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TRUST

# Sickness Absence Policy (LLT)



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## 1. Introduction

Lydiate Learning Trust has a duty to deliver high quality and value for money education to its children; fundamental to such services are the Trust employees and their attendance at work. The Trust values the contribution made by its employees and believes that they should be treated fairly, and should be given reasonable support to enable them to achieve high levels of attendance.

- 1.1 This policy sets out our procedures for reporting sickness absence and for the management of sickness absence in a fair and consistent way.
- 1.2 Sickness absence can vary from short intermittent periods of ill-health to a continuous period of long-term absence and have a number of different causes (for example, injuries, recurring conditions, or a serious illness requiring lengthy treatment).
- 1.3 We wish to ensure that the reasons for sickness absence are understood in each case and investigated where necessary. In addition, where needed and reasonably practicable, measures will be taken to assist those who have been absent by reason of sickness to return to work.
- 1.4 This policy does not form part of any employee's contract of employment and it may be amended at any time. We may also vary the procedures set out in this policy, including any time limits, as appropriate in any case.
- 1.5 As part of the application of this policy, the Trust will collect, process and store personal data and special categories of data in accordance with our data protection policy. We will comply with the requirements of the **Data Protection Legislation** (being (i) the General Data Protection Regulation ((EU) 2016/679) (unless and until the GDPR is no longer directly applicable in the UK) and any national implementing laws, regulations and secondary legislation, as amended or updated from time to time, in the UK and then (ii) any successor legislation to the GDPR or the Data Protection Act 1998, including the Data Protection Act 2018), in relation to how we collect, hold and share special category personal data. Records will be kept in accordance with our Workforce Privacy Notice and our Retention Policy and in line with the requirements of Data Protection Legislation.

## 2. Scope and purpose

- 2.1 This policy covers all employees at all levels and grades regardless of status, except those employees who are in their probationary period.
- 2.2 The purpose of the policy is to ensure that staff understand the expectations of the Trust and their school, in terms of attendance at work. In applying this policy, we aim to ensure that attendance is managed appropriately and consistently and that employees receive relevant support.
- 2.3 Where the procedure refers to Headteacher and Academy Governance Committee (AGC), this will be the relevant Director and Trust Board for implementation for the central support team.
- 2.4 Where the procedure refers to Headteacher, this will be relevant for Head of School.

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## 3. Definitions

- 3.1 Short-term sickness absence - any absence that lasts between half and 20 days (four working weeks).
- 3.2 Long term sickness absence - any absence that lasts for a continuous period of longer than four working weeks.

## 4. Disabilities

- 4.1 We are aware that sickness absence may result from a disability. At each stage of the sickness absence meetings procedure (set out in paragraph 15 of this policy), particular consideration will be given to whether there are reasonable adjustments that could be made to the requirements of a job or other aspects of working arrangements that will provide support at work and/or assist a return to work.
- 4.2 If you consider that you are affected by a disability or any medical condition which affects your ability to undertake your work, you should inform your Line Manager or Headteacher.

## 5. Sickness absence reporting procedure

- 5.1 All employees are required to follow the reporting procedure set out below, in addition to any local school procedures which complement this policy.
- 5.2 Any such local procedures will be in line with this policy and will be designed to complement the policy. Local procedures will be communicated and are subject to change at any time.
- 5.3 If you are taken ill or injured while at work, you should report this to your Line Manager or Senior Leader/Headteacher. Please refer to the local reporting procedure for further detail.
- 5.4 If you are a school based employee and cannot attend work because you are ill or injured, you should normally telephone the employee absence line for your school on the number detailed in your local procedure as early as possible and no later than 7:30 am.

If you are a central trust employee and cannot attend work because you are ill or injured, you should normally telephone your Line Manager as early as possible and no later than 8:30 am.

