

Brook Learning Trust

Procedure for the Management of Absence & Special Leave for Employees



At Brook Learning Trust we bring together our unique academies in our belief in the power of education to change lives and communities. It is our steadfast purpose to challenge and defy the barriers that constrain the educational progress of any child. We set high aims for aspiration and secure collective responsibility for all our children's achievements. Our work is underpinned by the values of Integrity, Respect, Courage, Optimism, Excellence and Accountability.

This policy applies to all Staff. Central Trust Staff should read the CEO in place of the Principal for Academies.

1 Introduction

This document provides an absence management procedure and a policy framework for the Trust and academies. It also provides Principals with practical steps to promote and support an employee's return to work following absence due to ill health. In order to achieve this objective it is important that absence is managed from an early stage and this is reflected in the guidelines. In the most serious cases, where an employee is unable to discharge the terms of his/her contract of employment within/over a reasonable period of time, the contract of employment may be terminated. However, it should also be noted that the Trust and academies have legal responsibilities under **The Equality Act 2010**. Enhanced contractual terms may apply to staff who have joined the Trust under the Transfer of Undertakings (Protection of Employment) Regulations 2006.

The Principal of each academy is responsible for managing absence and will be supported at all formal meetings by a representative of the Human Resources Department. Absence rates are reported to the Principal on a termly basis, and the Chief Executive Officer of the Trust should also report to the Trust Board on action being taken to address absence problems (although care must be taken not to discuss individual employees as this could prejudice those who might be involved formally later). (NB References to the management role of the Principal include his/her nominee.)

Where the absence or leave of the Chief Executive Officer is an issue, the management role will need to be undertaken by the Chair of the Trust Board, with appropriate professional advice if required.

The Trust Board has a legal duty to ensure, through the Chief Executive Officer, that employee absence is fairly and effectively managed.

2 General Principles

- When an employee is absent for a long period, or short intermittent periods, there are a number of factors the Principal should consider including the following:
 - The length of the absence and likelihood of a return to work (in cases of long term absence)
 - The impact of the employee's absence on the running of the academy
 - The difficulty in finding and/or continuing with a temporary replacement.
- Each academy should have laid down procedures for reporting absence which should be shared with staff. It may be useful to include this information in the **academy staff handbooks**. In each of the Handbooks the procedure should include the following:
 - Who the employee should telephone in the event of sickness (usually the Principal or a senior member of staff)
 - When, and by what time of day, the employee should telephone the academy. This is usually on the first day of absence, and if the absence continues, on the third day, and after one week. Beyond one week's sickness employees are expected to contact the academy on a weekly basis and before the expiry of the medical certificate. If possible, employees should indicate when they expect to return to work.

- Employees should be spoken to, in private, on their return to work in the form of a back to work interview. The purpose of the meeting is to enquire about the employee's health, to brief the individual about any work issues that arose while he/she was away and how the work was covered in their absence.
- Accurate records should be kept of employees' absence together with the nature of the illness for monitoring purposes (**see Appendix 1**). Separate records should be kept of any absence for other reasons (e.g. unauthorised absence, time off for dependants etc.). See **Appendix 2** of this procedure for guidance on special leave.
- Records should also be maintained of discussions/meetings with employees and action taken.
- The Principal should consider when and if an employee should be referred to an Occupational Health Adviser (OHA) depending on the circumstances of the case. Principals are advised to take a pragmatic approach and seek advice from Human Resources where appropriate. However, as a general guideline employees should be referred after 6 weeks of continuous absence.
- The main purpose of a referral to an OHA is to ascertain when (or if) an employee will be fit to return to work and what action the academy can take to assist the return. A medical opinion must be sought from an OHA where the termination of an employee's contract of employment may be an outcome.
- Employees must be given the opportunity to be accompanied by a trade union representative or work-place colleague at Formal Absence Review meetings. The Principal may also request an HR Adviser to attend such meetings if required.
- Retirement on the grounds of ill-health may sometimes be an option. The Occupational Health Adviser and the Local Government Pensions scheme will advise in such cases (or the Teachers Pensions Agency in the case of teachers).
- Teacher's Pensions have introduced 'stepping down' arrangements which will protect a teacher's pension if it is agreed that the teacher moves to a post of less responsibility (and pay). This may be particularly appropriate where the teacher's absence is due to a stress related condition.
- Where absence (and possibly conduct/capability) is affected by alcohol or drug dependency, specialist support should be sought before considering any formal action against the employee.
- In some cases it may not be possible (due to illness) for the employee to attend a Formal Absence Review with the Principal, or a hearing with Academy Councillors. Whilst the academy must make every effort to help the employee attend personally, including reasonable postponement or change of location, it may be necessary to hold the Review/hearing in the employee's absence. In these cases, the employee should be given the opportunity to make written representations and/or be represented by a trade union representative or workplace colleague.
- In normal circumstances the termination of employment would not take place until contractual sick pay has expired.

