

# Public Document Pack

## Officer Decisions

Friday, 23rd July, 2021

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### AGENDA

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**Whistleblowing-Policy-Schools - v2.0- June 2021**

Date Published: 23<sup>rd</sup> July 2021  
Denise Park, Chief Executive



# Agenda Item 1

## RECORD OF DECISION TAKEN UNDER DELEGATED POWERS OUTLINED IN THE CONSTITUTION – Part 3 Section 16

<b>DELEGATED OFFICER DECISION TAKEN BY: PORTFOLIO AREA:</b>	<b>Strategic Director Resources  Finance</b>
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**SUBJECT: Office & Associated Furniture Items – Corporate Contract**

### 1. DECISION

To approve the direct contract award for the provision of the supply, design, delivery, assembly /installation of office and related furniture items via the NHS Shared Business Services (SBS) framework, reference Design, Furniture and Appliances, SBS/29/MS/TYX/9363 (OJEU Reference Number 2019/S083-196614) for a period of up to 4 years with immediate effect.

### 2. REASON FOR DECISION

Blackburn with Darwen's current corporate contract has now expired (May 2021) and a new, compliant contract is required.

This supply area has been formally procured (via tender) on several occasions since 2007-2008.

Having considered a variety of options the most effective mechanism to efficiently procure this service now is via an existing accredited framework. The contract manager is very happy with continuing with the current supplier to ensure consistency of supply and maintain good quality customer service.

This route affords a well-established method of procurement which is further detailed below, enabling the Council to call-off the continued service required, ensuring continuity of range of goods supplied through the same supplier personnel and manufacturing aspect within the supply chain so that all service levels are met and continue to a high standard.

Advantages of using the SBS framework are:

- **OJEU compliant** - No formal tendering is required, saving valuable time and money in the procurement process for the Authority.
- **Increased efficiency of procurement** - Use of a framework agreement decreases the time and costs associated with a full competitive procurement, providing the ability to call-off urgent requirements quickly if required.
- **Competitive Pricing** - Capped ceiling pricing during the framework period to support budgeting and calculation of benefits realised by participating Authorities.
- **Direct Award** – The agreement gives freedom and flexibility for all participating Authorities to choose the suppliers they wish within the remit of the Agreement
- **Quality of service provision:** The experience, expertise and quality commitment of suppliers is assessed during the tender evaluation, with performance and the NHS Trusts' satisfaction monitored on an ongoing basis.

- **Common terms and conditions:** Both customers and suppliers need only familiarise themselves with one set of contractual terms and conditions, with the need for redrafting and/or renegotiating terms for each procurement exercise undertaken not being necessary.
- **Encouraging best practice:** NHS SBS has a greater ability to ensure that current best practice is incorporated into the terms and conditions of the framework agreement. Guidance on usage can advise further on best practice, such as ensuring customers have a detailed specification of requirement prior to embarking on a mini-competition.

Duration of this Framework Contract is 12/09/2019 – 11/09/2021 (with option to extend for up to a further 24 month period) and so Blackburn with Darwen BC can compliantly contract with the Supplier, on this framework for a period of up to 4 years from this point in time.

### 3. BACKGROUND

A full OJEU tender was completed in 2017-18, via the Procurement Section for this supply area with H Jenkinson being the highest scoring bidder and have provided the Authority with a consistent good standard of service since award.

The service requirements are for the design, supply, delivery, assembly and installation of commercial grade office and related furniture / equipment to the Authority.

Current expenditure for the twelve month period 01/04/20 – 31/03/21 inclusive being £74,929.66.

The range of core products previously tendered has now changed significantly as the Authority moves away from the more traditional style of office furniture to support and encourage the maximisation of more effective collaborative working opportunities within the Authority.

### 4. OPTIONS CONSIDERED AND REJECTED

Other frameworks were considered (Eastern Shires Procurement Organisation and North of England) – but were rejected as the SBS framework offers approved suppliers to both frameworks more flexibility to the Authority, which in turn supports ongoing cost effectiveness and also has the ability to direct award to the current supplier ensuring business continuity.

Tendering our own contract was also considered – officer time and resource would be considerable and take approx. 6 months to complete the process across a number of officers. There would be a risk of potentially not being able to match to the furniture purchased for the Town Hall refurbishment for phase 2 if the successful supplier did not have the current manufacturer within their supply chain which could lead to delays in completion of the Town Hall refurbishment.

***Further information is available via the following link [ ] or from the report author***

### 5. DECLARATION OF INTEREST

All Declarations of Interest of the officer with delegation and the any Member who has been consulted, and note of any dispensation granted should be recorded below:

<b>VERSION:</b>	1
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<b>CONTACT OFFICER:</b>	Maxine Edwards – Contracts and Procurement Officer
<b>DATE:</b>	16 <sup>th</sup> June 2021

<b>BACKGROUND DOCUMENTS:</b>	
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Signed:

A handwritten signature in black ink, appearing to read 'Paul Fleming', with a stylized flourish at the end.

<b>Director PAUL FLEMING</b>	<b>Date: 19 July 2021</b>
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## RECORD OF DECISION TAKEN UNDER DELEGATED POWERS OUTLINED IN THE CONSTITUTION – Part 3 Section 16



<b>DELEGATED OFFICER DECISION TAKEN BY:</b>	Jayne Ivory - Strategic Director Children's Services & Education
<b>PORTFOLIO AREA:</b>	David Fairclough - Director of HR, Governance & Engagement  Schools and Education

**SUBJECT: Various Schools Policies**

### 1. DECISION

The Strategic Director Children's Service & Education and the Director of HR, Governance & Engagement is asked to approve the revised School Policies.

### 2. REASON FOR DECISION

These Policies have been updated to ensure that they are fit for purpose and up to date in line with employment legislation and best practice.

The changes have been consulted with key stakeholders and through the LA Schools' Policy Development Group and agreed at the Local Joint Negotiating Consultative Committee (Schools & Teaching) and included on the Directors Report.

### 3. BACKGROUND

#### **Sickness Absence Policy & Guidance**

This policy has been reviewed to ensure it remains current in terms of best practice and employment legislation. It has been amended to remove the use of "Cautions" whilst going through the same stages of absence management. This will mean that managing absence for those who have a condition that may not improve has a process which is more sympathetic. The document reflects the Council's approach to managing sickness

#### **Maternity, Adoption & Surrogacy Policy**

This policy has been reviewed to ensure that it remains current in terms of best practice and employment legislation. There has also been the incorporation of adoption and surrogacy entitlements within the policy. The main change within this policy is the inclusion of adoption and surrogacy. The policy now covers the adoption/surrogacy leave and adoption/surrogacy pay including qualifying for this.

In developing the policy, account has been taken of best practice and current employment legislation

### **Whistleblowing Policy**

This policy has been reviewed to ensure that it remains current in terms of best practice and employment legislation, and in line with "Keeping Children Safe in Education (KCSiE) 2018" from the Department for Education guidelines.

Some changes have been made to ensure reference to external organisations and legislation are accurate.

### **4. OPTIONS CONSIDERED AND REJECTED**

N/A

### **5. DECLARATION OF INTEREST**

All Declarations of Interest of the officer with delegation and the any Member who has been consulted, and note of any dispensation granted should be recorded below:

None

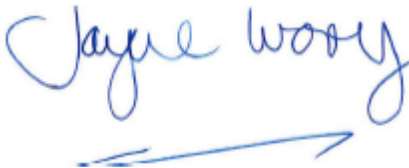
<b>VERSION:</b>	<b>4.0</b>
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<b>CONTACT OFFICER:</b>	<b>Jill Readfern</b>
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<b>DATE:</b>	<b>25/6/21</b>
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<b>BACKGROUND DOCUMENTS:</b>	
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Signed:



<b>Strategic Director Children's Services &amp; Education</b>	<b>Date: 16<sup>th</sup> July 2021</b>
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Signed:



<b>Director of HR, Governance &amp; Engagement</b>	<b>Date: 2<sup>nd</sup> July 2021</b>
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## **Maternity, Adoption and Surrogacy Policy**

### **1. Introduction**

This Policy outlines the options and entitlement for employees intending to take maternity or adoption leave. It sets out the statutory and occupational rights and responsibilities of employees, who are pregnant or who have recently given birth. It gives details of the arrangements for antenatal care, pregnancy related illness, maternity leave and pay. It also confirms the statutory and occupational rights of adoptive parents to adoption leave. Adoption leave rights also apply to partnerships of the same sex, so references in this policy to father, male employee, men, he, him, etc, should be taken as including women in same sex partnerships.

It sets out the policy and procedures for both the employee and the School to follow for the time before the birth or placement, during the leave period and upon return to work.

This Policy will assist in how to:

- further meet the diverse needs of its workforce, ensuring equal and fair treatment is given to all employees;
- attract and retain skilled employees, by being an employer of choice;
- improve working lives and work-life balance;
- manage and reduce sickness absence; and
- meet legislative requirements.

### **2. Scope**

This policy applies to all employees in Community and Voluntary Controlled schools where the Local Authority (LA) is the employer. It is also commended to all other schools in the borough.

### **3. Roles and Responsibilities**

**Employee** – You should submit your application to the school stating that you wish to take maternity or adoption leave, by completing the relevant form in line with section 9 of this Policy (see Appendix 1 and Appendix 2).

