



# Orchard Partnership Academies Managing Staff Absence and Attendance Policy



Reviewed: Spring 2022

Mr Alex Davies

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## 1. POLICY

As a good employer, the purpose of this policy is to provide clear, consistent and fair managing attendance procedures that enable the board of trustees to meet its responsibilities under employment legislation including the Equalities Act (2010), The General Data Protection Regulation (EU) 2016/679 (GDPR), Access to Medical Reports Act 1988, best practice and ACAS guidelines.

The aim of this policy is to ensure the wellbeing of school employees and to secure consistent high levels of healthy attendance. The procedures set out in this document aim to ensure a standard approach across directorates, and fair and consistent treatment of employees.

The board of trustees is concerned for the wellbeing of its employees. It accepts that there will be occasions when employees are unavoidably absent from work through sickness or injury. Such absences do, however, have an impact on service provision. Therefore, absences have to be monitored and managed so that the school can continue to provide an efficient, economical and effective service

The board of trustees values the skills and experience of disabled employees, and is committed to supporting disabled people by removing barriers, tackling discrimination and implementing best employment practice.

This means that:

- The school aims to achieve the lowest possible levels of sickness absence. This is a key management responsibility. Training, support and guidance is available from HR Services for Headteachers (or nominated representatives) and governors to ensure that they are able to manage sickness absence in a timely, considered and sensitive manner.
- Employees will be provided with support, access to occupational health (OH) services, reasonable adjustments where appropriate, and consideration for alternative employment as an alternative to dismissal, which will be seen as a last resort.
- At all stages of the procedure employees may be accompanied by a workplace colleague or trade union representative.
- There is a right of appeal against a formal cause for concern, suspension of occupational sick pay, dismissal, or medical redeployment.
- No employee will be dismissed under this policy without careful investigation of their medical condition, advice from the occupational health service, an opportunity to put forward their views, and a prior warning of the potential for termination of employment.

The academy recognises that where an employee is affected by a medical condition that may affect their continued employment that this may cause distress and uncertainty. These feelings will be recognised by Headteachers or nominated representatives dealing with such cases and every reasonable effort will be made to keep the employee informed and appropriately supported throughout the procedure. The academy will endeavour to work with the employee to resolve any employment consequences arising from their illness, and acknowledges that wherever possible adhering to the deadlines in this policy (or as established in individual cases from the advice received) is a means to minimise uncertainty. In particular where an employee has been diagnosed with a potentially terminal illness the Headteacher or nominated representative will seek early advice from HR Services.

## 2. SCOPE

The procedures will be adapted where it is impractical to follow them in full, for example for short term temporary workers and employees who have not yet successfully completed their probationary period. Any adaptations will be confirmed to the individual concerned. Probationary/short term contract employees will not have their contracts extended solely for the purpose of completing this procedure.

This policy and procedure applies whether or not sick pay entitlements have been exhausted.

The Managing Attendance Procedure applies where an employee has an unacceptable level or pattern of short term absence (whether or not caused by an underlying medical problem), and in cases of long term sickness absence.

The Managing Attendance Procedure does not apply in cases of;

- failure to follow the school's sickness absence reporting arrangements where the incident will be investigated, and if appropriate the disciplinary procedure may apply,
- abuse of the occupational sick pay scheme (including where a Headteacher or nominated representative believes an employee's absence is not caused by a genuine illness), where the incident will be investigated, and if appropriate the disciplinary procedure may apply,
- lack of performance where the cause is identified as being health related but which has not yet resulted in absence, where the managing performance procedure applies.

The Staff Absence Policy is used in conjunction with:

- Special Leave Request Policy
- Staff Code of Conduct
- Staff Discipline and Conduct Policy
- Grievance Policy
- Equality Policy

For the purpose of this policy – where it states 'Headteacher', this can mean the Executive Headteacher or Head of School.

### **3. SICKNESS ABSENCE**

#### **3.1. Reporting Sickness Absence**

The employee must notify, personally wherever possible, their Headteacher or nominated representative of his/her absence, its nature and the likely duration, as early as possible on the first day of absence and normally within two hours of their scheduled start time.