3 Supporting the Employee's Return to Work

The Principal, in consultation with the employee, should consider ways in which the academy can assist the employee. For example, adaptations to the job such as a voice-activated computer for an employee suffering from arthritis; return to work part-time or with reduced responsibilities for a limited period.

- Phased returns may be recommended by the employee's GP or Occupational Health following long term absence and these will be considered for a 4–6 week period at which point a review will take place.

- In the most extreme cases, medical redeployment should be considered (usually within the academy). It is recognised that under delegated employment powers for academies, redeployment outside the academy is problematic.

4 Long Term Absence – Procedure

The following is intended as general guidance. Each case should be dealt with according to the individual circumstances.

After 1 Week

The Principal (or his/her representatives) should keep in regular contact with the individual so that:

- i The employee does not feel isolated; and
- ii The Principal maintains an accurate picture of the circumstances.

Regular contact by telephone, email or letter should be considered depending on the circumstances.

After 4 Weeks

Where an employee has been absent for a period of 4 weeks, the Principal should:

- Establish the state of the employee's health through direct contact and/or reference to the medical certificates. (In some cases, on grounds of sensitivity, it may be appropriate for someone in the academy other than the Principal to make this contact.)
- Consider writing to the employee, the purpose of which is:
 - i To enquire about the employee's health and to ask the individual to inform the Principal, whether she/he has an indication about when he/she will be fit to return to work.
 - ii With sensitivity, to ask the employee if they would like to receive information about issues arising and events happening in the academy generally.
- Consider arranging a meeting with the employee.

After 6 Weeks

Consideration should be given as to whether it is appropriate to arrange an appointment with the Trust's Occupational Health provider. Further advice on medical referrals is available from Human Resources.

On receipt of the report from the Occupational Health Adviser:

From the information provided in the medical report the Principal with support from Human Resources should ascertain when and if the employee will be fit to return to work. If the medical report does not indicate that the employee will be fit to return in the foreseeable future then an Absence Review meeting should be arranged with the individual and the Principal, and the employee should be advised that they have the right to be accompanied by a trade union representative or workplace colleague.

The First Review Meeting

The purpose of this meeting is as follows:

- i To investigate whether there is any action the employer can take to assist the employee's return to work.
- ii To ascertain if the individual is able to indicate when she/he will be fit to return to work.

Possible Outcomes of the Meeting with the Employee

- i The employee is able to indicate a date in the foreseeable future when she/he is fit to return to work (and this is not contradicted by the OHA/GP). In this case the situation should be monitored. If action has been agreed to assist the employee's return this should be arranged.
- ii The employee is unable to indicate a date in the foreseeable future when she/he is fit to return to work.

If the employee is unable to indicate that she/he will be fit to return to work in the foreseeable future the employer should inform the individual that his/her future employment will be reviewed. This review will be made on the basis of the information obtained from the Occupational Health Adviser and at the

meeting with the employee. A further review should be arranged (the Second Absence Review meeting). The date of this review will depend on the circumstances, as a guideline it should be after a period of 4-6 weeks.

