



THE FULHAM BOYS SCHOOL

<i>Policy Title</i>	Staff Sickness and Absence Policy and Procedures
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Revisions Table

<i>Version</i>	<i>Date</i>	<i>Edited by</i>	<i>Description of Change</i>

The master copy of this document can be found on the FBS Google Drive, under the “Policies” folder. This is one of a number of policies that are reviewed by the Governing Body, the full list can be found on the FBS Google Drive in the Policies Folder. Minor revisions that just adjust factual items (eg contact details / names) can be made by the author without formal review, and must be recorded in the Revisions table above. Revisions table front sheet was added to all policies Summer 2018.



STAFF SICKNESS AND ABSENCE POLICY AND PROCEDURES

Date of Next Review: Summer 2020

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DEFINITIONS

For the purposes of this Policy and all other School policies relating to employment the following definitions shall apply (not all defined terms will be material to this Policy or the procedures authorised by the governing body under it)

Appeal Committee	A Committee appointed to determine an appeal against the decision of another Committee. It must not include any prejudiced person but must include the same number of governors as were members of the Committee which made the previous decision against which the employee wishes to appeal.
Capability	An employee is capable who at all reasonable times demonstrates that s/he is fit, qualified and able to discharge all the demands made in the course of the work described in her/ his contract of employment. If, in some essential part of that work, a person, for whatever reason, evidently lacks professional or other relevant skills or competences or her/his performance is otherwise unsatisfactory that person is incapable in that respect. Lack of capability is not to be confused with misconduct or other disciplinary issues.
Capacity	This term has the same meaning as “capability”.
Chair of governing body	The person who is the chair of the governing body from time to time or, as the case may be, the governor nominated by the governing body to deputise for her/him.
Clear working day	A weekday other than a Saturday or a Sunday or a public holiday. A period of a stated number of clear working days is calculated from midnight on the day on which the triggering action or event takes place to midnight on the day before the event or action before which the period is expressed to expire e.g. a period of five clear working days after receipt of a notice will be calculated from midnight of the day on which the notice was received to midnight on the last day of the period.

Clerk	The person appointed by the governing body as its clerk who shall also act as the clerk to a Committee or her/his substitute authorised from time to time by the Chair of the governing body for that purpose.
Committee	A committee to whom power is delegated by the governing body to act as a committee for the purposes of these procedures and such a committee shall comprise not less than one nor more than three untainted governors and such other independent persons selected by the Chair of the governing body.
Companion	A person who accompanies the employee and who may be another employee of the School or a full time official employed by a trade union or lay trade union official as long as they have been certified in writing by their union as having experience of or received training in acting as a worker's companion at hearings or, in a case where a meeting or hearing concerns dismissal, a legal representative. Certification may take the form of an identifying card or letter. The person selected must be unprejudiced and her/his presence must not prejudice a fair hearing.
Competence	The qualifications, skills and personal qualities contractually or otherwise reasonably required to fulfil the demands of the particular task in issue.
Complaint	An allegation made in writing that a named employee has behaved in an unacceptable way, which might justify disciplinary action being taken against her/him.
Counselling	For the purposes of these procedures this means any confidential one-to-one discussion for the support and assistance of an employee or other person.
Delegated powers	Powers to make any specified decision including to decide whether to hold a meeting or hearing or to make substantive or procedural decisions in the course of meetings or hearings expressly

	delegated to a Committee or its chair or the Headteacher or any other named or designated individual(s) by the governing body either under its constitution or by a decision of the governing body which has been minuted.
Employee	Any employee of the School.
Exceptional case (relating to capability)	Very unsatisfactory performance that places the education of one or more pupils in jeopardy.
Governing body	The body of duly appointed directors and/or trustees and/or governors of the School.
Grievance	Any concern or problem that an employee as such raises in writing with her/his line manager or the Headteacher or the governing body on any matter relating to the administration or management of the School including a complaint by an employee against a management decision whether made by a line manager, the Headteacher or the governing body.
Gross misconduct	Misconduct so deliberate and serious that it could justify dismissal without previous warnings and without notice.
Headteacher	The teacher appointed or temporarily acting as headteacher of the School. Where the Headteacher is her or himself the object of the relevant procedure the term shall include the chair of the governing body or her/his deputy who will act as substitute for all necessary purposes.
Independent investigator	An independent person appointed by the chair of the governing body to carry out the initial investigation where the Headteacher and/or identified governors are either the subject of complaint, or have been involved in previous discussions relating to it or for some other appropriate reason.
Independent medical examination	A medical examination by a medical practitioner appointed and provided by the School with all relevant information who has not previously examined the employee whether

or not also attended by a medical practitioner appointed by the employee at her/his expense . Such an examination will only take place in order to assess the capability of the employee including the likely date of a full return to work if at all and the desirability of any change to any duties or responsibilities and/or any reasonable adjustments to facilitate a full return to work and the probability of future absence and/or the underlying causes of past absence(s) and any need for referral or review of the outcome of the examination.

