods of short-term absence and attendance which does not meet the required standard following informal action
  - 3.1.2 A period of long-term absence where a return to work is not expected within 12 weeks
  - 3.1.3 A period of long-term absence in addition to an attendance history that does not meet the required standard
  - 3.1.4 Previous formal warnings on file for any reason that are still current and there is a continued or new performance concern
- 3.2 Any formal meeting for a long-term sickness absence will focus on reviewing available medical advice, prognosis for recovery and likely timescale for any return to work.
- 3.3 No formal action should commence against a trade union representative until the circumstances of the case have been discussed with the appropriate branch or full-time officer, with the prior permission of the employee. If the employee does not wish there to be any prior discussion with the branch or full-time officer then formal action will proceed in the normal way under this procedure.
- 3.4 Although there is an expectation that formal action is generally progressive, formal action may start at either of the first two stages, dependent on the circumstances of the situation. There may be exceptional circumstances when formal action is initially taken at stage three (without having gone through stage one or two), for example where the employee has been declared medically unfit for their post having been assessed for ill health retirement.
- 3.5 At each stage, a formal meeting will be arranged with the employee.
- 3.6 If the concern is established the outcome would normally result in a warning and sanction or ultimately dismissal. The maximum warning for each stage is detailed in the table below, however the chair has the flexibility to apply lesser sanctions if appropriate (i.e. issuing a

first written warning at a stage two meeting, if the concern was not enough to warrant a final warning as detailed).

3.7 Sanctions (including associated financial outcomes) will not disproportionately impact employees covered under the Equality Act 2010, for instance in some circumstances it may be that trigger points are altered as part of a reasonable adjustment towards disability related absences. This will be treated on a case by case basis.

3.8 The stages of formal action and potential sanctions are given below:

<b>Formal Stage</b>	<b>Maximum level of sanction at each stage</b>
One	Could lead to a first written warning. Withholding an increment for support staff and preventing progression to the next pay point/grade for teachers.
Two	Could lead to a final written warning. Withholding an increment for support staff and preventing progression to the next pay point/grade for teachers.
Three (will normally progress to this stage after a final written warning has been issued at stage two).	Could lead to dismissal.

3.9 Stage One:

- 3.9.1 The warning cautions the employee that if their absence record does not improve, it may be necessary to consider further formal warnings, up to and including dismissal
- 3.9.2 A decision can be made to issue a first written warning at stage one depending on the severity of the issue
- 3.9.3 If improvement is not achieved at this stage, or sustained thereafter, then progression to stage two is likely
- 3.9.4 A decision can be made at this stage to withhold any incremental or salary progression at the next salary review date.

3.10 Stage Two:

- 3.10.1 A decision can be made to go straight to stage two (without a first warning being in place) depending on the circumstances of the attendance issue
- 3.10.2 The maximum sanction at this stage is a final written warning
- 3.10.3 A decision can be made at this stage to withhold any incremental or salary progression at the next salary review date.

3.11 Stage Three:

- 3.11.1 The maximum sanction at this stage is dismissal.
- 3.11.2 Lesser sanctions can be applied if during the meeting it is concluded that the absence does not justify dismissal (i.e. final written warning)

- 3.11.3 Any notice will be in line with normal contractual arrangements or statutory notice depending on which is greater
- 3.12 The start date of the formal warning will commence when the related action plan and support programme is finalised. Therefore any outcome will be confirmed in writing to the employee within three working days of the decision, including as appropriate:
  - 3.12.1 The nature of the concern
  - 3.12.2 The required improvement/expectations
  - 3.12.3 Support arrangements
  - 3.12.4 The monitoring arrangements and if appropriate a review date
  - 3.12.5 What will happen if there is insufficient improvement, including possible further formal action
  - 3.12.6 How long the warning will remain in force
  - 3.12.7 Any effect on pay
  - 3.12.8 The right of appeal
- 3.13 A written warning will remain live for the duration as set out in the outcome letter, usually 12 months.
- 3.14 If an employee appeals against an outcome, the sanction will remain in place until the outcome from the appeal is known.

#### **4.0 Right to representation**

- 4.1 The employee has a right to be represented/supported by a trade union representative or workplace colleague during formal attendance meetings.
- 4.2 If the employee's representative is unavailable for any of the formal meetings, an alternative date (usually within five working days) will be arranged. There will normally be only one postponement allowed for this reason. If the representative subsequently becomes unavailable for the re-arranged meeting the employee may be advised they will need to find a different representative and it is the union's responsibility to ensure an alternative representative is provided.
- 4.3 The employee does not have a specific right to be accompanied at an investigatory meeting by a trade union representative or workplace colleague. However, it is recommended they be given the opportunity to be accompanied if there is the possibility of formal action being taken at a later date.

#### **5.0 Formal meeting**

- 5.1 The Headteacher and/or a governor, or a panel of governors can conduct a formal meeting. The Governing Board may delegate responsibility to the Headteacher for formal action including the decision to dismiss.
- 5.2 For the formal stages up to stage two, the holding of formal meetings and the issuing of warnings may be delegated to an appropriate member of the leadership team e.g. business manager.