**Manager** – In the case of pregnancy your manager must consider any health and safety implications and arrange for a workplace risk assessment (see Appendix 3) to be carried out and for any adjustments to be made to your role. Accordingly it is important that you notify your manager that you are pregnant where this may have health and safety implications in your workplace. Once completed by your manager you the opportunity to provide your feedback on the risk assessment and any

measures you feel are required to be put in place. Your manager will also ensure that all maternity/adoption leave notification paperwork is completed and forwarded to HR. In the case of adoption your manager is responsible for managing requests for leave to attend pre-adoption meetings, prior to a match for adoption taking place – see section 8.

**Human Resources (HR)** – Will respond to the employee’s notification to take leave in line with the requirements set out in section 9 of this policy and ensure necessary payroll arrangements are made. They will ensure all correspondence is placed on an employee’s personal file in line with current UK data protection legislation

#### **4. Definitions**

Definitions of wording used in this document can be found at the end of this policy.

#### **5. Eligibility**

##### **5.1 Maternity Leave**

Regardless of your length of service, you will be entitled to up to 52 weeks leave made up of:

Ordinary maternity leave	Regardless of your length of service, you will be entitled to 26 weeks’ ordinary maternity leave
Additional maternity leave	Regardless of your length of service, you will be entitled to 26 weeks’ additional maternity leave.

##### **5.2 Adoption Leave**

To qualify for adoption leave and pay, you must:

- have been notified that you have been newly matched by an approved adoption agency with the child for the purposes of adoption
- if the adoption is from overseas, be in possession of a copy of the official notification of adoption and evidence of the child’s date of entry into the UK
- have been continuously employed by your current employer for 26 weeks leading into the week in which notification of being matched for placement/official notification (if overseas adoption) is given

The leave is only available to one member of a couple where a couple adopt jointly (they identify which partner is taking the adoption leave and adoption pay).

The other member of a couple, who is adopting jointly, may be entitled to adoption support leave.

You will not qualify for adoption leave where a child is not newly matched for adoption, for example, if you are a step parent adopting your partner’s child.

Only one period of leave is available irrespective of whether more than one child is placed for adoption at the same time.



If you meet the qualifying conditions, regardless of your length of service you will be entitled to up to 26 weeks' Ordinary Adoption Leave (OAL) followed by 26 weeks' Additional Adoption Leave (AAL) – A total of up to 52 weeks leave.

### **Surrogacy**

Surrogacy is when someone else carries and gives birth to a baby for which you will obtain parental responsibility.

Under this policy

- if you use a surrogate for a child who legally becomes yours you will be entitled to the same leave and pay as if you were to adopt
- if you are the surrogate you are entitled to the same maternity leave and pay as any other pregnant employee

The relevant statutory and occupational rights for each must be followed. Further advice can be obtained from your HR provider.

## **6. Time off for antenatal care**

Regardless of your length of service, you are entitled to paid time off for antenatal care to a maximum of a standard day. You must be prepared to show evidence of appointments if requested. Employees should where possible arrange appointments on a non-working day or, if this is not practicable, they should be arranged as early or late as possible during the working day.

If practicable, employees must attend work prior to the appointment and return afterwards. Time off will be granted on the basis of actual time required to attend the appointment.

## **7. Expectant Fathers**

Regardless of your length of service, from 1<sup>st</sup> October 2014, if your wife, partner or civil partner is expecting a child, you will be entitled to unpaid time off to attend two ante-natal appointments with them during their pregnancy. As with expectant mothers attending ante-natal appointments, you must be prepared to show evidence of appointments if requested. Time off will be granted on the basis of actual time required to attend the appointment. If practicable, you must attend work prior to the appointment and return afterwards.

## **8. Leave to attend pre-adoption meetings**

Providing you give your manager reasonable notice you may take paid leave (up to a maximum of 5 days) in order to attend meetings in connection with the adoption. If requested by your manager, you must be prepared to provide evidence of attendance at such meetings and your manager should keep a record of the number of days taken. This leave is in addition to any other leave entitlement.

## **9. Timing of Adoption Leave**

### **9.1 Timing of Adoption Leave (adoption within the UK)**

Adoption leave can start on the day the child is placed for adoption, or up to 14 days earlier.

## **9.2 Timing of Adoption Leave (adoption from overseas)**

Adoption leave can start from the day on which the child enters the UK or on a chosen date no later than 28 days after the child enters the UK.

In order to make administration as easy as possible, the employee should discuss the timing of their adoption leave with their immediate manager as early as possible.

If the child's placement ends during the adoption leave period, you will be able to continue adoption leave for a further eight weeks' after the end of the placement.

## **10. Notice of intention to take Maternity / Adoption Leave**

### **10.1 Notice of intention to take Maternity Leave**

You can tell your manager that you are pregnant as soon as you want to. However, please see section 3 above in respect of health and safety at work considerations. In all circumstances you should notify your manager by at least the end of the 15<sup>th</sup> week before the expected week of childbirth (EWC), or as soon after this as is reasonably practical. This can be before you have decided when to take your maternity leave.

You must notify your manager in writing using the Maternity Form (Appendix 1), as soon as is practicable and, as a minimum, 28 days before your absence begins, of the following:

- That you are pregnant;
- Your EWC;
- When you wish to start your leave, which cannot be earlier than the 11<sup>th</sup> week before your EWC;
- Whether you intend to return to work following your maternity leave;
- You must also forward your MATB1 certificate as soon as it is practicable.

If you do not have access to the Intranet, please ask your manager or contact HR for a Maternity Form.

**Once your notification has been received by Human Resources, you will receive a response within 28 days, stating your expected date of return from maternity leave.**

Employees will be entitled to 52 weeks from the start of the maternity leave. If you wish to change the date on which you will start your maternity leave you must advise your manager in advance providing notice in line with your contract of employment, unless this is not practicable.

### **10.2 Notice of intention to take Adoption Leave (adoption within the UK)**

You may discuss your intention to adopt at any time with your manager. You are required to inform your manager providing notice in line with your contract of employment of your intention to take adoption leave within seven calendar days of being notified by your adoption agency that you have been matched with a child for adoption, unless this is not reasonably practicable. Please complete the standard Adoption Form (Appendix 2).

You will need to inform your manager of the following:

- when the child is expected to be placed with you or the date on which the child is expected to enter the UK (if overseas adoption)
- when you will want your adoption leave to start (see section 9)

You will be able to change your mind about the date you wish your adoption leave to start providing you advise your manager in advance providing notice in line with your contract of employment, unless this is not practicable.

Your manager will send your adoption form to HR who will write to you within 28 days of receipt of your application to confirm your leave arrangements and your expected date of return from adoption leave; they will always assume this to be 52 weeks after commencement.

### **10.3 Notice of intention to take Adoption Leave (adoption from overseas)**

You may discuss your intention to adopt at any time with your manager. You are required to inform your manager providing notice in line with your contract of employment of your intention to take adoption leave within 28 days after the date you receive official notification, or the date on which you complete 26 weeks continuous service (whichever is the later). You must give notice of both the date the official notification was received and the date the child is expected to enter the UK. Please complete the standard Adoption Form (Appendix 2).

At least 28 days prior to the date you have chosen as the beginning of your adoption period, you must inform your manager of the following:

- when you will want your adoption leave to start (see section 9)
- a declaration that you have chosen to receive SAP and not statutory paternity pay (adoption)

You must also provide a copy of the official notification.

Within 28 days of the child's entry into the UK you must inform your manager of the date of entry and provide evidence of this date in the form of the airline flight ticket or copies of entry clearance documents.

You will be able to change your mind about the date you wish your adoption leave to start providing you advise your manager in advance and give notice in line with your contract of employment, unless this is not practicable.

Your manager will send your adoption form to HR who will write to you within 28 days of receipt of your application to confirm your leave arrangements and your expected date of return from adoption leave; they will always assume this to be 52 weeks after commencement.

## **11. Early births and pregnancy related absences**

If your baby is born before the date you notified or before any notification has been provided, your maternity leave period starts automatically from the day after childbirth and you must provide your manager with notification as soon as possible.

If your maternity leave has not already started it will be triggered by the birth of your child, or by pregnancy-related absence from the beginning of the 4<sup>th</sup> week before the EWC.

In both these situations, you should notify your manager, who will inform HR that you have given birth or that you are absent wholly or partly because of your pregnancy, giving the date your absence began or the date your baby was born.

## 12. Other absences

If in the early months of pregnancy you are advised by an approved medical practitioner to be absent because of the risk of rubella, you shall be granted leave with full pay, provided that you do not unreasonably refuse to serve in another suitable position or location, where there is no such risk.

## 13. Pay

### 13.1 Maternity Pay

To qualify for Occupational Maternity Pay (OMP) you must continue to be in the school's employment (whether or not at work) immediately before the start of your maternity leave and you must return to the school's employment for 3 calendar months.