Investigator

The line manager or Headteacher or chair of the governing body or such other person (being either a governor or an independent person) appointed by the chair of the governing body as is appropriate in all the circumstances to investigate and establish the relevant facts.

Line manager

An employee of the School who has delegated responsibility from the governing body under the control of the Headteacher for the day to day management of an identified employee or group of employees. This will normally be a member of the senior leadership team.

Misconduct

An act or omission which is considered by the School to be either improper or otherwise unacceptable in contravention of School policies or rules and/or of professional standards and will be dealt with under the School's disciplinary policy and procedures.

Must

Indicates something which is required by law or formal policy or procedure adopted by decision of the governing body as to which there is no discretion under these procedures.

On duty

A member of staff is on duty when carrying out their contractual obligations or the express instructions of the Headteacher on or off school premises.

On file

A record is on file if put and kept in an employee's personal file. Employees have

	<p>access to their file through the Headteacher. Employees do not have access to confidential matters relating to other people or to confidential references which may be on their own file.</p>
Prejudiced	<p>To be potentially biased having previously read about, listened to or taken part in discussion of a relevant matter relating to a named employee or by being a personal friend or close relative of that employee. An unprejudiced person has no apparent bias arising from any such earlier involvement with the complaint or personal association with the employee.</p>
Premature retirement	<p>A valid application through the governing body by an employee who is a teacher aged 55 years or over and has completed the normal qualifying period for early retirement under the Teachers Pension Services or any other pension scheme in accordance with the scheme rules if any.</p>
Procedures	<p>The procedures authorised by the governing body and to be followed under the relevant School policy.</p>
Pupils	<p>Boys on the current School register.</p>
Records	<p>Documents or other physical records including electronic data and documents setting out facts and other relevant matters.</p>
Redundancy situation	<p>The removal or reduction of a post which may result in dismissal of the employee currently in post where the governing body has ceased or intends to cease operating the School either in the place where the employee is employed or at all or where the requirements of the School for employees to carry out work of any particular kind have or are expected to cease or diminish for those or similar reasons.</p>
School	<p>The Fulham Boys School.</p>

School day	A day when the relevant employee is contractually required to be present including any day when pupils may not be present.
Should	Indicates something which is generally accepted as good practice and recommended but is not required by law or formal regulation adopted by decision of the governing body.
Unions	Includes both recognised trade unions and professional associations of which the relevant employee(s) is a member at the material time.
Untainted governor	A governor who is unprejudiced in relation to the matter and whose ability to act and decide fairly in it is not impaired by previous direct involvement in that matter or by prior consideration of it by the governing body as such.
Voluntary redundancy/severance	Acceptance by an employee of termination of employment by dismissal in a redundancy situation either on the employee's application or on the invitation of the governing body.

POLICY

1.1 This document sets out the School's policy and procedures for managing staff sickness and absence. Absence due to sickness will generally fall within one or more of the following categories:

- (a) occasional short-term absence
- (b) recurrent short-term absence due to different or apparently unrelated causes
- (c) recurrent short-term absence due to an underlying medical condition
- (d) long-term absence resulting from the employee being continuously absent for a considerable period of time.

1.2 The School recognizes the uniqueness and value of all people and will seek in the formulation and implementation of its procedures to support employees with compassion and sensitivity bearing in mind that the aim of the School is to provide an outstanding education in every respect to its pupils and so far as reasonably possible to provide appropriate pastoral support, working conditions and resources to its employees to enable each of them to fulfil their own potential in achieving that outcome.

1.3 Contracts of employment entered into by the School will incorporate the School's procedures approved by the governing body from time to time in accordance with this policy for managing staff absence due to sickness.

1.4 The School will notify employees in writing from time to time as to the time limits which, if exceeded, may result in implementation of its procedures in relation to staff sickness and absence on the grounds that inability to fulfil contractual duties through absence raises an issue as to the employee's fitness to do so.

1.5 The School will not appoint or continue to employ a teacher or any other employee in any particular role who does not have the mental and physical capacity for carrying out their contractual duties relating to that role.

1.6 The School will take all steps reasonably available to it to protect employees from health and safety hazards including work-related stress and will be entitled to take into account all material circumstances including resources.

1.7 The School will develop and implement and the governing body will approve from time to time procedures in relation to staff sickness and absence which are, so far as reasonably possible fair, consistent, objective, evidence based and in accordance with the law applicable from time to time and the principles of natural justice.

