



FOR PUBLICATION

DERBYSHIRE COUNTY COUNCIL

APPOINTMENTS AND CONDITIONS OF SERVICE COMMITTEE

WEDNESDAY, 8 MARCH 2023

Report of the Interim Director of Organisation Development & Policy

Attendance Management and Ill Health Capability Procedures for Teachers Employed by the Local Authority and not attached to schools

1. Purpose

- 1.1 To consider and approve the adoption of an attendance management and ill-health capability procedure and managers guidance for teachers employed by the Local Authority and not attached to schools.

2. Information and Analysis

- 2.1 In October 2016, a Local Agreement was reached with the representatives of teachers and headteachers employed by the Local Authority that the negotiation mechanism for the following policies and agreements developed specifically for teachers employed by the Local Authority and not attached to schools will be undertaken by Derbyshire County Council Schools' Joint Consultative Committee (SJCC):-

- Teachers' Pay
- Teacher Competence
- Teacher Appraisal
- Leave of Absence
- Disciplinary
- Grievance
- Sickness Absence
- Facilities Agreement

- 2.2 This is the first opportunity to bring to ACOS the attendance management and ill-health capability procedures following negotiation at SJCC.
- 2.3 The regulations governing teachers' terms and conditions of service are contained within the School Teachers Pay and Conditions Document (STPCD) and the Conditions of Service for School Teachers in England and Wales ('Burgundy Book').
- 2.4 The provisions of the School Teachers Pay and Conditions Document (STPCD) and the Conditions of Service for School Teachers in England and Wales ('Burgundy Book') need to be reflected in the authority's policies for the management of teachers employed centrally in the education support services.
- 2.5 HR policies which apply to local authority employees are negotiated by Derbyshire County Council Corporate Joint Committee (CJC). The accredited representatives of the recognised employee organisations who represent teachers and headteachers employed by the Local Authority are not members of the CJC and have sought a methodology which provides them with the right to be consulted on in relation to policies and procedures which apply to the staff that they represent.
- 2.6 The attendance management and ill-health capability procedure is consistent with the policy adopted for employees of the County Council wherever possible and provides a sound and fair framework for addressing concerns relating to the absence and ill-health capability of teaching staff employed by the LA and not attached to schools. It also reflects the model policy already offered to Governing Boards for adoption.
- 2.7 The Attendance Management and Ill Health Capability Procedure which is attached at Appendix 2 includes detailed manager guidance to assist implementation, which has also been agreed at SJCC.
- 2.8 The provisions within the proposed procedure reflect the Conditions of Service for School Teachers in England and Wales ('Burgundy Book') which is a national agreement between the school teacher unions and their employer and sets out national conditions of service for school teachers which are incorporated into teachers' contracts of employment. The Burgundy Book's main provisions relate to notice periods, sick leave and pay and maternity leave and pay.
- 2.9 The revised procedure and guidance will be made available to relevant managers and employees so that they are aware of the specific

procedures in relation to teachers employed by the Local Authority and not attached to schools.

3. Consultation

- 3.1 The proposed procedure has been developed with extensive consultation at SJCC with the recognised teacher trade unions and professional associations and agreement has been reached.

4. Alternative Options Considered

- 4.1 Alternative options would be to not have a separate procedure for Teachers employed by the Local Authority and not attached to schools and continue to use the procedure which applies to all other employees employed by Derbyshire County Council, however this does not reflect all of the provisions of the School Teachers Pay and Conditions Document (STPCD) and the Conditions of Service for School Teachers in England and Wales ('Burgundy Book') statutory conditions of service in and has not be negotiated in accordance with the agreed negotiation mechanism as outlined in 2.1 above.

5. Implications

- 5.1 Appendix 1 sets out the relevant implications considered in the preparation of the report

6. Background Papers

- 6.1 School Teachers Pay and Conditions Document 2022

Conditions of Service for School Teachers in England and Wales ('Burgundy Book')

7. Appendices

- 7.1 Appendix 2 – Attendance management and ill-health capability procedures and managers guidance for teachers employed by the LA and not attached to schools.

8. Recommendation(s)

That Committee:

a) Approves the adoption of an attendance management and ill-health capability procedure for Teachers employed by the Local Authority and not attached to schools which will be implemented with effect from 1st April 2023.

9. Reasons for Recommendation(s)

9.1 The revised procedures meet the council's obligations in relation to the statutory conditions of employment of school teachers for maintained schools in England and Wales which includes provisions for school teachers employed by the Local Authority and not attached to schools are set out in the Conditions of Service for School Teachers in England and Wales ('Burgundy Book')

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Implications

Financial

- 1.1 No additional costs or savings are associated with the adoption of specific policies and procedures to deal with attendance. Ill-health capability a which specifically relate to teachers employed by the Local Authority and not attached to schools.

Legal

- 2.1 The Conditions of Service for School Teachers in England and Wales ('Burgundy Book') requires that the local authority, as the employer of Teachers employed by the local Authority and not attached to schools, makes known to a teacher any rules and procedures they may have for termination of employment on medical grounds. These rules and procedures need to reflect the specific sickness and medical provisions outlined in the 'burgundy book'.
- 2.3 Local authorities must abide by the statutory requirements and must have regard to the guidance issued, as a court or tribunal may take any failure to do so into account in any legal proceedings.
- 2.4 The procedure is a non-contractual document and does not therefore, require a variation to contract. However, as this is a procedure which will apply to all relevant employees in accordance with their terms and conditions of employment, consultation has been undertake with the relevant trade unions.
- 2.5 The terms of reference for the Appointments and Conditions of Service Committee provide for the Committee to approve corporate employment policies and to determine terms and conditions on which staff hold office, including procedures for their dismissal.

Human Resources

- 3.1 There has been formal consultation at Schools' Joint Consultative Committee (SJCC) and agreement reached with the recognised trade unions and professional associations in relation to the proposed attendance management and ill-health capability procedure.

Information Technology

- 4.1 HR Services have developed a SAP update to enable the separate recording of disability related absence as referred to in the revised attendance management and ill-health capability procedure.

Equalities Impact

- 5.1 The provisions of the attendance management and ill-health capability procedures are compliant with the relevant provisions of anti-discrimination legislation contained in the Employment Relations Act 1999, the Equality Act 2010, the Part-time Workers (Prevention of Less Favourable Treatment) Regulations 2000 and the Fixed-term Employees (Prevention of Less Favourable Treatment) Regulations 2002. It is also consistent with the principles of public life – objectivity, openness, and accountability.
- 5.2 Monitoring of equalities will take place throughout the implementation of the procedures.

Corporate objectives and priorities for change

- 6.1 The attendance management and ill-health capability procedure aligns with the Council's People Strategy and People Priorities and its stated headline initiative of promoting our employees' wellbeing and developing their potential.

Other (for example, Health and Safety, Environmental Sustainability, Property and Asset Management, Risk Management and Safeguarding)

- 7.1 N/A