- The following details should be provided by all employees reporting their absence:
- The nature of your illness or injury.
- The expected length of your absence from work.
- Contact details. (for school based employees or where a message facility is in place)
- Any outstanding or urgent work that requires attention, including information in relation to student work that needs covering (where applicable).

- 5.5 Contacting by text message or email is not acceptable, unless in exceptional circumstances.

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- 5.6 Managers should ensure that:
- Any sickness absence that is notified to them directly is reported to school Cover Manager or direct to Human Resources Team (for central trust employees).
  - Arrangements are made, where necessary, to cover work and to inform colleagues (while maintaining confidentiality).
- 5.7 You should expect to be contacted, on the first day of or during your absence, by your Line Manager/Member of the Senior Leadership Team or Headteacher who will want to enquire after your health and be advised, if possible, as to your expected return date.
- 5.8 In some instances, a member of the Human Resources Team make contact with you to enquire after your health at any point during your absence.
- 5.9 A referral to occupational health may be considered at any point during an employee's absence, dependent upon reasons for absence.
- 5.10 If you are ill or injured during a period of pre-arranged annual leave you may elect to treat the days of incapacity as sickness absence instead of annual leave. You must inform your manager of your incapacity and its likely duration as soon as possible even if you are abroad. The usual requirements for self-certification and medical certificates in this policy will apply.

## 6. Evidence of incapacity

- 6.1 For sickness absence of up to seven calendar days (five working days) you must complete a self-certification form which will be issued to you via email from the HR Portal during your absence or upon your return to work.
- 6.2 For absence of more than a week you must obtain a certificate from your doctor (a 'Statement of Fitness for Work') stating that you are not fit for work and the reason(s) why. This should be forwarded to your Line Manager and/or the Human Resources Team, as soon as possible. If your absence continues, further medical certificates must be provided to cover the whole period of absence.
- 6.3 If your doctor provides a certificate stating that you 'may be fit for work' you should inform you Line Manager or Senior Leader/Headteacher immediately. We will discuss with you any additional measures that may be needed to facilitate your return to work, taking account of your doctor's advice. This may take place at a return to work interview. If appropriate measures cannot be taken, you will remain on sick leave and we will set a date to review the situation.
- 6.4 Where we are concerned about the reason for absence, or frequent short-term absence, we may require a medical certificate for each absence regardless of duration.
- 6.5 Where an employee is absent immediately prior to a school closure period, they will continue to be deemed as being absent for the purposes of recording sickness and statutory and/or contractual sick pay during the school closure period, unless they provide a fit note indicating they are fit to return to work.
- 6.6 If you are undergoing an elective or cosmetic surgery or procedure for which you will be absent from work, then any entitlement to Trust sick pay (as set out in paragraph 8) will

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be subject to receipt of satisfactory medical evidence. This medical evidence will need to be in the form of a report from your doctor or a specialist confirming that you are undergoing the procedure on medical advice. You may be required to take annual leave for any absence related to a purely elective procedure.

## 7. Unauthorised absence

- 7.1 Cases of unauthorised absence will be dealt with under our Disciplinary Procedure.
- 7.2 Absence that has not been notified according to the sickness absence reporting procedure will be treated as unauthorised absence.
- 7.3 If you do not report for work and have not telephoned to explain the reason for your absence, in line with the reporting procedures, a member of the Senior Team or Human Resources will try to contact you, by telephone and in writing if necessary. This should not be treated as a substitute for reporting sickness absence.

## 8. Sick pay

- 8.1 You should refer to your contract for details of the sick pay to which you are entitled.
- 8.2 If a period of sickness absence is, or appears to be, occasioned by actionable negligence, nuisance or breach of any statutory duty on the part of a third party, in respect of which damages are or may be recoverable, you must immediately notify Line Manager or Senior Leader/Headteacher of that fact and of any claim, compromise, settlement or judgement made or awarded in connection with it and all relevant particulars that we may reasonably require. If we require you to do so, you must cooperate in any related legal proceedings and refund to us that part of any damages or compensation you recover that relates to lost earnings for the period of sickness absence as we may reasonably determine, less any costs you incurred in connection with the recovery of such damages or compensation, provided that the amount to be refunded to us shall not exceed the total amount we paid to you in respect of the period of sickness absence.
- 8.3 Failure to properly report your absence or to provide medical or self-certification could lead to your pay being suspended.