A phonecall would be the preferred method of communication, however if this isn't possible, E-mails and text messages are acceptable. The Headteacher or nominated representative will normally make contact with the employee where a message has been left. Only in exceptional circumstances where the employee genuinely cannot call themselves will it be admissible for a relative to report an employee's absence.

Where an employee fails to follow the correct reporting procedure this may be dealt with under the disciplinary procedure.

During the first 7 calendar days, the employee should make contact on a daily basis where the length of absence is unknown. If the absence continues beyond seven calendar days, then on the eighth day the employee must submit a Statement of Fitness for Work to their Headteacher or nominated representative.

#### **3.2. Self-Certification**

On return to work, even after part or single days, the MA1 self-certification/declaration form must be completed and signed by the employee and countersigned and retained by the school. An employee's entitlement to sick pay depends upon accurate completion of the self-certification/declaration form. If an employee knowingly provides false information on this form with the intention to mislead, this should be investigated and if appropriate, may be dealt with under the Disciplinary Policy and Procedure.

### **3.3. Sickness Absence Returns (SARs)**

The Headteacher or nominated representative is responsible for completing absence returns for the employees in their School.

### **3.4. Disability-related sickness absence**

An employee may have a sickness absence that is directly related to their disability. This should be recorded as disability-related sickness absence to enable it to be distinguished from other sickness absence. As with other sickness absence, MA1 self-certification forms or Statements of Fitness for Work should be provided and a return to work meeting carried out.

Examples of disability related sickness absence include:

- An episode of a pre-existing medical condition relating to the disability (this could include mental ill health)
- Pain related to the disability

Disability-related sickness should be recorded by line managers on the SARS form using the appropriate Disability-Related Sickness Absence field.

Disability-related sickness absence will be included when calculating sick pay limits and will count towards Review Point levels. Depending on the individual circumstances, Review Points may be amended as part of the reasonable adjustment (5.1). For further advice please speak to HR Services.

### **3.5. Impact of Sickness Absence on Annual leave**

Staff who are absent due to sickness continue to be accrue holiday at the statutory rate. In terms of carrying leave over from 1 holiday year to another, this is limited to the minimum 4 weeks plus bank holiday set by the Working Time Directive.

### **3.6. Returning to Work Before the Expiry of a Statement of Fitness for Work (Fit-Note)**

If an individual wishes to go back to work before their Statement of Fitness for Work runs out, then they can provided that they feel able to and the Headteacher or nominated representative is in agreement without returning to their doctor to be signed back as 'fit'. If the Headteacher or nominated representative does not feel the employee is fit to return they should hold a meeting with the employee to understand why they feel ready to return to work early and discuss with them what support you can give, including any reasonable adjustments. If the Headteacher or nominated representative still feels the employee is not fit, they should document the rationale and refer the case to occupational health for independent assessment.

## **4. OCCUPATIONAL HEALTH (OH)**

The role of the OH service is to provide guidance on managing health problems at work as well as the rehabilitation of employees following illness, for example advising Headteachers or nominated representatives about workplace adjustments that may be required to facilitate return to work.

Headteachers or nominated representatives do not need to wait until an absence review point is reached before referring an employee. Neither is it a requirement that an employee is referred when an absence review point is reached. Each case is assessed on its merit, however OH should always be consulted before an employee is invited to a Final Case Hearing

Referrals should be made using the Occupational Health referral form. It is important that the employee understands why occupational health advice is being sought. Prior to referral, the Headteacher or nominated representative should discuss the referral and reasons with the employee. . In all cases the employee must consent to the referral.

If OH considers that information from the employee's GP and/or specialist would be useful, they will discuss this with the employee and seek their consent. Should the employee withhold their consent (or withhold their consent to be referred to OH) then the school will make decisions on the basis of the information available.

Following the appointment, OH will provide a report that is sent to the Headteacher or nominated representative and the employee (who is responsible for forwarding a copy to their representative. The employee has the right to request to see any report before it is sent to the Headteacher or nominated representative. The medical advice they provide and the advice from HR Services will help the Headteacher or nominated representative make informed decisions about managing attendance.

## **5. ABSENCE MANAGEMENT PROCEDURE**

### **5.1. Absence Review Points**

It is the Headteacher / nominated representative's responsibility to monitor their employee's level of sickness absence. Unreasonable absence which is not sickness, should not be counted for the Review Points (e.g. time off for dependents, medical appointments etc.) and may be dealt with under the disciplinary policy.