- 1.8 In dealing with any cases of staff absence due to sickness the School will carry out accurate and consistent monitoring and rely on the recorded results of the level and pattern of any employee absences in accordance with the School's published policies and procedures and will expect employees to give notice of and certify reasons for any absence in writing providing medical fit notes or certificates as and when required.
- 1.9 At the earliest appropriate stage and in any event before initiating formal action under the School's procedures the Headteacher and the Chair of the governing body will, so far as reasonable to do so, seek independent legal or other professional advice.
- 1.10 Any unauthorised absence not due to sickness and any abuse of the procedures for managing staff sickness and absence by an employee will be dealt with as a disciplinary matter under the School's policy and procedures for Grievance and Disciplinary Matters.
- 1.11 In formulating and implementing its policy in relation to staff sickness and absence the School has taken into account and will have regard to the provisions of the Education (Health Standards) (England) Regulations 2003 (SI 3139), and DfES Circular 4/99. with regard to fitness of teachers to teach and in relation to all employees all other material statutory and other legal requirements applicable from time to time including those of the Health & Safety at Work legislation and the Equality Act 2010 and employment law generally.
- 1.12 The School will, in implementing the procedures which have been or may in future be approved by the governing body, have regard to relevant Guidelines published from time to time by the London Diocesan Board of Schools.
- 1.13 School will closely adhere to its policies and procedures and governors involved in implementing the procedures will undertake appropriate training.
- 1.14 The School will ensure that the procedures as approved and amended by the governing body from time to time will be adopted as part of each employee's contract and that all employees understand the standards of work and conduct that are expected of them and have easy access to a copy of the current policies and procedures in the Staff Handbook.
- 1.15 The School will take all reasonable steps to ensure so far as possible that the rights to privacy of employees and other persons who may be affected are protected in the course of any proceedings and that such proceedings are carried on in a proper manner and governors and other persons who may be involved as committee members or otherwise in making formal decisions are not tainted.
- 1.16 The currently approved procedures under this policy are set out below and will be

subject to review and amendment from time to time by the governing body

2. PROCEDURES

2.1 Committees (which includes Appeal Committees)

- 2.1.1 The membership of a Committee shall include not more than three nor less than one untainted governor appointed from time to time as necessary by the chair of the governing body acting impartially from the group of governors nominated for the purpose of appointment to Committees by a minuted annual decision of the governing body.
- 2.1.2 The chair of the governing body may appoint as additional members of any Committee such other independent person or persons as shall appear to be reasonably necessary for the purposes of that Committee but such additional members must be appointed at the time of constitution of the Committee.
- 2.1.3 The chair of the governing body must provide clear written terms of reference for a Committee upon constitution of the Committee including:
- (a) a statement of delegated powers of decision in relevant matters relating to formal hearings under employment procedures
 - (b) strict confidentiality of the relevant matters to the members of the committee.
 - (c) a requirement that the chair of the committee should provide a short written report to the next meeting of the governing body following conclusion of any inquiry, hearing or appeal as the case may be. This report should summarise briefly the nature of the concerns and the outcome of the procedure whilst respecting the employee's privacy.
- 2.1.4 The chair of a Committee shall be appointed by the chair of the governing body from the members appointed to that Committee when it is constituted and must be a member of the governing body.
- 2.1.5 Any employee governor is entitled to be appointed to a Committee provided that they are not potentially biased by any possibility of direct or indirect personal gain from the Committee's proceedings whether by way of salary increase or promotion or otherwise.
- 2.1.6 The proceedings of a Committee including any hearing shall be attended by the Clerk and may be attended on the invitation of the Committee by other identified unprejudiced persons including such independent professional advisers as the chair of the Committee shall think fit but only members of the Committee have decision-making powers.
- 2.1.7 The role of any Committee is to implement the relevant School policy and

procedures in accordance with the law and the principles of natural justice and in performing that role the Committee must allow reasonable periods of time to enable an employee to prepare their case and for all parties to consider alternative approaches.

- 2.1.8 A Committee must take all reasonable steps to ensure that decisions are made and the correct procedures are followed at all times in compliance with material statutory and other legal obligations and the principles of natural justice.
- 2.1.9 The Clerk must carry out her/his role under these Procedures carefully and honestly and in doing so must ensure that a full and accurate contemporaneous note of the proceedings in or connected with any Committee meeting or hearing including discussions and decisions and the reasons for any decisions are recorded in writing and that copies of such records and of all related correspondence and other material documents including written representations and evidence produced to the Committee by or on behalf the School or any employee are put and kept on the Committee's files for so long as is legally necessary in each case dealt with by the Committee under these Procedures.