## 9. Keeping in contact during sickness absence

- 9.1 If you are absent on sick leave you should expect to be contacted from time to time by your Line Manager or Senior Leader/Headteacher, in order to discuss your wellbeing, expected length of continued absence from work and any of your work that requires attention. Such contact is intended to provide reassurance and will be kept to a reasonable minimum.
- 9.2 In some instances, a member of the Human Resources Team make contact with you to enquire after your health.
- 9.3 If you have any concerns while absent on sick leave, whether about the reason for your absence or your ability to return to work, you should feel free to contact your Line Manager/Senior Leader/Headteacher or the Human Resources Team at any time.

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9.4 We offer access to a 24 hour confidential support line which includes the option for counselling, The details to access this service are as follows:

Smart Clinic – [www.smartclinicuk.com](http://www.smartclinicuk.com) - 0845 862 2113

## 9.5 Medical examinations

9.5.1 We may, at any time in operating this policy, ask you to attend a medical examination by our Occupational Health Department AND/OR a doctor nominated by us.

9.5.2 You will be asked to agree that any report produced in connection with any such examination may be disclosed to us and that we may discuss the contents of the report with our advisers and the relevant doctor.

9.5.3 Failure to agree to a reasonable request may result in decisions being made in the absence of any medical information. In some circumstances disciplinary action may be taken where you do not co-operate with the sickness absence process.

9.5.4 In the event of a difference of opinion between an employee's GP and the Trust's occupational health advisors, regarding an employee's fitness for work, functional capacity or the existence of an underlying medical condition contributing towards persistent absences, the OH advisor's advice will normally take precedence. In some cases, an independent medical advisor may be asked to give a second opinion.

9.5.5 This process is in line with our Workforce Privacy Notice which sets out how we will gather, process and hold special category personal data of individuals during employment.

## 10. Return-to-work interviews

10.1 If you have been absent on sick leave we will arrange for you to have a return-to-work interview with your Line Manager/Senior Leader. A return-to-work interview enables us to confirm the details of your absence. It also gives you the opportunity to raise any concerns or questions you may have, and to bring any relevant matters to our attention.

10.2 Where your doctor has provided a certificate stating that you 'may be fit for work' we will usually hold a return-to-work interview to discuss any additional measures that may be needed to facilitate your return to work, taking account of your doctor's advice.

10.3 In some instances, a member of the Human Resources Team may also be in attendance to support return to work meetings.

## 11. Returning to work from long-term sickness absence

11.1 We are committed to helping employees return to work from long-term sickness absence. As part of our sickness absence meetings procedure (see section 13), we will, where appropriate and possible, support returns to work by:

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- 11.1.1 Obtaining medical advice;
- 11.1.2 Making reasonable adjustments to the workplace, working practices and working hours, including a time-limited phased return to work.

A phased return to work will often be a recommendation of an occupational health advisor or the employees GP.

Employees will receive their full pay on the phased return. Phased returns to work should be for a maximum of 4 weeks. In the event an employee requests that the phased return is extended beyond 4 weeks, a dialogue should be held with the employee in regards to a temporary contractual change being made to their working hours to accommodate the request and their pay adjusted accordingly.

- 11.1.3 Considering redeployment; and/or
- 11.1.4 Agreeing a return to work programme with everyone affected.