For more information about how to treat absence related to protected characteristics under the Equality Act (2010), please see the Managing Attendance & Absence Guidance Document (2020).

**Absence Review Points.** A series of 'absence review points' have been identified, which should indicate to a Headteacher or nominated representative when further action on an individual's sickness absence record should be considered.

- Employees who have had four or more periods of sickness absence in the preceding 6 months.
- Employees who have had five or more periods of sickness absence in the preceding twelve months (including single days and half or part days).
- Employees who have had a total of ten or more days of sickness absence in the preceding twelve months over 2 or more occasions (or two working weeks for part-time employees; including single days and half or part days).
- Employees who have a pattern of sickness absence that may give rise to a cause for concern. An example might be an employee who is absent only on a Monday or Friday
- Where employees have continued to hit any of the absence review points outlined above, for a period of 18 months or more, the Headteacher or nominated representative may decide to move straight to Stage 2.

### **5.2. Informal Absence Management – Return to Work Meeting**

For extended periods of absence, the employee's Headteacher or nominated representative should conduct a return to work meeting (MA2), giving a copy to the employee and retaining the original. This should take place as soon as is reasonably practicable, ideally on the day that the employee returns to work and be proportionate to the circumstances. If the absence is for part of a day or sole day – a 'check-in' conversation will happen. If deemed necessary, this will also be recorded.

The return to work meeting is an important aspect of informally managing sickness absence. During the return to work meeting the Headteacher or nominated representative will go through the reasons for the absence, and

identify if there are any additional circumstances that should be considered. They should also take account of the advice in the fit note, perform any relevant safety procedures and consider whether a risk assessment is necessary.

The purpose of the return to work meeting is to:

- Identify the cause of the absence
- Discuss the absence and explore reasons for it, including whether absence was work or pregnancy, disability or menopause related.
- Update the employee on any workplace or workload issues, during their absence.
- Explore ways to resolve any problems and well-being, which might improve healthy attendance, by taking medical or such other advice as required, including compliance with the working time directive and monitoring of work/life balance. The Headteacher or nominated representative should explain the range of appropriate occupational health and counselling services available.
- Consider any information provided on any fit-note, including any advice given by the GP to determine whether the employee is fit return to work and whether any temporary adjustments or support are necessary.
- Ensure the employee understands the school's commitment to high levels of healthy attendance.
- When the absence levels get close to and/or reach the absence review points (5.1), the Headteacher or nominated representative should also explain that s/he is concerned about the level of absence. If the absence review point has been reached, and if appropriate, a formal meeting should be arranged to discuss their sickness absence levels.

### **5.3. Formal Absence Management – Stage 1**

Where the level of absence hits one of the absence review points outlined above (5.1), this will be discussed with the employee at the return to work meeting. The employee will then be invited to attend a formal Stage 1 meeting.

The Headteacher or nominated representative should send a written invitation to the employee to attend the meeting explaining its purpose and that s/he has the right to be accompanied by a trade union representative, or work colleague. (MA3 Invitation to meeting to discuss attendance levels.) The employee should be given 5 working days' notice of the meeting.

The purpose of the meeting is to:

- explain the Headteacher's or nominated representative's concern at the level of absence,
- explore the reasons for the absence,
- explore ways to resolve any problems, which might improve healthy attendance, by taking medical or such other advice as required. The Headteacher or nominated representative should explain the range of appropriate OH and counselling services available, and consider referring the employee to OH at this stage,
- consider making reasonable adjustments to the employee's job (including temporary redeployment) to accommodate their short-term requirements where the employee may be considered disabled under current equalities legislation,
- consider issuing a Stage 1 Warning to the employee regarding their absence which will stay on file for 12 months.

Where possible, the Headteacher or nominated representative should communicate the outcome to the employee at the meeting, following an adjournment.

The outcome should be confirmed in writing, normally within five days of the meeting. If the decision is to formally notify the employee of the manager's concern at the level of sickness absence, the letter will explain that an

improvement is required, that attendance will be monitored over the next twelve months, and that persistent short term absence could put continued employment at risk. (MA4 outcome of 1<sup>st</sup> meeting – formal warning.) The employee has the right of appeal (5.8).