2.2 Notification and Monitoring

- 2.2.1 Employees shall comply with the School's notification procedures in respect of any unauthorised absence from work on grounds of sickness as follows:
 - (a) for any unauthorised absence of whatever length and for whatever reason(s) the employee shall notify the School in writing which shall if possible be in the standard form required from time to time stating the reason(s) for the absence
 - (b) for any unauthorised absence of between three and six school days (inclusive) the employee shall notify the School in writing which shall if possible be in the standard form required from time to time certifying the truth of the stated reason(s) for the absence
 - (c) for any period of unauthorised absence of more than 7 calendar days at one time the employee shall notify the School in writing which shall if possible be in the standard form required from time to time and provide a medical certificate or fit note setting out the reason(s) for the absence if the reason or one of the reason(s) is sickness.
- 2.2.2 The Headteacher shall keep copies of any written notices of absence lodged by employees on file and maintain adequate records of employee attendance and monitor levels of employee absence both generally and in particular and both authorised and unauthorised as well as of the reasons notified/certified by employees.

- 2.2.3 Where it appears that there may be alcohol or other drug-related issues affecting employee attendance or performance the Headteacher may seek independent and confidential legal or medical or other relevant professional advice.
- 2.2.4 Informal action which will normally include informal return to work interviews should where reasonable to do so in all the circumstances be initiated by the employee's line manager or the Headteacher if at any time the attendance record of an employee shows that s/he has been absent without authorisation:
- (a) on more than 3 occasions in any 3 month period; or
 - (b) on more than 6 occasions in any 6 month period; or
 - (c) on more than 9 occasions in any 12 month period, or
 - (d) continuously for any period of 3 weeks or more

*NB Occasion in this context means the whole or part of a school day and the periods of time should be measured from the first day of the week in which the first absence occurred.

- 2.2.5 Formal action shall, where reasonable to do so in all the circumstances and subject to the approval of the Committee appointed to consider and monitor absence, be initiated by the Headteacher or the line manager if at any time the attendance record of an employee shows that s/he has been absent without authorisation:
- (a) on more than 4 occasions in any 3 month period; or
 - (b) on more than 8 occasions in any 6 month period, or
 - (c) on more than 12 occasions in any 12 month period, or
 - (d) continuously for any period of 6 weeks or more

The Committee shall take into account all material circumstances including any known medical condition or other recurring health issue suffered by the employee in deciding whether or not to approve the initiation of any formal action.

2.3 Short Term Absence Procedures

2.3.1 Return to work – informal action

- 2.3.1.1 The line manager or Headteacher shall so far as reasonably possible interview any employee upon her/his return to work after any absence from work notified as due to sickness and may do so after any other absence from work.
- 2.3.1.2 The line manager or Headteacher must interview any employee upon her/his return

to work where the circumstances fall within paragraph 14 above.

2.3.1.3 the return to work interview the following should be discussed by the line manager or Headteacher with the employee:

- (a) the reason for the absence;
- (b) whether the employee is fit, from a management point of view, to return to her/his work;
- (c) whether there are any reasonable adjustments to the work environment that would aid the employee to maintain a better level of attendance;
- (d) whether there are any underlying factors that may be affecting the employee's ability to fulfil her/his contractual obligations.

2.3.1.4 Upon request the line manager or Headteacher should permit the employee to have a companion present at any return to work interview in which case the line manager may request the Headteacher to attend as a companion or if the Headteacher is conducting the interview s/he may be accompanied by another member of the leadership team or an adviser.

2.3.1.5 The line manager or Headteacher should make and provide to the employee a written summary of the discussion and keep a copy on file.

2.3.1.6 If the frequency or pattern of the employee's absences is such as is likely to trigger formal action under paragraph 14 above the Headteacher shall notify the employee at the return to work interview and explain the next steps which are to be taken.

2.3.2 Return to work – formal action

2.3.2.1 If the Headteacher has decided that an employee's absence should trigger formal action s/he shall notify the Clerk and seek approval for formal action providing all material information to the Clerk for onward transmission to the Committee for decision as to whether or not to approve formal action.

2.3.2.2 If the Committee approves formal action as proposed by the Headteacher the employee shall be given not less than five clear working days' formal written notice of the date and time for a formal interview with the Headteacher setting out the purpose of the meeting which is to discuss the occasions of absence which are giving cause for such concern to the School as to justify a formal interview. Information as to the procedure to be followed and the employee's right to attend with a companion should also be included within the notice.

2.3.2.3 At the formal interview the Headteacher must set out the relevant facts relating to the absences giving rise to the notice and explain the School's concern and ask the employee to make any representations and/or provide any further relevant

information which s/he is willing to give as to the dates, periods and reasons for the absences so as to enable so far as possible:

- (a) an agreement to be reached as to the material facts, and
- (b) a reasonable discussion and agreement as to the impact of the absences on the employee's performance of her/his contractual duties and on the School, and
- (c) an agreement as to the steps to be taken as a consequence including improvement of the level of absence and a date by which such improvement is to be demonstrated.