## 12. Sick Leave and Annual Leave

- 12.1 If you become sick or injured while on annual leave such that you would be unfit for work you may ask us to treat the period of incapacity as sick leave and reclaim the annual leave.
- 12.2 To be able to claim company sick pay you must notify your Line Manager or Senior Leader/Headteacher of your incapacity immediately, and the usual requirements for medical evidence in this policy will also apply, even if you are abroad.
- 12.3 If you are on sick leave you may choose to cancel any pre-arranged annual leave that would otherwise coincide with your sick leave. You should notify your Line Manager or Senior Leader/Headteacher as soon as possible that you wish to do this.
- 12.4 If your period of sick leave extends into the next holiday year, or if there is not enough time left in the current holiday year to make it practicable to take your remaining holiday entitlement, you can carry any unused holiday entitlement over to the following leave year up to a maximum of 20 days, to be used within six months of your return to work.

## 13. Sickness absence meetings procedure

- 13.1 We may apply this procedure whenever we consider it necessary, including, for example, if you:
  - 13.1.1 Have been absent due to illness on a number of occasions in line with the following triggers for action:
    - Three or more occasions in any rolling 12-month period

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- 14 or more days in any rolling 12 months
- Or any other pattern that causes concern
- The policy may still be applied where the employee persistently falls just below the trigger points and where the absence is perceived to be a problem.

Where appropriate, these should be pro rata for part time employees and consideration should be given to adjusting triggers for employees with disabilities. Pregnancy related absences should not be taken into account for triggers.

- 13.1.2 Have discussed matters at a return-to-work interview that require investigation; and/or
- 13.1.3 Have been absent for more than 28 days.
- 13.2 Unless it is impractical to do so, we will give you five working days written notice of the date, time and place of a sickness absence meeting. We will put any concerns about your sickness absence and the basis for those concerns in writing or otherwise advise why the meeting is being called. A reasonable opportunity for you to consider this information before a meeting will be provided.
- 13.3 In most instances the meeting will normally be conducted in line with the recognised authority to act matrix, as detailed in Appendix 1, and will normally be attended by a member of the Human Resources Team. You may bring a companion with you to the meeting (see paragraph 14). We reserve the right to deviate from the recognised authority to act matrix at any time if required.
- 13.4 You must take all reasonable steps to attend a meeting. Failure to do so without good reason may be treated as misconduct. If you or your companion are unable to attend at the time specified you should immediately inform the contact contained within your letter, who will seek to agree an alternative time.
- 13.5 A meeting may be adjourned if the person responsible for conducting your meeting is awaiting receipt of information, needs to gather any further information or give consideration to matters discussed at a previous meeting. You will be given a reasonable opportunity to consider any new information obtained before the meeting is reconvened.
- 13.6 Confirmation of any decision made at a meeting, the reasons for it, and of the right of appeal will be given to you in writing within five working days of a sickness absence meeting (unless this time scale is not practicable, in which case it will be provided as soon as is practicable).
- 13.7 Formal warnings issued for sickness will remain live for a up to 12 months from the date of issue, during which time further absences beyond the review period would be dealt with either at the next stage of the procedure or by an extension of the current live warning. If further absences occur shortly after the end of the 12-month period (or any extended warning), we reserve the right to deal with the matter at the same stage of the procedure and not return to earlier stage.
- 13.8 If, at any time, your Line Manager or Senior Leader/Headteacher considers that you have taken or are taking sickness absence when you are not unwell, they may refer matters to be dealt with under our Disciplinary Procedure.

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## 14. Right to be accompanied at meetings

- 14.1 You may bring a companion to any meeting or appeal meeting under this procedure.
- 14.2 Your companion may be either a trade union representative or a work colleague. You should provide their details to the person conducting the meeting, in good time before it takes place.
- 14.3 Employees are allowed reasonable time off from duties without loss of pay to act as a companion. However, they are not obliged to act as a companion and may decline a request if they so wish.
- 14.4 We may at our discretion permit other companions (for example family members) where this will help overcome particular difficulties caused by a disability or difficulty understanding English.
- 14.5 Some companions may not be allowed: for example, anyone who may have a conflict of interest, or whose presence may prejudice a meeting. Companions should not normally work at another site, unless no-one reasonably suitable is available at the site at which you work.
- 14.6 A companion may make representations, ask questions, and sum up your position, but will not be allowed to answer questions on your behalf. You may confer privately with your companion at any time during a meeting.