#### **Green Book Employees**

**For employees with less than 26 weeks continuous service at the week before the EWC:**

Weeks 1-52	Unpaid, however you may be eligible for Statutory Maternity Allowance for weeks 1-39 from the Benefits Agency
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**For employees with at least 26 weeks continuous service at the 15th week before the EWC but less than one year's service at the 11<sup>th</sup> week before EWC:**

Weeks 1-6	9/10 <sup>th</sup> of a week's pay (offset against SMP or SMA if eligible)
Weeks 7-39	SMP
Weeks 40-52	Unpaid

**For employees with at least 26 weeks continuous service at the 15th week before the EWC but more than one year's service at the 11<sup>th</sup> week before EWC:**

Please note: You must have at least 26 weeks service at the 15<sup>th</sup> week before the EWC to qualify for SMP

Weeks 1-6	9/10 <sup>th</sup> of a week's salary (offset against SMP or MA if eligible)
Weeks 7- 18	½ pay plus SMP or MA (except to the extent to which the combined pay and SMP, or MA and any dependents' allowances exceeds full pay).
Weeks 19-39	SMP or MA if eligible
Weeks 40-52	Unpaid

**Conditions of Service for School Teachers in England and Wales (Burgundy Book & School Teachers' Pay and Conditions Document)**

**For teachers with less than 26 weeks' continuous service with their current employer at the EWC:**

Weeks 1-39	Unpaid, however contact the Social Security Office for further information about other financial support.
Weeks 40-52	Unpaid

**For teachers with less than 26 weeks continuous service with their current employer at the EWC but at least 1 year's continuous service at the 11<sup>th</sup> week before EWC with one or more LAs:**

Weeks 1-4	Full pay (offset against SMP/financial support)
Weeks 5-6	9/10 of a week's salary (offset against SMP/financial support)
Weeks 7-18	½ pay plus financial SMP/support, if eligible (except to the extent this exceeds full pay)
Weeks 19-39	SMP (if eligible)
Weeks 40-52	Unpaid

**For teachers with at least 26 weeks continuous service with their current employer at the 15<sup>th</sup> week before the EWC, but less than 1 year's continuous service at the 11<sup>th</sup> week before the EWC as a teacher with one or more LAs:**

Weeks 1-6	9/10 <sup>th</sup> of a week's salary (offset against SMP)
Weeks 7- 39	SMP
Weeks 40-52	Unpaid

**For teachers with at least 26 weeks continuous service with their current employer at the 15<sup>th</sup> week before the EWC, but at least 1 year's continuous service at the 11<sup>th</sup> week before the EWC as a teacher with one or more educational/LA setting**

**The Soulbury Committee (Soulbury)**

The provisions as set out in the Green Book and local agreements will apply.

Weeks 1-4	Full pay (offset against SMP/financial support)
Weeks 5-6	9/10 of a week's salary (offset against SMP/financial support)
Weeks 7-18	½ pay plus financial SMP/support, if eligible (except to the extent this exceeds full pay)
Weeks 19-39	SMP or financial support (if eligible)
Weeks 40-52	Unpaid

Employees who are not intending to return to work to the school will not receive the occupational pay.

**Please note: We are unable to standardise an employee's full maternity pay entitlement so that payments are equal each month during the maternity leave period**

## 13.2 Adoption Pay

You must give your employer proof of adoption to qualify for both SAP and Local Adoption Pay (LAP).

The proof must show:

- your name and address and that of the agency
- the match date – e.g. the Matching Certificate
- the date of placement – e.g. a letter from the agency
- the relevant UK authority's 'official notification' confirming you're allowed to adopt (overseas adoptions only)
- the date the child arrived in the UK – e.g. plane ticket (overseas adoptions only)

Most adopters will be entitled to SAP as long as they have average weekly earnings at or above the Lower Earnings Limit for National Insurance which applied at the end of the matching week. Adopters who have average earnings below the Lower Earnings Limit for National Insurance contributions will not qualify for SAP and should contact their Social Security Office for further information about other financial support.

The employee must have been working continuously for the employer for at least 26 weeks up to the matching week to qualify for SAP.

SAP pay is a rate set by the Government for the relevant tax year, or at 90% of the employee's average weekly earnings if this figure is lower than the Government's set weekly rate.

Weeks 1-6	9/10 <sup>th</sup> of a week's pay (offset against SAP)
Weeks 7-39	SAP
Weeks 40-52	Unpaid

Adoption Pay will be paid in line with your contract of employment and mirrors the pay provisions that apply in respect of maternity pay for the relevant terms and conditions of employment (e.g. Green Book, STPCD) – the additional pay above SAP is Local Adoption Pay (LAP).

The current arrangements are detailed below, however, should the maternity pay arrangements change (either nationally or locally) these changes will affect adoption pay arrangements with immediate effect.

### **Green Book Employees**

**For employees with less than 26 weeks' continuous service at the matching week:**

Weeks 1-39	Unpaid, however contact the Social Security Office for further information about other financial support.
Weeks 40-52	Unpaid

**For employees with at least 26 weeks continuous service at the 15<sup>th</sup> week before the 'matching week' but less than 1 years' service at the 11<sup>th</sup> week before the 'matching week':**

**For employees with at least 26 weeks continuous service at the 15th week before the ‘matching week’ and at least 1 years’ service at the 11<sup>th</sup> week before the ‘matching week’:**

Weeks 1-6	9/10 <sup>th</sup> of a week’s salary (offset against SAP)
Weeks 7- 18	½ pay plus SAP
Weeks 19-39	SAP
Weeks 40-52	Unpaid

**Conditions of Service for School Teachers in England and Wales (Burgundy Book & School Teachers’ Pay and Conditions Document)**

**For teachers with less than 26 weeks’ continuous service with their current employer at the matching week:**

Weeks 1-39	Unpaid, however contact the Social Security Office for further information about other financial support.
Weeks 40-52	Unpaid

**For teachers with less than 26 weeks continuous service with their current employer at the ‘matching week’, but at least 1 year’s continuous service at the 11<sup>th</sup> week before the ‘matching week’ as a teacher with one or more educational LA settings:**

Weeks 1-4	Full pay (offset against SAP/financial support)
Weeks 5-6	9/10 of a week’s salary (offset against SAP/financial support)
Weeks 7-18	½ pay plus financial SAP/support, if eligible (except to the extent this exceeds full pay)
Weeks 19-39	SAP (if eligible)
Weeks 40-52	Unpaid

**For teachers with at least 26 weeks continuous service with their current employer at the 15<sup>th</sup> week before the ‘matching week’, but less than 1 year’s continuous service at the 11<sup>th</sup> week before the ‘matching week’ as a teacher with one or more educational/LA settings:**

Weeks 1-6	9/10 <sup>th</sup> of a week’s salary (offset against SAP)
Weeks 7- 39	SAP
Weeks 40-52	Unpaid

**For teachers with at least 26 weeks continuous service with their current employer at the 15<sup>th</sup> week before the ‘matching week’, but at least 1 year’s continuous service at the 11<sup>th</sup> week before the ‘matching week’ as a teacher with one or more educational/LA settings:**

Weeks 1-4	Full pay (offset against SAP/financial support)
Weeks 5-6	9/10 of a week's salary (offset against SAP/financial support)
Weeks 7-18	½ pay plus financial SAP/support, if eligible (except to the extent this exceeds full pay)
Weeks 19-39	SAP or financial support (if eligible)
Weeks 40-52	Unpaid

### **The Soulbury Committee (Soulbury)**

The provisions as set out in the Green Book and local agreements will apply.

Employees not intending to return to work in the school will not receive the occupational pay.

**Please note:** We are unable to standardise an employee's full adoption pay entitlement so that payments are equal each month during the adoption leave period

## **14. Contact during Maternity/Adoption Leave**

The School will maintain reasonable contact with you from time to time during your maternity/adoption leave. Shortly before commencing your leave your manager should discuss arrangements for keeping in touch with you. This may be to discuss your plans to return to work or to discuss any special arrangements to be made. You may wish to discuss with your manager possible training to be given to ease your return to work or simply wish to be updated, on developments at work during your absence. Therefore your manager will discuss the option of 'Keeping-in-touch days'.

## **15. 'Keeping-in-touch' (KIT) days**

Except during the first two weeks after childbirth you can mutually agree with your manager to work for up to 10 KIT days during either your Ordinary Maternity/Adoption Leave or Additional Maternity/Adoption Leave without it affecting your leave or pay. Such work will be paid at your normal contractual rate for the number of hours worked on each KIT day with any maternity/adoption pay being offset against this. Even if only one hour is worked on this day it will be classed as one KIT day.

The School has no right to require you to carry out any work and similarly you have no right to undertake work during your maternity/adoption leave. Any work undertaken including the amount of hours to be paid is entirely a matter for agreement between you and the School.

## **16. Right to return to work**

If you resume work following either Ordinary or Additional Maternity/Adoption Leave, then you are entitled to return to the same job on the same terms and conditions as if you had not been absent.

In exceptional circumstances, where it is not practicable by reason of redundancy (or general re-organisation) for you to return to your post, you will be informed and offered a suitable alternative vacancy where one exists, provided:

- the work to be carried out is suitable and appropriate to the circumstances, and;



- the capacity and place in which you are to be employed and your terms and conditions of employment are not substantially less favourable to you than if you had returned to the post in which you were originally employed

If you are offered a suitable alternative vacancy and you decide not to take that vacancy you may have to repay your occupational maternity/adoption pay.

Managers should also refer to the Redundancy Policy under these circumstances and seek HR Advice on how to proceed.

## **17. Returning to work after Maternity/Adoption Leave**

The school will assume that you will be returning to work at the end of your additional maternity/adoption leave, unless you have indicated otherwise on your form. HR will write to you to confirm the date you are expected to return. Should you wish to return to work earlier than this, then you must notify your manager in writing providing notice in line with your contract of employment before the day on which you propose to return. Where the notice is less than your contract of employment the School may postpone the return to ensure contractual notice but not beyond the end of the leave period. Notification requirements are set out below.