2.3.2.4 The Headteacher must, following the formal interview, consider all the material facts and circumstances including any representations made or information provided by the employee and make one of the following decisions:

- (a) that there is no justification for taking any further steps other than standard monitoring of future attendance, or
- (b) that absences are likely to continue in the future and further specific action to monitor sickness absence and/or specific further information which may include a referral for an independent medical examination is required within a specified period before making a decision, or
- (c) that the level of absences is not reasonably acceptable and a written warning should be given that if improvement has not been demonstrated by a specified date further steps may be taken.

2.3.2.5 Written confirmation of the Headteacher's decision including detailed information as to any specific requirements and specified periods following the formal interview shall be sent to the employee within five clear working days of the meeting.

2.3.2.6 In the case of a decision to require specific action to monitor sickness absence or specific information including any request for referral for an independent medical examination the School should reimburse any reasonable costs reasonably incurred by the employee as a direct consequence of such requirements.

2.3.2.7 In the case of a decision to give a written warning the letter confirming the decision of the Headteacher must:

- (a) include details of the agreed or required improvement in attendance and specify the agreed or the required review date for demonstration that acceptable progress has been made, and
- (b) request the employee to confirm receipt and, if it should be the case, her/his agreement to the improvement required and to the review date by signing a copy of the confirmation letter (of which two copies should be provided to the employee). Failure to sign and return the copy decision letter or to agree its terms will not invalidate subsequent action based upon it.

2.3.2.8 Any written warning confirmation letter must be put on the employee's personal file and removed only if, over the period of 12 months following the date of the confirmation letter, further monitoring of the employee's attendance discloses no further cause for concern to the School.

2.3.3 Return to work – formal review

2.3.3.1 In the case of a decision following a formal meeting to require specific action to monitor sickness absence or specific information including any request for referral for an independent medical examination by a specified date or in any other case where it has been agreed that there be a review of the position the Headteacher shall give to the employee not less than five clear working days' written notice of the date and time of the review meeting stating that the employee is entitled to attend with a companion and requesting that any evidence including additional medical or other professional reports as to her/his ability to comply with her/his contractual duties and achieve a satisfactory attendance level be provided to the Headteacher as soon as possible and in any event not later than two clear working days before the meeting. The notice should also state that the purpose of the meeting is to review the previously agreed target; to consider whether the target has been satisfactorily achieved and to consider what further action is necessary.

2.3.3.2 At the review meeting the representations and evidence provided at the original formal meeting shall be reviewed together with any additional representations and evidence following which the Headteacher must make one of the following decisions in consultation with the employee and having taken into account all material facts and circumstances:

- (a) that given the improvement in attendance there is no justification for taking any further steps other than standard monitoring of attendance, or
- (b) that the required improvement specified in the original confirmation letter has not occurred but that in the light of the improvement which has occurred further specific action to monitor sickness absence and/or specific further information which may include a referral for an independent medical examination is required within a specified period before making a decision, or
- (c) that despite a more favourable prognosis than at the original formal meeting the current level of absence is unsustainable for the School and that the matter should be referred to a formal hearing by the Committee, or
- (d) that there has been no improvement in attendance and that there is no medical or other evidence available to indicate that it is likely that the employee can return to work with an improved level of attendance and that the matter should be referred to a formal hearing by the Committee, or
- (e) that there is prima facie evidence of an underlying medical condition that

renders the employee permanently unfit to resume her/his contractual duties but would not preclude employment in some other capacity within the School if that can be facilitated after an exploration of the possibilities within the ambit of the Equality Act 2010 and that those possibilities should be explored within a specified period before making a decision, or

- (f) that there is prima facie evidence of an underlying medical condition that renders the employee permanently unfit to work and that the matter should be referred to a formal hearing by the Committee.

2.3.3.3 Written confirmation of the Headteacher's decision following the formal review including detailed information as to any specific requirements, actions, dates or periods where required by a decision to defer the matter pending a further review shall be sent to the employee within five clear working days of the meeting.

2.3.3.4 In the case of a decision to require specific action to monitor sickness absence or specific information including any request for referral for an independent medical examination the School should reimburse any reasonable costs reasonably incurred by the employee as a direct consequence of such requirements.

2.3.3.5 In the case of a decision to refer the matter to the Committee the letter to the employee confirming the decision of the Headteacher must include information as to the procedure for such referral.

2.3.3.6 The employee should be asked in the confirmation letter to confirm receipt and, if it should be the case, her/his agreement to the improvement required and to the further review date by signing a copy of the confirmation letter (of which two copies should be provided to the employee). Failure to sign and return the copy decision letter or to agree its terms shall not invalidate subsequent action based upon it.

2.3.3.7 If, after a second review the matter of sickness absence has not been resolved to the Headteacher's reasonable satisfaction then, save in exceptional circumstances, the Headteacher must refer the matter for decision by the Committee.