Following the First Absence Review meeting a letter should be sent to the individual outlining what was discussed. If there is no foreseeable return to work, the letter should also confirm that the employee's employment is being reviewed and ultimately a possible outcome could be termination on the grounds of capability due to ill-health.

The Second Review Meeting

The possible outcomes of the Second Review meeting will be the same as the First Review meeting (see above). It may be necessary for a further review period or it may be possible to make a decision on the information available.

If the employee is unable to indicate a date in the foreseeable future when she/he is fit to return to work, the employer, having reviewed the case, can reach the conclusion that the employee is no longer capable of discharging the terms of his/her contract of employment and can decide to hold a hearing under the Staff Capability procedure, where termination of employment on the grounds of capability due to ill-health is a potential outcome. Authority to act at each stage of this process is outlined in the Staff Capability policy and procedure. The hearing will not be considered a disciplinary matter if the concern is purely the ability to discharge the contract of employment due to ill health.

Termination – The Employer's Responsibilities

- i On the basis of the case made, the employer will decide what action is to be taken. A decision may be taken to allow further time for improvement or to dismiss the employee, in which case they must also give the employee the right to appeal to an Appeals Panel as outlined in the Staff Capability policy and procedure.
- ii The employer must be satisfied that they have treated the employee reasonably and have not acted with undue haste. When making this judgement the employer should balance the needs of the employee with the needs of the academy. It is important to take into account the circumstances of the case, for example how long the employee has worked for the academy, the nature of the illness and, the likelihood of the employee returning to work within the foreseeable future.

Appeals

If an employee feels that a decision to dismiss them, or other action taken against them, is wrong or unjust, they may appeal in writing against the decision within ten working days of the decision, setting out at the same time the grounds for appeal. Appeals will be heard without unreasonable delay, usually within ten working days of receipt of appeal notice and, where possible, at an agreed time and place. The same arrangements for notification and right to be accompanied will apply as with formal capability and review meetings. The employee will be informed in writing of the results of the appeal hearing as soon as possible.

5 Short Term Absence – Procedure

Informal Absence Review Meeting

Where there are periods of short term absence which cause concern the Principal should, in the first instance, review the causes of the absences.

This meeting is triggered by 4 or more periods of absence or 10 or more days of absence within a rolling year. In some cases, on review of the available evidence, it may be that no further action is necessary at this stage. However, where action is required, an informal meeting should be arranged with the individual and the Principal. The purpose of the meeting will be as follows:

- To identify, with the help of the employee, possible reasons for the absences (e.g., stress from work, stress from outside work, lack of ventilation in the classroom causing asthmatic problems).

- To inform the employee of his/her level of absence and the effect it has on work performance and the academy.
- To give the employee an opportunity to explain.
- If feasible, to work out a plan with the employee to support the individual to improve their attendance by trying to address any possible reasons for the absences.
- The Principal will make clear their expectations in respect of attendance and arrange a review date. The review date will depend on the individual case, but it is recommended that 12 weeks is used as a guideline. The Principal will clarify that should there be any further absences within the review period progression to the next stage of the procedure will occur.

If there appears to be an underlying medical condition consideration should be given to a referral to an Occupational Health Adviser. It may also be appropriate to seek advice in respect of **The Equality Act 2010**. (Text accessible at: <http://www.legislation.gov.uk/ukpga/2010/15/contents>)

Following the review period

Possible outcomes of the 12 week review period are:

- Attendance improves to a required standard in which case the employee should be informed and a note placed on the personnel file. However, the Principal should continue to monitor the attendance level to ensure satisfactory standards are maintained, and the employee should be aware of this;
- The Principal may decide to proceed to a Formal Absence Review meeting if attendance has not improved to the expected level. The employee will be written to regarding the review meeting and must be given the opportunity of having a trade union representative or workplace colleague present at this meeting.

The employee should be referred to the Occupational Health Adviser if this has not previously been done. One purpose of this is ascertain whether there is an underlying medical condition contributing to the high level of absence and, if so, whether the OHA has any advice on action the academy could take to support the employee in improving his/her attendance.