## 15. Stage 1: First sickness absence meeting

- 15.1 This will follow the procedure set out in paragraphs 14 and 15 on the arrangements for and right to be accompanied at sickness absence meetings.
- 15.2 The purposes of a first sickness absence meeting may include:
  - 15.2.1 Discussing the reasons for absence.
  - 15.2.2 Where you are on long-term sickness absence, determining how long the absence is likely to last.
  - 15.2.3 Where you have been absent on a number of occasions, determining the likelihood of further absences.
  - 15.2.4 Considering whether medical advice is required or, if already obtained, what that advice is.
  - 15.2.5 Considering what, if any, measures might improve your health and/or attendance.
  - 15.2.6 Determining a way forward, action that will be taken and a time-scale for review, and/or a further meeting under the sickness absence procedure.
  - 15.2.7 Issuing a written warning that your employment may be at risk if your attendance does not improve or you return to work.

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## 16. Stage 2: Further sickness absence meeting(s)

- 16.1 Depending on the matters discussed at the first stage of the sickness absence procedure, a further meeting or meetings may be necessary. Arrangements for meetings under the second stage of the sickness absence procedure will follow the procedure set out in paragraphs 14 and 15 on the arrangements for and right to be accompanied at sickness absence meetings.
- 16.2 The purposes of further meeting(s) may include:
- 16.2.1 Discussing the reasons for and impact of your ongoing absence(s).
  - 16.2.2 Where you are on long-term sickness absence, discussing how long your absence is likely to last.
  - 16.2.3 Where you have been absent on a number of occasions, discussing the likelihood of further absences.
  - 16.2.4 If it has not been obtained, considering whether medical advice is required. If it has been obtained, considering the advice that has been given and whether further advice is required.
  - 16.2.5 Considering your ability to return to/remain in your job in view both of your capabilities and the needs of the Trust and any adjustments that can reasonably be made to your job to enable you to do so.
  - 16.2.6 Considering possible redeployment opportunities and whether any adjustments can reasonably be made to assist in redeploying you.
  - 16.2.7 Where you are able to return from long-term sick leave, whether to your job or a redeployed job, agreeing a phased return to work programme.
  - 16.2.8 If it is considered that you are unlikely to be able to return to work from long-term absence, whether there are any benefits for which you should be considered.
  - 16.2.9 Determining a way forward, action that will be taken and a time-scale for review and/or a further meeting(s). This may, depending on steps we have already taken, include warning you that you are at risk of dismissal.
  - 16.2.10 Issuing a final written warning that your employment may be at risk if your attendance does not improve or you do not return to work.

## 17. Stage 3: Final sickness absence meeting

- 17.1 Where you have been warned that you are at risk of dismissal and the improvement has not been made, we may invite you to a meeting under the third stage of the sickness absence procedure. Arrangements for this meeting will follow the procedure set out in paragraphs 13 and 14 on the arrangements for and right to be accompanied at sickness absence meetings.
- 17.2 The purposes of the meeting will be:

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- 17.2.1 To review the meetings that have taken place, the matters discussed and warnings issued.
- 17.2.2 Where you remain on long-term sickness absence, to consider whether there have been any changes since the last meeting under stage two of the procedure, either as regards your possible return to work or opportunities for return or redeployment.
- 17.2.3 To consider any further matters that you wish to raise.
- 17.2.4 To consider whether there is a reasonable likelihood of you returning to work or achieving the desired level of attendance in a reasonable time.
- 17.2.5 To consider if ill health retirement is a possibility where medical advice is clear it is unlikely that an employee will be fit to return to their role in the near future.
- 17.2.6 To consider the possible termination of your employment.
- 17.2.7 Termination will normally be with full notice or payment in lieu of notice.