2.3.4 Formal hearing by the Committee

2.3.4.1 The Headteacher shall refer the matter of the employee's sickness absence to the chair of the governing body who in the exercise of her/his reasonable discretion in accordance with the School's policy may in turn refer the matter to the Committee for a formal hearing to consider the employee's future employment by the School on one or more of the following grounds:

- (a) the Headteacher's decision to refer, or
- (b) the employee's unreasonable failure to co-operate with previous procedures in any respect, or

- (c) in any other case where it is reasonable to conclude that the employee's attendance record shows continued unacceptably high levels of absence, or
- (d) that for any other reason s/he is permanently unfit to work.

2.3.4.2 If the chair of the governing body decides to proceed to a formal hearing the Clerk shall give to the employee not less than 10 clear working days' written notice of the date(s), time and location of the hearing.

2.3.4.3 The notice of hearing should also include the following:

- (a) a request that the employee provide to the Clerk any written representations or evidence including additional medical reports or other documents intended to be relied upon not less than five clear working days before the hearing
- (b) a statement of the employee's right to attend with a companion including, if there is a real prospect of a decision to dismiss, her/his right to legal representation
- (c) by way of enclosure all material evidence and documentation intended to be presented by the Headteacher at the hearing.

2.3.4.4 If the Headteacher's decision at the formal review was that the employee was permanently unfit to work and the employee states that s/he does not contest that as a fact s/he may choose not to attend the formal hearing which must nevertheless proceed to a decision in her/his absence as a formality.

2.3.5 Persons entitled to attend the hearing

2.3.5.1 The notice of hearing should identify the persons who are entitled to and will be attending the hearing being:

- (a) the members of the Committee and any professional or other advisers to the Committee
- (b) the Headteacher who will present the case for dismissal by reason of incapacity and any companion
- (c) the employee and any companion.

2.3.6 Hearing Bundle of Documents

2.3.6.1 Before the date of the hearing the Clerk shall send to all persons attending the hearing copies of all material documents including:

- (a) the School's written representations and evidence
- (b) the employee's written representations and evidence

(c) the agenda for the hearing.

2.3.7 Conduct of the hearing

2.3.7.1 The chair of the Committee is in control of the hearing and shall make such decisions as s/he thinks fit as to the conduct of the hearing in the exercise of her/his reasonable discretion and in accordance with the principles of natural justice.

2.3.7.2 The chair of the Committee in conducting the hearing should:

- (a) welcome and introduce those present
- (b) state that the hearing is private and all information and representations are confidential to those present
- (c) outline and if reasonably possible obtain agreement to the procedure to be followed
- (d) ask the parties to remain available for an agreed period after the Committee withdraws at the end of the hearing in case further information or clarification is required on any material point stating that in that case the hearing will resume with all parties present for that purpose
- (e) explain the process for notifying the parties of the Committee's final decision.

2.3.7.3 The chair of the Committee may adjourn the hearing for any good reason including the presentation of new evidence or the making of further representations which requires further time for consideration or investigation by any party in which case the chair shall give directions for the adjourned hearing including further written notice and the making of further written representations and provision of material documents.

2.3.7.4 Following the hearing the Committee must make one of the following decisions:

- (a) that it is satisfied that the employee is able to return to work and achieve acceptable attendance levels, either immediately or in the very near future so that no further action is required, or
- (b) that the hearing should be adjourned for a fixed period to enable a further review to be undertaken and additional evidence submitted, or
- (c) that it is satisfied that the employee is unfit to carry out the duties for which s/he was employed and has a level of absence that the School cannot sustain and therefore that subject to the required notice the employee should be dismissed on grounds of incapacity.

2.3.8 Notification of the Committee's decision

2.3.8.1 The chair of the Committee either notifies the parties of the Committee's decision orally at the end of the hearing or that they will be notified later in writing.

2.3.8.2 Written confirmation of a decision notified orally at the hearing or written notification of the Committee's decision shall be given by the Clerk to the employee as soon as reasonably possible after the hearing and shall include a statement of the Committee's reasons and, in case of a decision to dismiss, of the employee's right to appeal specifying the last date for making such an appeal.

2.4 **Appeal Hearing**

2.4.1 If the employee wishes to exercise her/his right to appeal against a decision of the Committee that s/he should be dismissed then s/he must give written notice of the appeal including the grounds for it to the Clerk within 10 working days of the date of receipt of the written confirmation or notice of the Committee's decision that the employee should be dismissed.

2.4.2 The chair of the governing body shall then appoint an Appeal Committee.

2.4.3 The Clerk must give to the employee not less than 10 clear working days' written notice of the date of the appeal hearing which must be fixed for a date not less than 10 nor more than 15 days after the date of receipt by the Clerk of the employee's notice of appeal. The letter of notification of the date of the hearing must state:

(a) the date of the hearing

(b) the fact that the appeal will be by rehearing of the evidence put before the Committee

(c) the requirement that any additional evidence including additional medical reports or other documents intended to be relied upon by the employee should be provided to the Clerk not less than 5 clear working days prior to the date of the hearing

(d) the employee's right to have a companion or legal representative attend the hearing.