Formal Review Meeting

Purpose of the formal meeting:

- To consider whether the employee will be able to maintain a satisfactory level of attendance and to set targets, by agreement wherever possible.
- To consider whether there is any action the academy can take to assist the employee in attaining a satisfactory level of attendance.
- To clarify with the employee that insufficient improvement could ultimately lead to termination of employment.

The possibility of redeployment on medical grounds within and outside of the academy should also be considered, while recognising that redeployment outside the academy is problematic under delegated employment powers for academies.

In considering the above options the Principal should refer to the opinion received from the Occupational Health Adviser.

After the meeting a letter should be sent from the Principal to the employee outlining what was discussed and the outcome of the meeting. The letter should also contain a review date, which will vary according to the circumstances, as a guideline, 6-12 weeks after the meeting at which time a further Formal Review meeting should be held. The employee should be told that insufficient improvement over this period could

ultimately lead to dismissal for reasons of 'Capability due to ill-health' or 'Some Other Substantial Reason' (SOSR) (depending on the case).

If, after this Formal Review period, the Principal considers that the only feasible option is to consider the termination of the employee's employment, the Principal can decide to hold a hearing under the relevant procedure where termination of employment on the grounds of capability, conduct or SOSR is a potential outcome.

Termination: The Employer's Responsibilities

On the basis of the case made, The employer will decide what action is to be taken. A decision may be taken to allow further time for improvement or to dismiss the employee. The Principal must be satisfied that they have treated the employee reasonably and must give the employee the right to appeal to an Appeals Panel as outlined in the Staff Capability procedure if they decide to dismiss.

Appeals

If an employee feels that a decision to dismiss them, or other action taken against them, is wrong or unjust, they may appeal in writing against the decision within ten working days of the decision, setting out at the same time the grounds for appeal. Appeals will be heard without unreasonable delay, usually within ten working days of receipt of appeal notice and, where possible, at an agreed time and place. The same arrangements for notification and right to be accompanied will apply as with formal capability and review meetings. The employee will be informed in writing of the results of the appeal hearing as soon as possible.

POLICY REVIEW AND RATIFICATION

Policy reviewed every two years and ratified by the Trust Board in February/March

This review BLT HR Department and Executive in February 2020

Ratified by Trust Board in March 2020

Next review February 2022

Summary of main changes to this iteration:

1. Clarification that BLT does not need to introduce statutory bereavement leave or bereavement pay as the Trust already has provision for 2 weeks paid compassionate leave.
2. Change from 10 days compassionate leave to 2 working weeks.
3. Clarification that a mixture of paid and unpaid leave can be considered for reasons other than bereavement of a close family member

Sickness Administration and Monitoring

Administration

- *Self-Certification form* - this must be completed by the employee on their return to work if the period of sickness absence has lasted for 7 days or less. Principals / Line Managers / Chief Executive should countersign the form so that they have seen the employee's explanation for absence and to confirm that there is no reason to doubt that the absence was genuine.

A return to work form should be completed following each period of absence.

- *Medical certificates* - if the absence continues for 8 consecutive days or more, including weekends, rest days and school holidays, the employee must contact his/her doctor to be medically certified unfit for work. Academies should keep details of the certificates but return the originals to the employees.
- Teachers whose sickness extends throughout school holiday must continue to submit medical certificates even though the school is closed
- *Instruction to payroll* - Copies of the medical certificate must be sent to payroll at the end of the month along with notification of all sickness absence: failure to do so could have financial implications for both the employee and the academies budget if the statutory and occupational sick pay regulations are not correctly applied.

Monitoring

- *At employee level* - Records should be kept for each employee to monitor individual sickness absence. Using a summary form it should be possible to identify patterns (i.e. intermittent but frequent absence, long bouts of sickness) for each employee. It also enables comparisons to be made and provides evidence should an individual need to be approached in respect of sickness absence.
- *At academy level* - Increasingly external organisations such as the DfE are requiring detailed statistics from academies and it is essential that each academy retain this information (preferably in DfE format). Completed sickness administration forms referred to above are the source data. Academies who use the SIMS personnel module have the opportunity to maintain these records electronically for monitoring and reporting purposes.