#### **5.4. Formal Absence Management – Stage 2**

An employee may be invited to attend a Stage 2 formal meeting where:

- During the 12 month monitoring period the employee has a further two or more periods of sickness absence or a further 1 period of absence of 5 days or more (or one working week for part time employees), and they continue to have absence that hits the Absence Review Points (5.1);
- or if the employee has had ten or more days of sickness absence (or two working weeks for part-time employees, including single days and half or part days) each year over the last 2 years.

The Headteacher or nominated representative should send a written invitation to the employee to attend the meeting explaining its purpose and that s/he has the right to be accompanied by a trade union representative, or work colleague. (MA3 Invitation to meeting to discuss attendance levels.) The employee should be given 5 working days notice of the meeting.

The purpose of the meeting is to:

- explain the Headteacher's or nominated representative's concern at the level of absence,
- explore the reasons for the absence,
- explore ways to resolve any problems, which might improve healthy attendance, by taking medical or such other advice as required. The Headteacher or nominated representative should explain the range of appropriate OH and counselling services available, and consider referring the employee to OH at this stage,
- consider making reasonable adjustments to the employee's job (including temporary redeployment) to accommodate their short-term requirements where the employee may be considered disabled under current equalities legislation,
- consider extending the Stage 1 Warning, for a further 12 months.
- consider issuing a Stage 2 Warning to the employee regarding their absence which will stay on file for 12 months.

The outcome should be confirmed in writing, normally within five days of the meeting. If the decision is to extend a Stage 1 warning or issue a Stage 2 warning, the letter will explain that an improvement is required, that attendance will be monitored over the next twelve months, and that persistent short term absence could put continued employment at risk. (MA5 outcome of Stage 2 meeting – final notification) The employee has the right of appeal (5.8)

If the employee has not already been referred to Occupational Health, this should be considered now. If the Headteacher or nominated representative decides that there are grounds for referring the employee to OH he/she may seek the advice of HR Services before making a referral. Referrals may be made at this stage where it is believed that the employee may have a medical problem where assistance or adjustments may be required to help them return to an acceptable level of healthy attendance, where there is concern that the reasons for absence are not genuinely medically related, or to help determine whether further absences are likely if the employee has an underlying condition.

#### **5.5. Formal Absence Management – Stage 3 - Final Case Hearing**

If during the 12 month monitoring period the employee has a further two or more periods of sickness absence or a further 1 period of absence of 5 days or more (or one working week for part time employees), and they continue to have absence that hits the Absence Review Points (5.1), they may be invited to attend a Stage 3 – final case hearing, at which their attendance will be reviewed.

The clerk to governors should send a written invitation to the employee to attend the final case hearing, giving a minimum of five working days' notice. The panel of governors will be advised by HR Services. The letter should explain the purpose of the meeting and that s/he has the right to be accompanied by a trade union representative, or work colleague. It should inform the employee that that dismissal on grounds of capability is a potential outcome of the meeting. (MA6 Notice of final case hearing.) If the employee is on sick leave the Headteacher or nominated representative should contact him/her personally.

The hearing will take into account the following factors as relevant to each case;

- how soon the employee's health and attendance will improve,
- whether alternative work is available,
- the effect of the absence on the school,
- how similar cases have been dealt with in the past, whilst considering the individual factor pertinent to each case
- the requirements of current equalities legislation and;
- whether the absence has been caused by injury at work, including assault.

Possible outcomes of the hearing are to:

- seek agreement from the employee to obtain further information on the issue of capability or further independent medical advice where there is a conflict of medical opinion (in which case the hearing will be adjourned and reconvened at a later date and where on receipt of the advice the Headteacher or nominated representative will make a decision based on all the evidence),
- consider redeployment based on OH advice,
- extend the Stage 2 warning for concern for a further 12 months.
- dismiss the employee on the grounds of capability.

Where possible, the outcome of the meeting should be communicated to the employee at the meeting, following an adjournment. It should be confirmed in writing to the employee, normally within five working days. (MA7 Final Warning / dismissal.)

The employee has a right of appeal to a panel of governors for a final notification, medical redeployment, or dismissal.

## **5.6. Long Term Sickness Absence**

Sickness absence is deemed to be long term when an employee has been absent for 4 weeks or more. No pressure should be placed upon unwell staff to complete work at home.