If you are unable to return on the expected day due to sickness your absence will be covered by the sickness absence scheme in the normal way.

## **18. Notification of your return to work**

Should you wish to return to work earlier than this, then you must notify your manager in writing providing notice in line with your contract of employment before the day on which you propose to return. Where the notice is less than your contract of employment the School may postpone the return to ensure contractual notice but not beyond the end of the leave period

NB: Contractual notice – e.g. Green Book (8 weeks'), Teachers (21 calendar days')

You should note that you are not permitted to return to work for a period of two weeks following the birth of your child in the case of maternity.

Your manager will send a copy of your letter regarding your early return to HR.

## **19. Transfer of Maternity/Adoption Leave**

If an employee proposes to return to work by giving proper notification in accordance with the rules set above, his or her spouse, civil partner or partner may be eligible to take up to 26 weeks' additional paternity leave (and additional statutory paternity pay) on his or her return to work.

The earliest that additional paternity leave may commence is 20 weeks after the date on which the employee's child is born/after the adopted child's placement and it must end no later than 12 months after the date of birth/date of placement. The minimum period of additional paternity leave is two consecutive weeks and the maximum period is 26 weeks. The employee must therefore have at least two weeks of her maternity/adoption leave that remains unexpired.

Further details should be obtained from the employee's spouse or partner's employer. The employee returning to work will be required to submit a written and signed declaration form to her/his spouse, civil partner or partner's employer, to verify the transfer of entitlement to additional paternity leave and pay.

## **20. Notification of Breastfeeding on your return to work**

The School have in place a Breastfeeding Policy that you can refer to for further information. You will need to write to your manager, prior to your return to work, to inform your manager if you wish to leave work at the appropriate times to breastfeed your child or wish to express and store milk at your place of work.

Upon your manager receiving written notice of your intentions, a risk assessment will be conducted in line with the Breastfeeding Policy.

## **21. Not returning from Maternity/Adoption Leave**

If you are not returning to work after your maternity/adoption leave, you must give notice in line with your contract of employment.

If you are not available, or are unable to return to work in the School for the required period of at least 13 consecutive calendar weeks, and you have received occupational adoption/maternity and LAP pay you will be required to repay the appropriate amount of LAP and/or Occupational Pay.

## **22. Death of a baby and still birth**

If your baby dies or is still born after 24 weeks of pregnancy, this policy will apply. Where this occurs before 24 weeks (miscarriage), sympathetic consideration will be given to the circumstances and where appropriate special leave or sick leave will be granted.

## **23. Break in service for Maternity/Adoption reasons**

If you decide to return to work following a break for maternity/adoption reasons, or reasons concerned with caring for children or other dependants you will be entitled to have previous service taken into account in respect of the maternity/adoption scheme, provided that the break in service does not exceed eight years and that no permanent paid full time employment has intervened.

## **24. Terms and Conditions of Employment**

**The contract of employment** continues throughout the whole period of your maternity/adoption leave unless either party expressly ends it or it expires. However, during your maternity/adoption leave period, you will have no right to continue to receive remuneration (monetary salary or wages) other than that described in section 13 (Maternity/Adoption Pay) of this policy.

## **24.1 Annual Leave and Bank Holidays**

Annual leave entitlement is not affected by maternity/adoption leave - if you are on paid or unpaid OML/OAL and AML/AAL, you continue to accrue your entitlement to annual leave as normal. You are also entitled to accrue bank holidays that fall within the whole period of your maternity/adoption leave.

For any term time workers, very often the entitlement will have been met during school closure periods either before or following the period of maternity/adoption leave.

For those that are full year workers, you should take any outstanding annual leave due to you before the commencement of OML/OAL. Where this is not possible you should take leave immediately following the period of maternity/adoption leave, prior to returning to work. Where it has not been possible to take leave in the year that it has been earned, due to the leave year ending whilst on maternity/adoption leave, then such leave should be taken prior to your return to work (i.e. effectively extending your maternity/adoption leave period).

Only in exceptional circumstances, and where it has been agreed in advance with your manager, will you be allowed to take such leave after you have returned to work.

If you are an essential car user, you will continue to receive the full lump sum during the ordinary adoption leave period. If your adoption leave continues beyond this period no further payments will be made.

## **24.2 Car Loan**

If you have a car loan, at the time of starting your leave, the deductions will continue to be made for the whole time you are on paid leave. During unpaid leave you must make other arrangements for the required amount to be paid.

**24.3 Pension** If you are a member of the Teachers' Pension Scheme, any period of maternity/adoption leave for which you receive statutory pay is classed as pensionable employment. The contributions you pay will be based on the pay you actually receive during this time. You should seek advice from the Teachers' Pension Service with regard to effects on your pension whilst on adoption leave.

If you are a member of the Local Government Pension Scheme, during the OML/OAL period, the school will pay pension contributions based on the pay you would have received had you been at work. The contributions you pay will be based on the pay you actually receive during this time.

During additional leave when you are not receiving pay, you do not make contributions to the pension scheme. However, after the end of the leave period you can, within 30 days, elect to pay contributions for this unpaid period. The contributions will be based on the pay received immediately before the unpaid additional leave period commenced. If you have any queries or require further information with regard to your pension, you should seek advice from your pensions service regarding your payments and membership whilst on maternity/adoption leave.

## **Monitoring and Review**

HR will work with the LA, Head teachers and governing bodies to monitor the application of this policy. They may review any aspect of the procedure in light of changing legislation at any time, in consultation with the trade unions and teacher associations.

### **25. Further Guidance**

If managers require any general advice regarding the application of policy and guidance, please contact your HR provider. If schools require specific guidance or a LA view on any aspect of policy and guidance they may contact the LA for further advice.

### **26. Document Control**

<b>Approving Body</b>	LJNCC (Schools Policy Development Group)
<b>Date Agreed</b>	January 2021
<b>Date of Next Review</b>	January 2024
<b>Review Period</b>	Every 3 years (unless there is a change to the organisation or statutory legislation, whichever is sooner)

## Definitions

**Childbirth** – In this policy childbirth means the live birth of a child, or a still-birth after a pregnancy lasting at least 24 weeks’.

**Adoptive Child** – The statutory provisions apply to children adopted from birth up to 18 years of age.

Continuous Service – Recognised service in an **educational/LA setting**:

**Continuous Service for OMP** – you must have completed at least 1 year’s continuous service as a Teacher with one or more **educational/LA settings**:

**Continuous Service for SMP** – you must have at least 26 weeks’ continuous service with your current employer at the 15th week before the EWC to qualify for SMP.

**Current Employer** – In most instances, you will be employed by the governing body if you work at a Foundation, Voluntary Aided or Foundation Special School. If you work at a Community, Voluntary Controlled, Community Special and Maintained Nursery School, in most instances you will be employed by the LA.

**EWC** – The week, starting on a Sunday, during which the employee is expected to give birth.

**Keep in Touch Days** – up to ten days’ paid work during either ordinary or additional maternity leave (Section 11)

**LA** – Local Authority

**Manager** – This could be a Headteacher, Deputy Headteacher, Chair of Governors, or another nominated person.

**MA** – Maternity Allowance

**OML** – Ordinary Maternity Leave

**OMP** – Occupational Maternity Pay

**OMP & A week’s Pay** – For the purposes of occupational pay, a week’s pay shall be treated as the amount payable to you under your current contract of employment. If there are significant variations in your salary, the average salary over the 12 weeks’ preceding the date of absence shall be treated as a week’s salary.

**Matching Certificate** – A document issued to you when you are notified that you have been matched with a child for adoption through an approved adoption agency.

**OAL** – Ordinary Adoption Leave.

**AAL** – Additional Adoption Leave.

**SAP** – Statutory Adoption Pay.

**LAP** – Local Adoption Pay. This is an additional pay entitlement provided by the school which mirrors the maternity pay arrangements applicable to the employee's terms and conditions of employment.

**Reasonable Contact** – This can be in the form of telephone, by e-mail, by letter, visits through mutual agreement and will vary according to circumstances. Such agreements should be arranged between the Headteacher and employee prior to the start of the maternity leave.

**SMP** – Statutory Maternity Pay

**SMP & A Week's pay** – if there are variations in your salary, your earnings are assessed over an 8 week period, this period is determined by HMRC. For further guidance please contact Capita Human Resources or the HMRC helpline.

# SICKNESS ABSENCE GUIDANCE

## 1. Introduction

This policy is designed to help and encourage all employees to achieve and maintain appropriate and acceptable standards of attendance at work and to ensure that a fair, supportive and consistent approach is used in managing staff sickness absence and balancing the needs of employees with the requirements of the school.

The stages in this policy and the removal of cautions at the formal stages is to be seen as a supportive measure for those who may have conditions that will not improve with time. Headteachers are advised to obtain advice from their HR provider in these circumstances.

The School is committed to promoting the health, safety and wellbeing of its staff by:

- Managing all employees in a fair and reasonable manner in order to support and facilitate a return to work.
- Providing appropriate support to facilitate staff retention and return to work after illness, for example through a phased return, counselling, occupational health, flexible working, reasonable adjustments and in some cases redeployment;
- Tackling issues which may result in absence due to work related stress or dignity at work issues;
- Encouraging attendance, monitoring absence and the cost of sickness absence;
- Working with unions and health safety and wellbeing representatives to identify actions and preventative measures to promote the health, safety and wellbeing of staff; and
- Providing coaching and training for managers dealing with attendance issues.