2.5 **Persons entitled to attend the appeal hearing**

2.5.1 The notice of hearing should also identify the persons who are entitled to and will be attending the hearing being:

- (a) the members of the Appeal Committee and any professional or other advisers to the Appeal Committee
- (b) the Headteacher who will present the case for dismissal by reason of incapacity and any companion
- (c) the employee and any companion or legal representative.

2.6 Hearing Bundle of Documents

- 2.6.1 Before the date of the hearing the Clerk shall send to all persons attending the hearing copies of all material documents including:
- (a) the School's written representations and evidence
 - (b) the employee's written representations and evidence
 - (c) the agenda for the hearing.

2.7 Conduct of the appeal hearing

- 2.7.1 The chair of the Appeal Committee in conducting the hearing should:
- (a) welcome and introduce those present
 - (b) state that the hearing is private and all information and representations are confidential to those present
 - (c) outline and if reasonably possible obtain agreement to the procedure to be followed
 - (d) ask the parties to remain available for an agreed period after the Committee withdraws at the end of the hearing in case further information or clarification is required on any material point stating that in that case the hearing will resume with all parties present for that purpose
 - (e) explain the process for notifying the parties of the Committee's final decision
 - (f) The chair of the Committee may adjourn the hearing for any good reason including the presentation of new evidence or the making of further representations which requires further time for consideration or investigation by any party in which case the chair shall give directions for

the adjourned hearing including further written notice and the making of further written representations and provision of material documents.

2.7.2 Following the hearing the Appeal Committee must make one of the following decisions:

(a) to dismiss the appeal, or

(b) to allow the appeal and to make consequential directions

and the decision of the Appeal Committee is final.

2.8 Notification of the Appeal Committee's decision

2.8.1 The chair of the Appeal Committee either notifies the parties of the Appeal Committee's decision orally at the end of the hearing or that they will be notified later in writing.

2.8.2 Written confirmation of a decision notified orally at the hearing or written notification of the Appeal Committee's decision shall be given by the Clerk to the employee as soon as reasonably possible after the hearing and shall include a statement of the Appeal Committee's reasons for its decision.

2.9 Withdrawal of an appeal

2.9.1 The employee may withdraw her/his appeal by written notice to the Clerk at any time prior to the final disposal of that appeal.

2.10 Long-term Absence Procedures

2.10.1 Formal Meeting

2.10.1.1 When the Committee has taken a decision to trigger formal action on the grounds of long term absence the Headteacher shall give not less than five working days' written notice to the employee of the date and time of a formal meeting to discuss the duration of and reasons for the employee's absence from work and of the employee's right to attend the meeting with a companion or legal representative and of the identity of all persons who will attend the meeting with the Headteacher.

2.10.1.2 If the employee does not intend or is unable to be present at the meeting but wishes to be represented by some other person s/he should give written notice of that fact and of the identity of the representative and the extent of their authority. The meeting may take place in the absence of the employee or her/his representative only if the Headteacher has reason to conclude that the primary purpose of the non-attendance is to delay the formal procedure.

2.10.1.3 At the meeting the parties should discuss the prognosis for the employee's return to work and the Headteacher should set out the facts relating to the employee's absence and the impact on the School and must request the employee to state the date by which s/he anticipates returning to work and to provide any further information including medical evidence as to the reasons for continued absence with the aim of determining what steps should be taken next. Possible outcomes of the meeting include:

- (a) that the employee can state an anticipated date for return to work in the near future in which case, provided that the employee returns to work on or before that date, no further action would be taken by the School other than the normal monitoring of sickness absence, or
- (b) that the employee is unable to indicate any date for return to work in the near future but is able to evidence a general improvement in her/his state of health such that a return to work in the medium term is likely in which case a date for review of the situation pending further action should be fixed with a written warning if justified by the circumstances, or
- (c) that the employee is unable to give any indication as to when s/he might be able to return to work in which case the Headteacher may request an independent medical examination of the employee to establish whether or not s/he is likely to be able to return to full employment and, if so, at what date, or
- (d) that the Headteacher decides that a formal hearing should be held by the Committee.

2.10.1.4 Written confirmation of the outcome of the formal meeting must be sent by the Headteacher to the employee as soon as possible. If a warning has been given and a review date has been set, confirmation should be included in the same letter.

2.10.2 Formal Review Meeting

2.10.2.1 If the decision made at the formal meeting was to review the employee's situation at a given date or to refer the employee for an independent medical examination and report and then review the situation the Headteacher shall give to the employee not less than five working days' written notice of the date and time of the review meeting and of the employee's right to attend the meeting with a companion or legal representative and of the identity of all persons who will attend the meeting with the Headteacher.