Absence review meetings

Absence review meetings will take place when necessary as outlined in the policy. Principals will be accompanied by a member of the Human Resources department and employees will be written to and given the opportunity to be accompanied by a trade union representative or a workplace colleague.

Management of Other Leave

This document provides guidance in respect of:

- 1 Time off for Dependants
- 2 Compassionate Leave
- 3 Leave for Religious Observance
- 4 Other Unpaid Leave
- 5 Other Paid Leave

1 Time off for dependants

- 1.1 All employees have the right to time off during working hours to support dependants. This time off is intended to deal with unforeseen matters and emergencies.
- 1.2 There is no qualifying period and the leave is unpaid. The Chief Executive Officer / Principal for the academies has the authority to agree to pay day one of time off for dependants to support staff to deal with unforeseen matters and emergencies.
- 1.3 There is no limit to the amount of leave and each case will need to be considered on its own merits in a sensitive and practical way with due regard to the particular circumstances.
- 1.4 The leave should be sufficient to help the employee to deal with the unexpected or sudden problem and make any necessary longer term arrangements.
- 1.5 Circumstances for which time off for dependants will be considered are:
 - If a dependant suddenly falls ill, is injured or taken into hospital
 - A breakdown in child care arrangements
 - To put longer term care in place for children or elderly relatives.
- 1.6 The Chief Executive Officer for the Trust or Principal for the academies will give due regard to the particular circumstances of each case, in relation to its sensitivity and impact on the employee. In some circumstances it may be appropriate to award a combination of paid and unpaid leave.
- 1.7 It may not be considered appropriate to award unpaid leave in circumstances where the employee can be reasonably expected to make alternative plans or arrangements which may therefore not require their assistance, or where the arrangements can be undertaken outside of term-time e.g. where the employee knows in advance that the problem is going to arise, or by using annual leave (support staff).

2 Compassionate leave

- 2.1 The Chief Executive Officer or Principal for the academies has authority to grant up to two working weeks paid leave of absence in any one year on compassionate grounds. This paid provision is over and above the statutory provisions for unpaid leave as contained in the Employment Relations Act 1999.
- 2.2 Paid compassionate leave will be considered for the death of a close family member.
- 2.3 Paid compassionate leave provision covers bereavement leave and pay which will be introduced in April 2020. BLT has made the decision that bereavement leave will be paid on full contractual pay for two weeks as opposed to statutory pay.

2.4 A combination of paid and unpaid leave may also be granted on compassionate grounds allowing managers the flexibility to approve leave of absence in circumstances other than bereavement of close family members

3 Leave for Religious Observance

3.1 There may be occasions when an employee requests time off to observe a religious festival or event. The majority of employees of the Trust work on a term-time basis. Where an employee applies to take time off during term-time for reasons of religious observance, the Chief Executive Officer will endeavour to grant unpaid leave.

3.2 For those support staff employed on all-year contracts who are able to take leave during term-time, such time off should be taken as part of the employee's annual leave entitlement. The Chief Executive Officer will give priority consideration to granting annual leave in these circumstances.

3.3 In order to limit any operational difficulties for the academy all such leave (whether annual or unpaid) should be planned for in advance and the employees should give as much notice as possible of their application for leave.

4 Other Unpaid Leave

4.1 Leave requested to attend family or close friends' events during term time will be considered as unpaid leave.

4.2 This leave relates to events taking place in this country or abroad.

4.3 The Chief Executive Officer and the academy Principal will judge each case on its merits.

4.4 Other personal requests for leave that cannot be accommodated during academy holidays or at weekends will be considered (e.g. moving house where it is not possible for removal to take place out of academy hours).

4.5 Non-emergency medical and dental appointments should always be made outside of working hours. Where this is not possible due to the nature of the appointment, unpaid time off should be requested and approval sought by the Principal in advance of the appointment.

5 Other Paid Leave

5.1 Attendance at in-service training short courses, jury service, time off for trade union duties, professional conferences, and time off to attend interviews will be normally be considered as paid leave.