## 18. Appeals

- 18.1 You may appeal against the outcome of any stage of this procedure and you may bring a companion to an appeal meeting (see paragraph 15).
- 18.2 An appeal should be made in writing, stating the full grounds of appeal, to the person cited in your outcome letter, within five working days of the date on which the decision was sent to you.
- 18.3 Unless it is not practicable, you will be given five working days written notice of an appeal meeting. In cases of dismissal the appeal will be held as soon as possible. Any new matters raised in an appeal may delay an appeal meeting if further investigation is required.
- 18.4 You will be provided with written details of any new information which comes to light before an appeal meeting. You will also be given a reasonable opportunity to consider this information before the meeting.
- 18.5 Appeals against dismissal will usually be handled in line Appendix 1. Appeals against all other outcomes, not including dismissal, will usually be handled by a member of the Senior Leadership Team or Manager of a higher level than the person who issued the original outcome.
- 18.6 The appeal meeting will be restricted to the grounds for appeal and will not constitute a complete rehearing of the matter or a review of the original decision.
- 18.7 Following an appeal, the original decision may be confirmed, revoked or replaced with a different decision. The final decision will be confirmed in writing, if possible, within five working days of the appeal meeting. There will be no further right of appeal.
- 18.8 The date that any dismissal takes effect will not be delayed pending the outcome of an appeal. However, if the appeal is successful, the decision to dismiss will be revoked with no loss of continuity or pay.

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## 19. Review of policy

This policy is reviewed every two years. We will monitor the application and outcomes of this policy to ensure it is working effectively.

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## Appendix 1

### Authority to act under the procedure.

The below details who is responsible for conducting the different stages of this process, in most instances. We reserve the right to deviate from the below if required.

|   | <b>Informal Discussions, ie Return to Work</b>  | <b>Stage One Meeting</b>  | <b>Stage Two Meeting</b>  | <b>Stage Three – Dismissal Hearing</b>  | <b>Appeal against Dismissal</b> |
|---|---|---|---|---|---------------------------------|
| All School based employees, unless listed below | Headteacher will delegate responsibility in line with local procedures. In most instances this will be delegated to SLT member or appropriate Line Manager. | Headteacher may delegate this responsibility to SLT member or appropriate Line Manager. | Headteacher may delegate this responsibility to SLT member or appropriate Line Manager. | AGC delegate responsibility to Headteacher.<br><br>Whilst Headteacher can hear the case for dismissal alone, a panel consisting of 2 AGC members and Headteacher may be formed. | Panel of 3 from AGC             |
| Headteacher                                     | CEO/Executive Headteacher   | CEO/Executive Headteacher   | Chair of AGC and CEO/Executive Headteacher  | Panel of 3 from AGC   | Panel of 3 from Trust Board     |
| Central Team Employees                          | Line Manager  | Line Manager or Department Head (or equivalent)   | Department Head or Executive Director   | Executive Director and Headteacher or CEO/Executive Headteacher   | Panel of 3 from Trust Board     |
| CEO/Executive Headteacher                       | Chair of Trust Board (or nominated delegate)  | Chair of Trust Board (or nominated delegate)  | Panel of three from Trust Board   | Panel of three from Trust Board   | Panel of three from Trust Board |

|                    |                      |                    |                    |                      |
|--------------------|----------------------|--------------------|--------------------|----------------------|
| <i>Origination</i> | <i>Authorised by</i> | <i>Policy Date</i> | <i>Review Date</i> | <i>Page 14 of 14</i> |
| <b>VSU</b>         | <b>LLT Board</b>     | <b>Nov 2021</b>    | <b>Nov 2023</b>    |                      |