2.10.2.2 If the employee does not intend or is unable to be present at the meeting but wishes to be represented by some other person s/he should give written notice of that fact and of the identity of the representative and the extent of their authority. The meeting may take place in the absence of the employee or her/his representative only if the Headmaster has reason to conclude that the primary

purpose of the non-attendance is to delay the formal procedure.

2.10.2.3 Any report of the results of an independent medical examination requested by the School and any evidence which the employee wishes to present as to his/her ability to return to work including any further medical reports should be received by the Headteacher not less than two working days before the notified meeting date.

2.10.2.4 At the meeting the parties should discuss the prognosis for the employee's return to work and the Headteacher should set out the facts relating to the employee's absence and the impact on the School and shall request the employee to state the date by which s/he anticipates returning to work and to provide any further information including medical evidence as to the reasons for continued absence with the aim of determining what steps should be taken next. Possible outcomes of the meeting include:

- (a) that the employee can state an anticipated date for return to work in the near future in which case, provided that the employee returns to work on or before that date, no further action would be taken by the School other than the normal monitoring of sickness absence, or
- (b) that the employee is unable to indicate any date for return to work in the near future but is able to evidence a general improvement in her/his state of health such that a return to work in the medium term is likely in which case the Headteacher may recommend to the Committee a further review period; or, if no independent medical examination has yet taken place, that it be requested; or that despite the evidence the current level of absence is unsustainable for the School and that a formal hearing should be held by the Committee, or
- (c) that there is no clear indication, whether in the available independent medical evidence or otherwise, as to when it is probable that the employee will return to work and that the Headteacher will refer the matter to the Committee, having so informed the employee at the meeting, which will consider and decide upon the possibility and practicability of a return to work whether full work or in a part-time capacity or subject to a temporary change to less onerous duties or to other reasonable adjustments being made pursuant to the Equality Act 2010, or
- (d) that the matter of the employee's future employment will be referred to the Committee on the grounds that there is evidence that the employee is permanently unfit to resume her/his current duties but could work in some other capacity and the Headteacher has informed the employee at the meeting that the matter of the employee's future employment will be referred to the Committee which will consider and decide upon the possibility and practicability of a return to work in some other capacity, or
- (e) that there is evidence that the employee is permanently unfit to work and that the matter will be referred to a formal hearing of the Committee .

2.10.2.5 Written confirmation of the outcome of the formal review meeting including details of any warning given and any date fixed must be sent by the Headteacher to the employee as soon as possible after the meeting.

2.10.3 Formal hearing by the Committee

2.10.3.1 If as a result of a formal meeting or formal review and/or receipt of medical reports and/or continued absence after a formal meeting the Headteacher refers the matter to the chair of the governing body with a recommendation for a formal hearing a formal hearing by the Committee shall be convened by the Clerk and shall dispose of the reference in accordance with the procedure set out in paragraphs 36 to 47 above.

2.10.4 Formal hearing by the Appeal Committee

2.10.4.1 If the employee wishes to exercise her/his right to appeal against a decision of the Committee that s/he should be dismissed then s/he must give written notice of the appeal including the grounds for it to the Clerk within 10 working days of the date of receipt of the written confirmation or notice of the Committee's decision that the person.

2.10.4.2 The chair of the governing body shall then appoint an Appeal Committee which shall dispose of the appeal in accordance with the procedure set out in paragraphs 48 to 63 above.

2.10.5 Independent medical examination evidence in all cases

2.10.5.1 If the School has requested that the employee undergo an independent medical examination and the employee has failed without good cause to do so or without good cause refuses to make available medical evidence or information sought by the be may reach a decision on the matter referred to them on such medical evidence as is available including a conclusion that the employee no longer has the health or physical capacity to carry out her/his contractual duties notwithstanding that further evidence may be desirable.

2.10.5.2 The Committee or the Appeal Committee as the case may be may in appropriate circumstances require an employee to remain on sick leave or where the employee produces a GP's certificate of fitness to return to suspend the employee on full pay where a further medical report is reasonably required pending receipt and consideration of that report.

2.11 **Confidentiality of Process**

2.11.1 Strict confidentiality as to all stages of both informal and formal proceedings and of information provided must be observed by all persons involved and the Headteacher, line manager, the chair of the governing body, the Clerk and all

members of any Committee or Appeal Committee must take all reasonable steps to ensure that any matter relating to an employee's absence or physical or mental health remains confidential to that employee.

2.12 Interview by same sex

2.12.1 If an employee makes a written request for any interview as part of either informal or formal proceedings to be conducted by a person of the same sex as the employee all reasonable steps should be taken to comply with that request including postponement of the date of interview.