During long term sickness absence it is important that the Headteacher or nominated representative should:

- maintain reasonable regular contact with the employee throughout a period of absence to find out how they are and their prospects for return to work. This may be by telephone or, with the consent of the employee, a home visit or offsite meeting. The meeting should always be undertaken by two members of Staff, and the employee may be accompanied by a Trade Union Official or colleague if they wish. The emphasis should be on providing appropriate support to enable the employee to return to work as soon as possible.
- refer the employee to OH if the absence is likely to continue or if there is any concern by the manager or employee that the prognosis for a return date/full return to duties given by the employee's GP or specialist is not achievable.

- review the absence and strategy for returning to work with the employee. The employee should be made aware that if their absence were to continue past 14 weeks, the Headteacher or nominated representative will consider further action that could be taken, including reviewing whether employment should continue, based on medical advice and service considerations.
- review the situation to determine the possibility of the employee returning to work and the likely outcomes of further action(s) that could be taken to assist a return, taking account of OH advice. Medical redeployment or reasonable adjustments under current equalities legislation will be considered.
- consider referring to the clerk to governors for a final case hearing (5.5) by a panel of governors without holding the preceding formal Stage 1 or Stage 2 meetings. This is appropriate where the employee has had continuing absence for a significant period of time, and is unlikely to be able return to work and/or the absence cannot be sustained operationally.

### **5.7. Attendance at Meetings Whilst Absent**

The Headteacher or nominated representative should take steps to determine whether or not the employee is well enough to attend an absence hearing, even though they are not fit for work. If necessary, they should obtain medical evidence focused on the employee's ability to take part in a disciplinary hearing, and what, if any, reasonable adjustments it could make to facilitate their attendance from Occupational Health. Reasonable adjustments could include holding the hearing in the employee's location of choice, allowing them to be accompanied by a family member, incorporating frequent breaks into the hearing, or allowing the employee to make representations in writing.

### **5.8. Appeals**

The employee will be invited to a meeting to hear the appeal. A minimum of five working days' notice will be given of the meeting. The employee has the right to be accompanied to the meeting by a trade union representative, or work colleague. If the employee's representative cannot attend the proposed date, the employee may suggest another reasonable date no more than five working days after the date originally proposed. The five day limit may be extended by mutual agreement.

The panel of trustees (who has not had previous involvement in the case) should seek the views of the Headteacher and employee, who should each present their case, and ask questions where applicable. The intention is that all aspects of the employee's circumstances are considered as well as the requirements of the organisation before a decision is made.

The employee must submit any documentation for the appeal at least three working days before the hearing to the clerk to governors.

The appeal hearing will normally be conducted as follows, with the panel of governors advised at the appeal by a member of HR Services:

- The chair of the panel will introduce the participants and their roles, check that everyone has the correct documentation and explain what is going to happen.
- The employee (and/or their representative) will present their case to the Panel. The Headteacher and panel members, including the HR Services representative, will have the opportunity to ask any questions.
- The Headteacher will put the case to the Panel. The employee (and/or their representative) and the Panel, including the HR Services representative, will have the opportunity to ask questions.
- Both sides will sum up their cases (no new information can be introduced at this stage).
- Both sides will adjourn while the panel considers the information and makes their decision.
- The chair of the panel will ask both sides to return and inform the employee of their decision.
- Appeals will be conducted in a manner which takes account of the potential distress for the employee.

The Panel should confirm the outcome in writing, normally within 5 working days of the appeal hearing, with a copy to HR Services.

In the event of new medical information being presented by the employee the panel of governors may decide to adjourn the hearing pending further advice from OH.

The Grievance Procedure should not be used for appeals against Managing Attendance decisions. If, however, an employee has a complaint about the behaviour of the Headteacher or nominated representative during the course of a managing attendance process, they may raise it as a grievance which will be heard by a different manager. If necessary the managing attendance process may be suspended for a short period until the grievance can be considered. If appropriate, another manager may be brought in to complete the managing attendance process.

## **6. EARLY RETIREMENT ON GROUNDS OF ILL HEALTH**

An employee who has been a member of the Local Government Pension Scheme and is dismissed due to ill health may be entitled to immediate payment of pension and lump sum, subject to eligibility. The types of ill health retirement are available from the pension scheme administrators. Early advice from HR Services is required if ill health retirement is being considered as an option, and a quote can be obtained.