All management action under this policy should take into account the obligations of the Equality Act (EA), previously DDA. Additionally, managers should refer to their HR Provider for advice and guidance on the complex issues around sickness and disability. COVID related illnesses may be covered by the EA.

It should be noted that whilst the policy and guidance documents provide guidance for managing sickness absence, it is unlikely to cover all situations. The nature of sickness absence is such that each case must be considered separately and the appropriate action applied. When any action is taken, including the progression or advancement of stages within the procedure, consideration should be given to the individual circumstances of that particular case.

The guidance applies to all employees of the School.

### 1.1 Support for Employees

A range of support is available to employees which include:

#### **The Wellbeing Service**

The Wellbeing Service offers guidance and support to individuals to help improve health and mental wellbeing and is available to staff within the School.

The Wellbeing Service will provide advice, guidance or practical support for lifestyle changes such as stopping smoking, drinking less or being more physically active, but also includes support for issues such as housing, employment and money management because we know that these concerns can affect individuals emotionally and by addressing them and accessing support it may enable a return to work.

The Wellbeing Service should be considered for supporting employees to return to work but also for prevention to avoid absence and support employees whilst they remain in work.

This service provides employees with the opportunity to make a self-referral or for Managers to make a referral as part of this absence management process. The Wellbeing Service is confidential, and information will not be shared with the School unless agreement with the employee has been given. Once a referral has been received employees will be contacted within 3 working days.

### **Employee Assistance Programme**

The School provides various forms of support for employees. If your HR Service is provided by BwD, access to the Employee Assistance Programme is part of the services offered. Information in relation to this can be found on the intranet.

### **Occupational Health**

Further information on referrals for employees to the Occupational Health Service is available via your HR Provider. For those schools with BwD HR services please seek support from a member of the BwD Schools HR Team who will be able to assist with making a referral for the employee.

### **Bereavement**

Bereavement is a difficult time for any individual and further advice is covered within the Special Leave Policy. All supportive mechanisms should be reviewed on a flexible basis to support the individual, through working from home, annual leave, or alternative work, to enable a return to work and enable the individual time to recover. Further guidance is available in the Special Leave Policy on the School intranet pages.

### **Stress - Risk Assessment**

To assist managers in the management of work related stress the School has access to a Self-Evaluation – Stress Indicator Tool and Stress Risk Assessment Form (including example control measures), based on the HSE Management Standards. This is available on the BwD intranet or by contacting a member of the School HR Team.

## **2. Employees with a Condition Covered by the Equality Act 2010**

The School is committed to responding positively to the needs of current and new employees with disabilities and to employees who may acquire a disability during their employment. At each stage of this procedure it is important to consider whether an employee's condition and reason for absence may meet the definition of disability in accordance with the Equality Act. This should be determined through receipt of medical reports and legal advice where necessary. "Disability" may include conditions which are long-term and affect daily life, require on-going medication and adjustments to be made.

In accordance with professional recommendations, appropriate support and reasonable adjustments will be made to enable employees to function satisfactorily in their role. The School will also take into account and wherever practically possible, make reasonable adjustments in relation to sickness absence that is medically proven to be associated with a particular disability. Employees with disabilities may also want to initiate the Government Access to Work Scheme which can provide advice and practical support, and this can be accessed direct by the individual through their website [www.gov.uk/access-to-work](http://www.gov.uk/access-to-work).

The Equality Act places additional responsibilities on employers where the employee suffers from a disability, and in practical terms this requires managers to consider making reasonable adjustments to an employee's working environment in order to accommodate them. It also requires due consideration not just to the needs of the individual but that of the service. However, even if



the employee's condition does not fall under the definition of a disability, it is advisable to see what can be done to improve the attendance and productivity of an employee within any business constraints. The requirement is for "reasonable" adjustments and this can depend on the individual situation and the size and resources of the organisation.

Possible reasonable adjustments may include:

- Making adjustments to premises or work stations or environments;
- Reallocating work;
- Redeployment to an alternative role or place of work;
- Flexibility of working hours, and allowing additional time off work for rehabilitation, assessment or treatment;
- Providing specialist training or equipment;
- Making instructions and manuals more accessible;
- Using a reader or interpreter;
- Providing more supervision or a buddy.

Management may also, upon receipt of medical information that indicates a return to work will not be possible, move to the latter stages of the process immediately e.g. hearing for potential capability dismissal.

### **3. Drug, Alcohol or Chemical Dependency**

Drug, alcohol or chemical dependency will normally be dealt with as a sickness capability issue and the normal improving attendance processes will apply. However, if an employee is under the influence of non-prescribed drugs or has a chemical or alcohol dependency sufficient to be a health and safety risk, be deemed as unprofessional conduct or potentially bring the School into disrepute, the matter will be dealt with under the School's Disciplinary Policy.

### **4. Work Related Absences**

Where an accident or injury occurs at work, it should be reported to the employee's manager as soon as possible. The incident should then be reported to the Health, Safety & Wellbeing Team via the online reporting system <https://incidentreporting.blackburn.gov.uk/home/add> on the intranet.

### **5. Doubtful Fitness to Attend Work**

If the health of an employee who has attended work gives cause for concern, irrespective of whether they have been subject to a medical examination, the manager must take appropriate action to protect both the employee and the School. Employees should be referred back to their GP in the first instance, and it may be necessary for the manager to send the employee home on sick leave until the appointment is confirmed.

If the employee will not go home and the manager has serious concerns then there may be no alternative but to medically suspend the employee pending further medical advice. In these circumstances the employee will be paid normal pay until OH or a GP have determined if the employee is indeed unfit for work.

*NOTE:* Medical suspension will depend on the nature of that particular case and HR advice must be sought in these circumstances. If the employee is a Trade Union Representative the Full Time Officer should be advised of the intended course of action.

### **6. Other specific reasons for absence**

Please that appropriate time off is allowed during normal working hours for hospital appointments/treatments and doctor or dentist appointments. See Special Leave.

## **Elective Surgery**

If an employee elects for a surgical procedure for non-medical reasons e.g. cosmetic or lifestyle reasons, then the time off for the procedure should be pre-booked through the employees leave entitlement or unpaid. Any resulting time off for normal recovery will not be covered by Occupational Sick Pay, however Statutory Sick Pay may still be payable subject to the production of an appropriate certificate.

If, however, the procedure has underlying medical issues, e.g. psychological wellbeing, future health risks and the employee can provide medical evidence to support this, Occupational Sick Pay will be paid for the period of absence.

If the employee is on long-term sick as a result of cosmetic/elective surgery, managers are required to manage the absence in line with the Improving Attendance Policy and Procedures.

- For Stress – see Stress Management Policy and Guidance
- For Pregnancy Related absences – see Maternity Policy and guidance
- For Fertility Treatment – see Special leave Policy

## **7. Unfit for the foreseeable future**

In the case of an employee who has been identified as unfit for the foreseeable future, an Investigation Meeting should be arranged. The meeting should be arranged as soon as is reasonably practicable and the purpose is to consider any new/additional information that the employee may have obtained and to consider if there is a potential case for a dismissal on the grounds of capability. Advice must be sought from HR at this stage.

## **8. Critical/Terminal Illness**

When managing long term absence the aim will be to assist the employee to recover and make a sustained return to work if possible. An employee who is absent due to long term illness must be treated fairly and sympathetically. However, there may come a time where the need to run the service efficiently has to be balanced with the need to provide employment for the employee.

In some cases of long-term absence the medical information may confirm that the employee is unable to return to work or attend work for a significant period of time. Depending upon the case, for example where the employee meets the definition of ill health retirement, and in agreement with the employee, it may be more appropriate to move to Stage 4 in the procedure and arrange a Capability Hearing for the matter to be considered by a Head/Chair of Governors. A mutual termination agreement is a further option that may be considered at this time.

Please seek advice from your HR provider and each case will depend on the particular circumstances.

## **9. Annual Leave and Sickness Absence**

It is imperative that all sickness absence is treated as sickness absence and recorded correctly. This will ensure that all absence data is recorded correctly and consistently across the School and the appropriate supportive measures can be put into place.

If an employee falls ill during school holidays, they are expected to report in to their manager in accordance with normal School procedures.

In the circumstance where it is accepted that it has not been possible to take all leave within the leave year, a check will be made to ensure that the employee has received the minimum European statutory leave allowance for the previous leave year. If an employee is absent due to sickness on a bank holiday there is not provision for them to take that day at a future date.

Where the employment relationship is terminated, advice should be sought from your HR provider regarding the employee's entitlement to outstanding accrued leave. Arrangements can then be made for the employee to take this leave. **Page 26**

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made for the employee to receive payment in lieu of the holidays which were not taken due to sickness.

#### **10. Notice Periods**

When an employee is dismissed on grounds of capability absence, they are entitled to the appropriate period of contractual or statutory notice (whichever is the greater) at their normal contractual pay. This is regardless of whether at that time the employee is on full pay, half pay or no pay. The employee will of course not be expected to attend work during their notice pay. The employees' final payment would also include any untaken leave entitlement..