- 5.3 Where the Headteacher is the subject of the formal meeting, the Governing Board may delegate responsibility for formal action to one (usually the chair of governors) or more governors.
- 5.4 However, the Headteacher or same governing board representatives cannot take dismissal decisions if they have been directly involved in making decisions on previous formal warnings. And where practicable, different people should carry out the investigation and disciplinary hearing.
- 5.5 The manager should make it clear to the employee that formal action is being taken:
- 5.5.1 At least five working days' notice will be given to the employee attending the formal attendance meeting. For a formal meeting where dismissal is being considered, at least 10 working days' notice should be given.
  - 5.5.2 The letter should include details of the right to representation, the Attendance Policy and the documents to be discussed at the meeting (i.e. absence report). There should be an additional copy for the representative that the employee can send, or it can be sent directly to the representative if the employee has advised the school who their representative is, provided the employee has agreed.
  - 5.5.3 The letter must state the formal stage at which the meeting is being held and the potential outcome/sanction that may result.
  - 5.5.4 The employee must be given a date by which to provide any documentation to support their case (five working days). Sufficient time should be given to allow papers to be distributed to the chairperson/panel to be read prior to the formal meeting. If this is not possible they should contact a relevant person to make appropriate arrangements.
  - 5.5.5 For a formal meeting where dismissal is being considered, the employee must ensure the school receives any documents at least five working days before the meeting to ensure all parties receive the final bundle of documents in advance. This allows time for all parties to read the content of the bundle.
  - 5.5.6 Any formal action taken and the reasons for the decision will be confirmed in writing to the employee, including details on how they can appeal. The employee should be informed of the consequences of failing to improve in line with the agreed levels of attendance within the set period following a final warning, including confirmation that it may result in dismissal.
- 5.6 It is good practice to make a note of informal meetings to inform future proceedings. Where a formal meeting takes place, minutes must be taken. Where dismissal is a potential outcome, minutes should be kept and consideration should be given to having a note-taker present. Employees are not permitted to make their own audio recording of an attendance meeting.

## **6.0 Action plan**

- 6.1 Action plans are developed to suit individual circumstances but would normally include clear expectations regarding work standards and practices, the criteria for success, time scales for improvement and any agreed support and review arrangements. The employee may be given the opportunity to discuss the content of this plan with their trade union representative before agreeing to it.

- 6.2 Whilst it is for the manager to determine the criteria it is important for the employee to understand what is required of them and to help identify potential support. Employees are expected to co-operate with the process and engage fully with any agreed support.
- 6.3 Should the employee not achieve a successful outcome following the action plan they would normally progress to the next stage of the attendance policy, and ultimately could be dismissed.
- 6.4 Arrangements for monitoring and review will be agreed as part of the action plan.

## **7.0 The role of Governors**

- 7.1 The school may delegate the Headteacher (or manager), a single governor or a panel of governors to hear a formal case as appropriate (see above).
- 7.2 A panel of governors (up to three) will hear any appeal.
- 7.3 Where collaborative arrangements with another Governing Board are in place regarding staff attendance, governors from any of the collaborative schools may be delegated to conduct a formal meeting or appeal.

## **8.0 The role of GCC and the Diocese**

- 8.1 A representative from GCC is entitled to attend and provide advice at all proceedings in Community, Community Special, and Voluntary Controlled schools, relating to any dismissal decisions.
- 8.2 Similarly, The Diocese, through a representative, may be given the right to attend proceedings to give advice for Voluntary Controlled church schools.
- 8.3 In Foundation schools, Voluntary Aided schools and Academies, the governors may give GCC rights of attendance. These rights should be the same for the diocese in a Voluntary Aided church school.
- 8.4 The Governing Board or, via delegation, the Headteacher (in applicable schools as above or where rights of attendance have been given), must consider any advice given by the GCC and/or diocesan representative before a decision to dismiss is made.

## **9.0 Dismissal**

- 9.1 In all schools, Governors will send the employee a dismissal notice.
- 9.2 However, for Community, Voluntary Controlled and Special schools, the Governing Board will also send an instruction to GCC and the employee will receive a confirmation of dismissal notice from GCC.
- 9.3 Where dismissal is with notice, any notice period will be in accordance with the employee's contractual arrangements, or the statutory period, whichever is greater. The employee will receive normal pay throughout the period of notice.

## **10.0 Right of appeal**



- 10.1 There is a right of appeal at every stage of the formal absence process as specified in the warning or dismissal letter.
- 10.2 The appeal is not a rehearing of the case but is a review of the reasonableness of the decision. Determining reasonableness may include consideration of procedural irregularities or any relevant new evidence which could not have been available at the time of the formal meeting.
- 10.3 Whilst the outcome of the appeal is pending, any action plan, warning or dismissal will remain in force.
- 10.4 The appeal letter must be received within five working days of the date of the outcome letter and should specify the grounds of the appeal including why and in what respects the decision of the original meeting was unreasonable. The appeal needs to be sufficiently clear to enable the initial chair whose decision is being appealed to respond at the appeal meeting.
- 10.5 Any supporting documents or information should be provided with the appeal letter. If this is not possible, documents should be submitted to allow reasonable time for the employer to prepare their case and collate, paginate and distribute the bundle for receipt by all parties at least three working days before the appeal meeting.
- 10.6 Where the appeal period overlaps with a pre-determined holiday period (i.e. out of term-time for term-time only employees), the letter of appeal needs only to register the intention to appeal. A fully detailed letter should arrive within five working days following the end of the holiday period.
- 10.7 A panel of up to three governors not previously involved with the case will conduct appeal meetings. Where there has been an appeal at an earlier stage of the procedure, the same governors may conduct the appeal.
- 10.8 Arrangements for the appeal meeting should normally be notified to the employee within ten working days of receipt of the request for an appeal and should confirm the right to be accompanied by a trade union representative or workplace colleague.
- 10.9 At appeal, the original sanction will be reviewed and may be confirmed, amended or withdrawn but cannot be increased.
- 10.10 The decision of the appeal panel will be final, and will be confirmed in writing to the individual within three working days. Should the outcome of the appeal change the original decision, the panel will need to make clear the terms of and reasons for the decision.
- 10.11 If an appeal is successful, any outcome will be amended or withdrawn without any detriment to the employee. In the case of dismissal, there will be no detriment to pay or continuous service.