## **7. DISMISSAL**

The board of trustees in the Orchard Partnership Academies is responsible for establishing procedures in relation to the dismissal of staff.

**8. APPENDIX I: MA2 – RETURN TO WORK MEETING RECORD**

<b>Return To Work Meeting</b>		
Name of employee:		
Job title:		
Name of person undertaking meeting:		
Date of return to work meeting:		
Length of employee's absence:		
First date of employee's absence:		
Date of employee's return to work:		
Reason (in detail) employee gave for absence:		
Did the employee properly notify the employer of his/her absence?	Yes	No
If no, has the reporting procedure been confirmed?	Yes	No

Did the employee consult his/her GP?	Yes	No
Has the Fit-Note expired? <i>(if relevant)</i>	Yes	No
If no - understand why the employee feels ready to return to work early and discuss with them what support you can give, including any reasonable adjustments. If you still feel the employee is not fit, document your rationale and refer the case to occupational health for independent assessment.		
Does the employee and employer agree they are now fit to return to work?	Yes	No
Did any factors at work cause or contribute to the absence?	Yes	No
Is the employee currently taking medication which would impact on their ability to undertake their role? (Drowsiness etc.)	Yes	No
Is the absence related to pregnancy or a disability under the Equality Act 2010?  (if so, seek support from HR Services on impact to Review Points)	Yes	No
If yes for any of the above, provide further details:		
What action is to be taken to support the employee? (Adjusted hours/Phased Return To Work/Change in duties etc.)		
Is it linked to previous spells?	Yes	No

If yes, please explain:		
<p><b>Occupational Health</b></p> <p>The role of the OH service is to provide guidance on managing health problems at work as well as the rehabilitation of employees following illness, for example advising Headteachers or nominated representatives about workplace adjustments that may be required to facilitate return to work. The medical advice they provide and the advice from HR Services will help the headteacher or nominated representative make informed decisions about managing attendance.</p>		
Has the employee previously been referred to OH?	Yes	No
If yes, provide details:		
If no, is it now appropriate to refer to OH at this stage?	Yes	No
If yes, provide details:		
<p><b>Complete before undertaking return to work meeting. Seek advice from HR if unsure.</b></p>		
Number of days absent due to sickness in last 6 months (including part days)		
Number of periods absent due to sickness in last 6 months (including part days)		
Number of days absent due to sickness in last 12 months (including part days)		
Number of periods absent due to sickness in last 12 months (including part days)		
Number of days in the last 18 months (including part days)		

Number of periods absent in in the last 18 months (including part days)	
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Where your absence levels rise to one of the following, a formal meeting may be arranged to discuss your sickness absence:

- 4 periods/occasions in the preceding 6 months (including part days),
- 5 periods/occasions in the preceding 12 months (including part days),
- 10 or more days (or two working weeks) in the preceding 12 months over 2 or more occasions
- A pattern of absence gives rise to concern
- Continued to hit any of the absence review points outlined above, for a period of 18 months or more.

The purpose of this meeting is to:

- Formally explore ways to support an improvement in your attendance
- Allow us to consider any reasonable adjustments to your job

A potential outcome of a formal meeting is that a formal warning may be issued to you, and your sickness absence would be monitored for 12 months.

Next Steps (Tick which applies)

Your sickness absence is currently at a level the School deems reasonable  (2 or less periods in 6 months <u>OR</u> 3 or less periods in 12 months <u>OR</u> 1 working week or less in 12 months)	
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Your sickness absence is <u>close</u> to hitting the Review Points outlined above  (3 periods in 6 months <u>OR</u> 4 periods in 12 months <u>OR</u> between 1 and 2 working weeks in 12 months <u>OR</u> 10 days or less over one occasion). I need to make you aware that if you hit the Review Points you may be invited to a formal Absence Management meeting.	
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Your sickness absence is at a level the School is concerned about as it has hit one of the Review Points outlined above. As such I will be inviting you to attend formal Absence Management meeting.	
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Employee Comments:

Headteacher/ Nominated Representative comments:

Signature (Employee):

Signature (Headteacher/Nominated Representative):