#### **11. Record Keeping and Confidentiality**

It is essential that confidentiality is maintained regarding any information relating to an employee's sickness absence and health details. Only parties directly involved should have access to relevant information other than where such information is requested by law. Any failure to maintain confidentiality by an employee of the School will also be dealt with under the Disciplinary Policy.

Under GDPR individuals have the right to request and be granted access to any documents held about them personally on file or on a computer system. Such requests would be made through the completion of a Subject Access Request Form.

#### **12. Sick Pay and Exclusions**

Sickness payments will be made in accordance with the employee's contract and providing the notification rules have been followed. Examples may include 6 months full pay, 6 months half pay then SSP.

If there are any concerns regarding an employee not following the School's sickness reporting procedure the manager may consider whether or not to withhold payment of sick pay. This should only happen where the employee has had notice to the effect that they are not currently following the policy and as such their sick pay may be stopped. Wherever practically possible the employee should be given the opportunity to rectify the error within a reasonable timescale. Any changes to pay should be confirmed in writing

Where an employees' pay is to change as a result of the length of their absence i.e. their sick pay entitlement is to be reduced or has been exhausted, the employees pay will be adjusted accordingly by the School's HR Service provider. For those Schools who use BwD HR/Payroll services we will provide advance notification to Managers when an employees pay is to be reduced or stopped due to sickness absence.

#### **13. Supporting attendance**

Consider using the Schools flexible working options to allow employees to remain in work, yet balance home life and support wellbeing, this could include late starts, early finishes, subject to the monthly contracted hours being completed.

#### **14. Phased return**

Schools will consider a phased return to work following a lengthy period of absence due to sickness. Consideration will be given to amended duties, hours of work, reasonable adjustments etc. If reduced hours are worked during a phased return this will be on full pay for a period of up to 4 weeks. Regular reviews will be held during a period of phased return. It is recommended that you seek advice from your HR Provider.

#### **15. Links to other Policies and guidance**

This guidance should be read in conjunction with the Sickness Absence Policy .which provides further information on how to effectively support and manage employees' absence.

#### **16. Further Advice & Guidance**

If you require further advice regarding the application of this policy and guidance please contact your HR Provider. Where BwD HR and Payroll are the provider please contact the HR Advice Line on 01254 588973 or email [schoolhrteam@blackburn.gov.uk](mailto:schoolhrteam@blackburn.gov.uk)

**Updated:      June 2021**

### Stage 1 – Action Plan

\* Employee in work – this is an example and not an exhaustive list

<b>Agreed objectives for Improvement:</b>	<ul style="list-style-type: none"> <li>• No further sickness absences</li> <li>• Fulfil contractual obligations for attendance</li> </ul>
<b>Actions to be taken by employee:</b>	<p><b>Commitment to improved health and wellbeing by:</b></p> <ul style="list-style-type: none"> <li>• Appropriately following medical advice</li> <li>• Adopting changes in lifestyle i.e. exercise, healthy eating</li> <li>• Engage with support services offered by the BwD e.g. Employee Support, Wellbeing Service</li> <li>• Attend Occupational health appointments</li> <li>• Engage with Improving Attendance Process</li> <li>• Be aware of corporate wellbeing initiatives</li> <li>• Keep manager up to date with own health and wellbeing</li> <li>• Engage with any Health, Safety and Wellbeing risk assessments</li> </ul>
<b>Actions to be taken by Manager:</b>	<ul style="list-style-type: none"> <li>• Ensure employee has appropriate advice of support services</li> <li>• Monitor sickness absence</li> <li>• Ensure health and wellbeing is discussed regularly</li> <li>• Consider reasonable adjustments</li> <li>• Make appropriate referrals to external agencies</li> <li>• Keep up to date with wellbeing initiatives and encourage employee participation</li> <li>• Complete Wellness Action plan and carry out regular reviews</li> <li>• Complete with any Health, Safety and Wellbeing risk assessments</li> </ul>
<b>Agreed dates for Action Plan to be reviewed:</b>	



## **Sickness Absence Policy - Schools**

### **1. Introduction**

Blackburn with Darwen Schools are committed to promoting the health, safety and wellbeing of its staff. Therefore, this policy is designed to help and encourage all employees to achieve and maintain appropriate and acceptable standards of attendance at work and to ensure that a fair, supportive and consistent approach is used in managing staff sickness absence whilst balancing the needs of the School.

All management action under this policy should take into account the obligations of the Equality Act (EA). This covers a wide range of conditions including COVID-19. Additionally, managers should refer to their HR provider for advice and guidance on the complex issues around sickness and disability.

It should be noted that whilst the policy and associated guidance documents provide guidance for managing sickness absence, it is unlikely to cover all situations. The nature of sickness absence is such that each case must be considered separately. When any action is taken, including the progression or advancement of stages within the procedure, consideration should be given to the individual circumstances of the case including the employee's level of engagement with the process and another other key matters which maybe influencing the employee not attending work.

### **2. Scope**

The policy applies to all employees of the School.

### **3. Sickness Absence Procedure**

All absence should be managed with a consistent approach in line with the following procedure. However, it may be more appropriate to take a slightly different view on short-term and long-term absence. It is recognised that employees may have illnesses which may be long-term or terminal and the handling of cases of this type will need to be based on the individual circumstances of the absence. Please seek advice from your HR provider to ensure the most appropriate approach is taken.

In order to manage sickness absence effectively and consistently we will seek to support staff during periods of illness including using interventions and procedures to facilitate a return to work, retaining staff in employment and improving overall attendance.

The employee should be given reasonable notice of at least 2 working days to attend a meeting and where the formal stages are implemented and the employee is invited to a hearing, they should be provided with the right to be accompanied by a Trade Union representative or work colleague. Please note this does not extend to legal representation.

Where the employee or representative cannot attend on the date proposed and provides a good and valid reason for not attending, the meeting may be postponed to another day which will normally be within 5 working days of the original date of the meeting.



### **3.1 Management Intervention**

Under this policy employee absence will be reviewed and intervention will take place were:

- Any absence from work that is cause for concern, i.e. this could be the nature of the absence e.g. stress or repeated patterns of short-term absence.
- Over 4 weeks (20 days) of continuous absence, which for the purposes of this procedure is classed as long-term absence, this trigger is pro-rata for part time employees.

These points are a guide however, managers are expected to make an informed decision around the next steps should these triggers be exceeded or in any absence cases which are causing concern.

### **3.2 Absence Reporting**

All employees must inform their school of their absence at the earliest physical opportunity prior to, and no later than 1 hour after, their expected start time. (Employees should be made aware of any school specific requirements for reporting absence should there be any difference to these)

It is advised that managers should ensure that all absences are reported via MyView (where applicable) on the first day of absence and leave this as an open absence until the employee has returned to work. Delays in notifying your payroll provider of a sickness absence could create potential pay implications. Whenever a sickness is reported, dependent upon the nature of the illness, consideration should be given as to whether it is appropriate to temporarily offer another role or duties as an alternative to being absent.

### **3.3 Self-Certification and GP Certificates**

A self-certificate is required for every absence up to 7 consecutive days, including the rest days or weekend. On the 8th day of absence a medical certificate (Fit Note) from the employees' doctor should be submitted by the employee to their manager (or nominated manager) who should scan and / or store these locally.

### **3.4 Employee Support**

There is a range of support available to employees. Please see Sickness Absence Guidance for further information.

### **3.6. Return to Work (RTW)**

Return to Work meetings should be conducted following each occasion of absence whether short or long-term and a RTW Interview Form should be completed.

### **3.7 Welfare Meetings**

It is important that the employee is made aware that all attendance records are regularly reviewed and this may be done through a Welfare Meeting. The outcome of any Welfare Meeting should be confirmed in writing and if appropriate further review meetings arranged.

If the employee's attendance does not sufficiently improve, the attendance improvement stages of the procedure will commence. If felt necessary, more than one welfare meeting can be undertaken to support an employee.



When welfare meetings are being held, the employee does have the right to representation. However, it should be confirmed that this meeting is within the informal stages of the policy and is an opportunity for the manager and employee to meet to discuss any concerns and support that may be required.

**3.8 Stage 1 – Attendance Improvement** If there has been no acceptable improvement after the welfare meeting(s), or further triggers have been met, a Stage 1 Attendance Review Meeting should be arranged with notice. During the meeting, the manager should consider all information presented.

Notes of all meetings along with agreed actions and improvements targets will be taken. These will be provided to the employee for reference. The agreed actions are final and there are no rights of appeal.

If the manager remains concerned about the employee's attendance, improvement targets will be set with a monitoring period of between 1-3 months. Adjustments or other support may be agreed such as changes to working patterns, supporting counselling or other types of management support. The employee should be reminded that continued absence may ultimately affect their future employment with the School and also be informed that they are at Stage 1 in the process.

In Stage 1, if the employee wishes they have the right to representation.

**3.9 Stage 2 – Monitoring Period** If there has been no acceptable improvement after Stage 1, a further review meeting should be arranged. The meeting should follow the same format and considerations as the Stage 1 sickness review meeting above but in addition the manager should also consider any new information offered by the employee in relation to their condition. A review of the effectiveness of any support or assistance that has been put in place, along with any current medical information should be undertaken. If the manager remains concerned about the employees' attendance, further improvement targets should be agreed taking into account that the level of attendance is considered to be unsatisfactory and a significant and sustained improvement is required. The agreed actions are final and there are no rights of appeal.

The employee should be reminded again at this stage that continued absence may ultimately affect their future employment with the School and be informed that they are at Stage 2 in the process.

In Stage 2, if the employee wishes they will have the right to representation.

Depending on the individual case it may be appropriate for a manager to hold more than one Stage 2 meeting before considering moving to a Stage 3 meeting.

**3.10 Stage 3 - Case Review/Recommendation for Formal Capability Hearing** If there has been no acceptable improvement after Stage 2, a Stage 3 Case Review meeting should be arranged. The meeting should follow the same format and considerations as the Stage 2 formal meeting above. In addition, the manager should also consider any new information offered by the employee in relation to their condition and review the effectiveness of any support or adjustments that have been put into place. Up to date information from Occupational Health is advised.

After considering all the information discussed including the impact of the absence/absences on the School and depending upon the case history the manager may consider one of the following outcomes:





- A recommendation that the case proceeds to a Stage 4 Formal Capability Hearing and the case is considered for dismissal;
- A further period of review and targets for improvement set;

The outcome of the meeting should be confirmed in writing to the employee within 5 working days.

### **3.11 Stage 4 - Capability Hearing**

The employee will be given at least 10 working days advance notice of the Hearing which will be heard by a panel of School Governors. An invite letter will be sent to the employee detailing the purpose of the Hearing and that it will be held under the School's Sickness Absence Policy.

Management and the employee will mutually exchange all relevant written information that each party intends to rely upon during the hearing at least 10 clear working days' before the Hearing. Only in exceptional circumstances, and at the discretion of the Hearing Chair, will new documents be accepted at the Hearing. In the event that additional information is accepted on the day of the Hearing, relevant time will be allowed for reading and this time will be determined by the Chair.

Before reaching a decision the Panel will consider all the facts in relation to the case presented by both parties.

The potential outcomes the Panel may decide upon are:

- The employee should be given notice to dismiss them from the employment of the School on the grounds of capability;
- In certain circumstances pay in lieu of notice may be agreed.
- That the matter is referred back to the Manager for a further period of review and if appropriate they may recommend specific action such as further reasonable adjustments in accordance with the Equality Act.

The outcome of the Hearing will be confirmed by the Panel in writing to the employee within five working days. The employee has a right to appeal against the decision to dismiss on the grounds of capability and this must be submitted within 10 working days of receiving their outcome letter.

For all employees who are legally employed or engaged by a Community School, a letter from the Director of Children's Education will also be sent to confirm the Panel's decision that their employment has been ended on the grounds of capability. This letter will be issued within 10 working days of the Capability Hearing taking place.

### **4. Dismissal Appeals**

Appeals must be received within 10 working days of the employee receiving written notification of the decision and they must state the grounds, in full, on which the decision should be reviewed. For these appeals, a Panel who has not been involved in the case will hear the appeal. The Hearing will be held at a convenient date ideally within a month of receiving the appeal. The decision of the Panel hearing the appeal is final and will be confirmed in writing no later than 5 working days after the hearing.

### **5. Unfit for the foreseeable future**

In the case of an employee who has been identified as unfit for the foreseeable future, an Investigation Meeting should be arranged. Advice must be sought from your HR Provider at this stage.



When managing long term absence the aim will be to assist the employee to recover and make a sustained return to work if possible. An employee who is absent due to long-term illness must be treated fairly and sympathetically. However, the manager is required to consider the overall impact of the absence(s) on the School taking into account factors such as continuity of education, impact on other colleagues and costs. This consideration may need to be balanced with the need to provide employment for the employee.

Managers should seek advice from their HR provider and each case will depend on the particular circumstances.

## 6. Further Advice & Guidance

This document provides further information on how to effectively support and manage employees' absence. If you require further advice regarding the application of this policy and guidance please contact your HR provider. If BwD School HR Team are your provider please contact the Advice Line on 01254 588973 or email [SchoolHrTeam@blackburn.gov.uk](mailto:SchoolHrTeam@blackburn.gov.uk).

### Document Control

<b>Approving Body</b>	SPDG/LJNCC
<b>Date Agreed</b>	
<b>Date of Next Review</b>	June 2024
<b>Review Period</b>	Every 3 years (unless there is a change to the organisation or statutory legislation, whichever is sooner)



## WHISTLEBLOWING POLICY - SCHOOLS

### 1. Policy Statement

Our School's Governing Body is committed to achieving the highest possible standards of openness, integrity and accountability. In line with that commitment, the Governing Body expects employees and others that it deals with such as agency workers, contractors and partners, who have genuine concerns about any aspect of the School's work, to come forward and "Speak out" under the auspices of this policy and the Public Interest Disclosure Act 1998.

The Governing Body endeavours to ensure that the highest standards of conduct and probity are maintained and will take appropriate action to prevent serious failure, irregularities, dishonesty and wrongdoing.

The Whistleblowing Policy is for concerns where the interests of others or the organisation itself are at risk. This policy sets out the ways in which employees may raise any concerns that they have, and how those concerns will be dealt with. It gives protection from harassment, victimisation or bullying where concerns are raised within these procedures.

It has been devised to enable employees to raise concerns at an early stage and in the right way and under no circumstances should an employee try to obtain proof themselves.

It should be emphasised that this policy is intended to assist individuals who believe they have discovered malpractice or impropriety. It is not designed to question financial or business decisions taken by the school nor should it be used to reconsider any matters, which have already been addressed under an alternative procedure, for example, harassment, complaint, disciplinary.

### 2. Scope

This policy applies to all employees in community and voluntary controlled schools where the Local Authority (LA) is the employer. It is also commended to all other schools in the borough.

### 3. Aims of the Policy

The Public Interest Disclosure Act 1998 and the Enterprise Regulatory Reform Act 2013 amended the Employment Rights Act 1996 to provide protection for workers who raise legitimate concerns about specified matters of concern. The policy aims to:

- support a culture of openness, accountability and integrity;
- encourage a person to feel confident in raising genuine concerns and to question and act upon these;
- encourage employees to raise matters internally at an early stage so that these can be dealt with appropriately and demonstrate the school's commitment to ensuring its affairs are carried out ethically, honestly, and to high standards;
- allow the complainant to voice their concerns outside the school in certain circumstances;
- reassure employees that if they raise any concerns, they will be protected from, possible reprisals, victimisation or other detriment;

- provide ways for anyone to raise those concerns and, subject to any legal constraint, receive feedback on any action taken as a result, and ensure that those raising issues get a response to their concerns and that they are aware of how to pursue them if they are not satisfied with any actions;
- contribute to the efficient running of the school and the delivery of its service to the community; and
- Uphold the reputation of the school and maintain public confidence.

Issues which can be disclosed as part of this policy are (but not limited to):

- a criminal offence (e.g. fraud, corruption or theft) has been or is likely to be committed;
- a miscarriage of justice has been or is likely to occur;
- the health or safety of any individual has been or is likely to be threatened;
- the environment has been or is likely to be damaged;
- public funds are being used in an unauthorised or illegal manner;
- conflict of interest e.g. not declaring a direct or indirect financial interest in a company which trades, or could potentially trade with the school/LA or a direct personal, financial and other interests which may conflict with the business of the Council or with their employment with the school/LA;
- breach of a legal obligation or statutory codes of practice;
- serious failure to comply with appropriate professional standards;
- sexual, physical or verbal abuse or mistreatment of any employee or service recipient is taking place;
- discrimination as defined under the Equality Act 2010 is occurring to any employee or service recipient;
- showing undue favour over a contractual matter or to a job applicant;
- any other form of improper action or conduct is taking place, or if information relating to any of the above is being deliberately concealed or attempts are being made to conceal it.
- if told not to raise or pursue any concern by a line manager or senior officer, employees should not remain silent, the matter should be reported.

This policy is not a substitute for, and does not replace, other complaints or reporting procedures. Where the concern raised relates to a breach of one of these they will be investigated under the most relevant policy. In such cases, the employee will still receive protection in respect of confidentiality and anonymity as detailed in this policy. For example:

- financial regulations;
- child protection/safeguarding procedures;
- health and safety policy;
- the disciplinary policy;
- the dignity at work policy (which is designed to deal with harassment and bullying cases);
- the complaints procedure;
- The grievance procedure (which an employee may use to resolve contractual issues relating to their employment or conditions of service).

#### **4. Designated Contact Officer**

The School has a Designated Officer who is the point of contact for concerns raised under the Whistleblowing Policy. He/She will normally be the Headteacher or Chair of Governors.

It is recognised, however, that employees may wish to raise a concern independently of school or the concerns may relate to the Headteacher/Chair of Governors and therefore the Local Authority (LA) can be contacted should this be necessary, the contact in the LA is the Governor Services Support Manager.

## **5. Safeguarding of Children and Young People**

Employees have a duty to report concerns about the safety and welfare of pupils and students. Any concerns should be reported to the school's Designated Senior Person for Child Protection (DSP), if this is under Whistleblowing this should be as well as the Designated Officer for Whistleblowing detailed above, this would include such issues as:

- physical abuse of a pupil/student;
- sexual abuse of a pupil/student;
- emotional abuse of a pupil/student;
- neglect of a pupil/student;
- An intimate or improper relationship between an adult and a pupil/student.

The school's DSP for Child Protection is \_\_\_\_\_(Name and position).

The reason for the concern may be the actions of a colleague (including a more senior colleague), a Governor, another pupil/student or someone outside the school. Whatever the reason, concerns must be reported.

## **6. Raising Concerns within the School**

- In the first instance, employees should raise concerns with the immediate line manager. The manager will then refer the matter to the Designated Officer and/or DSP as appropriate either in school or at the LA.
- If the line manager is involved, concerns should raise with the Designated Officer in the school or the LA.
- If the Designated Officer is involved at school level, the line manager should raise the concerns with the Chair of Governors or the LA.
- If the Chair of Governors is involved, the Designated Officer in school should raise the concerns with the Head of Schools and Education at the LA and, in the case of Voluntary Aided Schools, with the Diocesan Education Officer.

In the first instance, concerns may be raised verbally, but ideally, this should be done in writing. A written outline of the concerns helps to clarify key issues and reduce any misunderstanding. This should include the following information where possible:

- the background and history of the concern (giving relevant names, dates etc. where possible);
- the reason why the employee is particularly concerned about the situation;
- the possible implications of your concerns.

The earlier the concern is raised the easier it is to investigate and take action.

If an employee is unsure, they may wish to discuss the concern confidentially with a colleague or Trade Union Representative first and may find it easier to raise the matter if there are two (or more) who have had the same experience or concerns.

A trade union representative or a work colleague may to be present during any meetings or interviews in connection with the concerns raised.

## **7. Confidentiality**

All concerns will be treated in confidence and the Designated Officer will make every reasonable effort not to reveal the employee's identity. The employee's identity will not be disclosed without their consent or unless this is required of the school by a Court Order or other lawful authority. We may be obliged to provide information that identifies them either directly or indirectly and so employees should be aware that whilst they may make a disclosure anonymously, this may not be guaranteed at a later stage.

Anybody involved in an investigation under the scope of this policy must maintain confidentiality regarding the complaint and information provided. Failure to do so will be treated as a disciplinary offence. At the appropriate time, either during the investigation or

at the conclusion, an employee may need to come forward as a witness and will be given assistance and support to help them.

Employees should also note that anyone disclosing confidential information outside the school that is not covered by the Public Interest Disclosure Act could be subject to disciplinary action for a potential breach of the Data Protection Act 1998.

Any discussions with a person against whom an allegation of malpractice has been made, must be approved by the Designated Officer. It is a disciplinary offence for other discussions to take place with that person in respect of issues raised under the scope of this policy.

## **8. Anonymous Allegations**

Concerns expressed anonymously are much less powerful and are often more difficult to investigate. This policy encourages employees to put their name to an allegation whenever possible and the school will do their best to protect their identity. In exercising this discretion the factors to be taken into account would include:

- the seriousness of the issues raised;
- The likelihood of being able to confirm the allegation from attributable sources.

## **9. Protection when Raising a Complaint**

The Governing Body recognises that the decision to report a concern can be a difficult one to make and will take appropriate action to protect employees who raise concerns. The Governing Body will not tolerate any harassment, bullying or victimisation. This policy does not replace the school's Dignity at Work procedure whereby an employee can seek redress to deal with harassment and bullying cases.

Should an employee believe that they have suffered a detriment or been victimised, harassed, bullied or dismissed in breach of the protections of the Public Interest Disclosure Act 1998, in response to your disclosure, employees should raise this matter immediately as a grievance to be investigated.

Any investigation into allegations of potential malpractice will not influence (or be influenced by) any employment procedures that may already be underway. It is not the Governing Body's intention to hold in abeyance action taken under the disciplinary or other policies, pending the completion of investigations taken in accordance with the Whistleblowing Policy, unless the Governing Body considers that the merits of a particular case warrant this.

If employees raise a concern under this policy, employees will not be at risk of suffering any form of retribution/detriment as a result, provided that:

- the disclosure is made to the appropriate person or Bodies;
- employees reasonably believe that the disclosure is in the public interest;
- And/or employees are not acting for personal gain.

## **10. Response to a Complainant**

The Designated Officer will generally have a coordinating role, dealing with concerns and allegations and ensuring that these are investigated thoroughly. The Designated Officer would not normally investigate the concern personally. Where appropriate, the matters raised may:

- be dismissed without further action;
- be investigated internally by an independent person;
- be investigated by management, internal audit or other appropriate procedures for example - through Child Protection/Safeguarding procedures or the Disciplinary Policy;
- be referred to the police;
- be referred to the external auditor;
- Form the subject of an independent inquiry.

## **11. Investigating Procedure**

Within seven working days of a concern being received, the Designated Officer will endeavour to write to the employee to:

- acknowledge that the concern has been received;
- advise if more information is required or arrange a confidential meeting;
- indicate how they propose to deal with the matter;
- give an estimate of how long it is anticipated it will take to provide a final response if this is possible to determine at the outset;
- advise whether further investigations will take place and if not, why not.

The Designated Officer will inform the individual affected to explain that a whistleblowing complaint has been made.

Where the complaint involves partnership organisations and their employees, the Designated Officer will seek full co-operation with the partner and will encourage partner organisations to deal with the matter in accordance with the general principles of this policy, as this complies with the spirit of the Public Interest Disclosure Act. However, where the partner does not co-operate, the investigation will be carried out and the partner will be advised of any action that the Designated Officer intends to take.

In order to protect all individuals (including those accused of possible malpractice), brief initial enquiries will be made to decide whether an investigation is appropriate and, if so, what form it should take. However, if immediate or urgent action is required, this will be taken before any investigation is concluded.

After initial enquiries, it may be possible to resolve some or all of your concerns with an explanation and/or agreed course of action. The amount of contact between the Designated Officer and the employee will depend on the nature of the matters raised, and the clarity of the information provided. If necessary, the Designated Officer will seek further information.

Employees will have the opportunity to have a Trade Union Representative or work colleague present at any meeting with the Investigating Officer. Any representative attending a meeting will be bound by the confidentiality clauses within this policy, unless there is an obligation covered by external legislation that binds or requires the representative to make a qualified disclosure to a relevant body.

The Designated Officer will take reasonable steps to minimise any issues, which may result from your concern. If it is necessary to give evidence in criminal or disciplinary proceedings, the Governing Body, through the LA's Head of Legal and Governance Services (or their representative), will arrange for the employee to receive advice about the procedure.

## **12. Following the Investigation**

Following the investigation, the Designated Officer will (subject to legal constraints) inform the Headteacher (or Chair of Governors), and the employee of the result of the investigation. This will not include details of any disciplinary action, which will remain confidential to the individual concerned. The Designated Officer will also inform the individual at the centre of the investigation of the outcome.

If the investigation shows there is a case to be answered, the relevant procedure may be used, for example Disciplinary or Capability Procedure.

If there is no case to answer, the Designated Officer or the line manager will inform the Headteacher (or Chair of Governors) of this fact.

The Governing Body accepts that employees need to be assured that the matter has been properly addressed. Employees will therefore be informed of the outcome of any investigations providing there are no legal or other restraints.

### **13. Maintaining Records**

Any records of the concerns raised and associated with the investigation will be stored confidentially as detailed in the School's Retention and Disposal Policy.

The Designated Officer has overall responsibility for the maintenance and operation of this policy. The Designated Officer will confidentially maintain records of concerns raised, and the outcomes and shall report as necessary to the Governing Body. Confidential information will be kept by the Designated Officer at the School.

### **14. Raising Concerns Outside of the School**

In accordance with the Act, this policy is intended to provide an avenue within the school to raise concerns. If, however, the employee remains concerned, having exhausted all internal procedures and believe it is right to take the matter outside the Governing Body, they may wish to raise the matter with the appropriate external Public Body, for example:

- Local Authority (diocesan authority for Church schools)
- a trade union or professional association
- a relevant professional body or regulatory organisation
- the Children's Commissioner for England
- the Public Services Ombudsman
- the Police - for concerns of criminal behaviour
- Public Concern at Work Telephone 0207 404 6609

Public Concern at Work is an independent charity that provides free advice for persons who wish to express concern about fraud and other serious malpractice. They also provide a confidential helpline for advice as well as guidance regarding relevant external bodies to contact. Their telephone number is 0207 404 6609 or [www.pcaw.co.uk](http://www.pcaw.co.uk).

### **15. Unreported Suspicions or Malicious Allegations**

Where suspicions go unreported it could be seen that the employee has abdicated their responsibilities and there may be the potential that you are implicated in the wrongdoing. Such a situation may have to be treated seriously and may, depending on the circumstances lead to disciplinary action and/or court action being taken.

If employees make an allegation in what they believe to be the public interest and without any motive of personal gain, whether the allegation is confirmed or not at the conclusion of the investigation, no action will be taken against that employee.

If, however, an allegation is made which is considered not to be in line with the Public Interest Disclosure Act i.e. for personal gain or malicious, disciplinary or legal action may be taken depending on the circumstances of the case.

### **16. Monitoring the Policy**

Employees who have any comments on the operation of this policy are encouraged to raise them with the Headteacher, Designated Officer, or Trade Union.

The Governing Body and Headteacher will monitor the operation and effectiveness of the Whistleblowing Policy on a regular basis and if necessary review and revise the Policy to ensure that it remains up to date and fit for purpose in line with legislation and best practice.

### **17. Further Guidance**

Further advice and guidance regarding the application of this policy is available from the Headteacher or the school's HR provider.

### **18. Approving Body & Date**

LJNCC (Schools) – 16 June 2021